

**TENTATIVE AGENDA AND MINIBOOK
STATE AIR POLLUTION CONTROL BOARD MEETING
FRIDAY, NOVEMBER 30, 2007**

**OMNI NEWPORT NEWS HOTEL
1000 OMNI BOULEVARD
NEWPORT NEWS, VA**

Convene – 9:00 A.M.

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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 30-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 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cumberndt@deq.virginia.gov.

Major Source Permits (Rev. L07) - Request for Board Action: On May 1, 2007 (72 FR 24060), EPA promulgated a final rule revising the federal new source review (NSR) permitting program for PSD (attainment) and nonattainment areas, and the Title V operating permit program. The revisions affect 40 CFR 51.165, 40 CFR 51.166, and 40 CFR 70.2. The new source review regulations have been changed by revising the definitions of “major stationary source” and the lists of exempted facilities to exclude chemical processing plants that are ethanol production facilities that produce ethanol by natural fermentation. In doing so, the applicability level changes from 100 tons per year to 250 tons per year for the ethanol production facilities. A similar change is made in the federal operating permit (Title V) regulation to the definition of “major source.”

In Virginia, where the state is administering the NSR program under an approved SIP, the state may adopt and submit revisions to the SIP to reflect the rule revisions. The revised SIP should be the same as or equivalent to the revised federal program. Virginia’s federal operating permit program (Title V) is also a state-run program that should be consistent with the federal. Adoption of these changes will continue the current practice of keeping the state permitting program consistent with the federal.

Because the state regulations are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent U.S. Environmental Protection Agency (EPA) regulations, the state regulations are exempt from all state public participation requirements under the provisions of § 2.2-4006 A 4 c of the Administrative Process Act. However, notice of the regulation adoption must be forwarded to the Registrar for publication in the Virginia Register 30 days prior to the effective date. Also, the Registrar must agree that the regulations are not materially different from the federal version and are, therefore, exempt from the state public participation requirements and must notify the agency accordingly. This notification and the notice of adoption will be published in the Virginia Register subsequently. In order to meet federal requirements for public participation, post-adoption public participation activities will be conducted on the issue of whether the regulation should be submitted as a revision to the SIP. In adopting the regulation amendments under the provisions of § 2.2-4006, the board is required to state that it will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

The following substantive amendments have been made to the regulation:

1. The definition of “major source” has been revised to revise the reference to chemical process plants in order to exclude chemical process plants that are ethanol production facilities. [9 VAC 5-80-60 C, subdivision b (20) of the definition of “major source”]
2. The definition of “major stationary source” has been revised to revise the reference to chemical process plants in order to exclude chemical process plants that are ethanol production facilities. [9 VAC 5-80-1615 C, subdivisions (a)(1)(w) and (c)(20) of the definition of “major stationary source”]
3. The list of exemptions has been revised to revise the reference to chemical process plants in order to exclude chemical process plants that are ethanol production facilities. [9 VAC 5-80-1695 A 1 v]
4. The definition of “major stationary source” has been revised to refine the reference to chemical process plants in order to exclude chemical process plants that are ethanol production facilities. [9 VAC 5-80-2010 C, subdivision c (22) of the definition of “major stationary source”]
5. The list of exemptions has been revised to revise the reference to chemical process plants in order to exclude chemical process plants that are ethanol production facilities. [subdivision 22 of 9 VAC 5-80-2140]
6. A number of format changes and minor corrections have been made.

Report To The State Air Pollution Control Board Concerning High Priority Violators (Hpvs) For The Second And Third Quarters, 2007

DEQ Region	Facility Name and Location	Brief Description	Status
NRO	Kinder Morgan Newington Terminal, Newington (petroleum bulk stations and terminal facility)	Alleged failure to submit second half 2006 semi-annual monitoring report required by facility's Title V permit	NOV issued 8/24/07; pending
PRO	Atlantic Waste Disposal, Waverly (municipal waste landfill)	Alleged violations of various requirements of MACT Subpart AAAA and NSPS Subpart WWW including failure to undertake certain corrective action to address exceedances, failure to conduct certain required well monitoring, failure to maintain certain records, failure to properly report certain malfunctions and deviations; and failure to properly certify compliance required by facility's Title V permit	NOV issued 8/2/07; pending
PRO	Roslyn Converters, Inc., Colonial Heights (commercial printing facility)	Alleged failure of facility's regenerative thermal oxidizer (RTO) to achieve 97.9% VOC destruction efficiency (RTO test achieved 97% destruction efficiency) and failure to test within time frame required by facility's permit	NOV issued 8/2/07; pending
PRO	Hawkeye Manufacturing, Inc., Richmond (spa manufacturer)	Alleged construction and operation of facility w/o a permit; failure to register facility with DEQ; failure to adequately control fugitive dust; failure to adequately handle VOC materials as required by regulations	NOV issued 8/23/06; pending
SWRO	Dickenson-Russell Coal Co.-Moss #3, Clinchfield (coal preparation facility)	Alleged failure to submit to DEQ construction date, startup date, and anticipated date of visual emission evaluation (VEE) performance tests for new equipment as required by facility's permit; and failure to conduct VEE within time frame required by permit	NOV issued 4/17/07 (RESOLVED by Consent Order issued 7/2/07, SEE TABLE B)
SWRO	Dickenson-Russell Coal Co.-Moss #3 Clinchfield (coal preparation facility)	Alleged failure to timely pay civil charge imposed by Consent Order issued 7/2/07 regarding matter noted above	NOV issued 9/20/07; pending

