

**TENTATIVE AGENDA AND MINIBOOK
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, DECEMBER 6, 2006**

**SHERATON RICHMOND WEST
6624 WEST BROAD STREET
RICHMOND, VIRGINIA**

Convene - 9:00 A.M.

Tab

I. Regulations			
Variance Concerning Open Burning (Rev. EV) - Proposed	McLeod		A
Clean Air Interstate Rule (Rev. E05) - Final	Major		B
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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 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: cumberlandt@deq.virginia.gov.

VARIANCE CONCERNING OPEN BURNING (9 VAC 5 Chapter 240, Rev. EV) - Request to Promulgate Proposal for Public Comment: At its meeting on June 21, 2006, the State Air Pollution Control Board adopted amendments to the Open Burning Rule (4-40), specifically the seasonal restriction requirements. These changes became effective on October 18, 2006 and will affect open burning activities starting in the summer of 2007. (See attached applicability fact sheet.)

Although significant outreach during rule development took place, no comments were received on these amendments. These amendments were also presented to the public during the comment period for the Hampton Roads redesignation process. During the comment period, VDEQ received a letter from the Gloucester County administrator requesting that a phase-in of the open burning seasonal restrictions be allowed. During the public hearing for the redesignation process, one citizen spoke on this issue. This citizen owns a contracting business, and noted in his testimony that he felt Gloucester County has significant local hurdles for new wood waste recycling facilities. This citizen commented that providing additional time prior to implementing the open burning seasonal restrictions in Gloucester County would allow the local government to review and potentially change some of its ordinances. The redesignation request and maintenance plan begin to use the emission reduction credits from applying this measure to Gloucester and Isle of Wight in the interim year of 2011. Based on the citizen's testimony, discussions with local government officials, and the fact that the emission reduction credits are not used until 2011, providing a variance to the open burning seasonal restrictions for two years is a prudent approach to its implementation.

The variance provides relief from the seasonal restrictions in 9 VAC 5-40-5630 A 8 and 10 for the following localities in the Hampton Roads Volatile Organic Compound Emissions Control Area: County of Gloucester and the County of Isle of Wight. The variance would no longer be in effect after December 31, 2008.

Summary of Draft Variance

1. For the purposes of applicability of the seasonal restrictions in 9 VAC 5-40-5630 A 8 and 10 only, the Hampton Roads Volatile Organic Compound Emissions Control Area does not include the County of Gloucester and the County of Isle of Wight.
2. The variance shall not be applicable after December 31, 2008.

FINAL REGULATIONS CONCERNING CLEAN AIR INTERSTATE RULE (9 VAC 5 Chapter 140, Rev. E05) - Public Participation Report and Request for Board Action: On May 12, 2005 (70 FR 25162), EPA published the final Clean Air Interstate Rule (CAIR), designed to reduce the interstate transport of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) across the eastern portion of the United States and help states and localities attain the 8-hour ozone and fine particles (PM_{2.5}) standards. On April 28, 2006 (71 FR 225328), EPA published final amendments to the Clean Air Interstate Rule (CAIR). CAIR covers 23 states and the District of Columbia for PM_{2.5} and 25 states and the District of Columbia for 8-hour ozone. Emissions of NO_x are capped at 2.5 million tons in 2009 and 1.3 million tons in 2015, and emissions of SO₂ are capped at 3.6 million tons in 2010 and 2.5 million tons in 2015. CAIR is effective July 11, 2005, except for provisions relating to the Acid Rain Program, which are effective July 1, 2006. The plans and associated regulations to implement the CAIR are due September 11, 2006.

States must achieve the required emission reductions using one of two compliance options: (i) meet the state's emission budget by requiring power plants to participate in an EPA-administered interstate cap and trade system that caps emissions in two stages, or (ii) meet an individual state emissions budget

through measures of the state's choosing.

Virginia's budget portions of the national annual emissions caps are 36,074 tons in 2009 and 30,062