SWRO	Royal Mouldings Ltd., Marion (plastic products manufacturing facility)	Alleged violations of various permit requirements, including exceedance of 3.04 ton annual VOC throughput limit for roll applicator print machines 1-12 for 2006 (3.86 tons reported), exceedance of 3.04 ton annual VOC emissions limit for roll coater 1-12 for 2006 (3.86 tons reported), and exceedance of 40 ton annual VOC throughput limit for paint application system for 2006 (44.9 tons reported)	NOV issued 9/7/07; pending
VRO	Harrisonburg Resource Recovery Facility, Harrisonburg (municipal waste incinerator)	Alleged exceedance of 25ppm HCL emission limit for units 1 and 2 based on stack test (unit 1 tested at 71ppm and unit 2 tested at 122ppm); failure to meet 2.58 lb/hr HCL emission limit (unit 1 tested at 4.88lb/hr and unit 2 tested at 7.23lb/hr); failure to meet 95% HCL reduction efficiency (unit 1 tested at reduction efficiency of 84% and unit 2 at 71%)	NOV issued 10/19/06; pending
VRO	O-N Minerals (Chemstone) Co., Strasburg (quarry and lime kiln facility)	Alleged exceedance of facility's 1.0 lbs/hr particulate matter (PM) emissions limit (tested at 2.45 lbs/hr); failure to conduct performance test on timely basis as required by facility's Title V permit	NOV issued 9/14/07; pending
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	NOVs issued 4/11/05 and 6/3/04; Consent Order dated 8/31/05 imposed civil fine of \$161,870, of which \$145,683 goes toward an innovative pollution prevention SEP calling for the elimination of hazardous air pollutants (HAPs) within 2 yrs from finishes and coatings used in the facility's wood furniture production lines

* Table A includes the following categories of HPV cases:

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the second and third quarters of 2007 that have not been settled by Consent Order, and;
- 2) Those settled by Consent Order prior to the second quarter of 2007 where the alleged violator has not complied with substantially all of the terms of the order.

RESOLVED CASES – Table B **

DEQ Region	Facility Name and Location	Brief Description	Status
NRO	Lohmann Specialty Coatings, Inc., Orange County (specialty adhesives manufacturing facility)	Alleged failure to maintain fuel records; numerous open VOC containers; failure to record RTO combustion chamber temperature and maintain other RTO-related records; failure to record monthly or annual VOC emission records; failure to maintain records and of monthly throughput of propane in violation of permit terms and regulations	NOV issued 8/30/06; Consent Order dated 5/9/07 imposed civil charge of \$36,000 and various requirements to improve the facility's handling of VOCs
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 in 2003	NOV issued 9/10/03; revised NOV issued 10/20/03; NOV issued by EPA 1/22/04; Amended Consent Decree lodged with U.S. District Court in Alexandria 5/8/06 calling for ozone season and annual 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; Decree entered by federal court on 4/20/07
NRO	US Army – Fort Belvoir	Alleged failure to perform semi-annual boiler maintenance necessary to control NOx emissions in violation of RACT permit	NOV issued 10/11/06; Consent Order dated 9/24/07 requiring inventory of fuel burning equipment, development of training program for supervisors and equipment operators, monthly inspection of degreaser units and additional reporting obligations (DEQ does not impose civil charges against federal facilities for clean air violations)
NRO	Upper Occoquan Sewage Authority, Centerville (sewage treatment facility)	Alleged installation and operation since 1995 of 2 2,500kW diesel generators w/o a permit	NOV issued 11/3/06; Consent Order dated 9/27/07 imposed civil charge of \$56,437, of which \$50,500 goes toward a

			SEP calling for the installation of energy efficient lighting at the facility and a contribution to Clean Air Partners teleworking project
PRO	Quebecor Printing Richmond, Inc., Henrico County (printing facility)	Alleged failure to maintain required 92% VOC and HAP emissions control efficiency	NOV issued 9/14/06/; Consent Order dated 4/19/07 imposed civil charge of \$4100, of which \$12,300 goes toward a SEP to install a calibration system allowing weekly VOC analyzer system calibrations
SCRO	Intermet Archer Creek Foundry, Lynchburg (iron foundries and castings facility)	Alleged exceedance of 20% opacity limit from facility's "eyebrow" for 9 of 14 1-hr observation periods	NOV issued 3/30/07; Consent Order dated 5/31/07 imposed civil charge of \$40,426
SWRO	Dickenson-Russell Coal Co – Moss #3 Clinchfield (coal preparation facility)	Alleged failure to submit to DEQ construction date, startup date, and anticipated date of visual emission evaluation (VEE) performance tests for new equipment as required by facility's permit; and failure to conduct VEEs within time frame required by permit	Nov issued 5/2/07: Consent Order dated 7/2/07 imposed civil charge of \$11,376.56
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged exceedance of VOC emission limits; exceedance of HAP throughput limits; failure to record weekly observation of pressure drop readings for fabric filters in violation of NSPS subpart EE, MACT subpart RRRR, and Title V permit	NOV issued 3/6/06; Consent Order dated 10/18/06 imposed civil charge of \$105,728, of which \$79,296 goes toward a SEP calling for the development and implementation of an environmental management system
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 charge of \$20,668 of which \$14,468 goes toward a SEP to reduce CO emissions through process changes

**** Table B includes HPV cases resolved by Consent Order during the first and second quarters of 2007 where the alleged violator has complied with substantially all of the terms of the order.**

Mirant Potomac River Generating Station: Staff will respond to the Board's request to evaluate the possibility of developing a synthetic minor permit that would allow emissions from two stacks instead

of five.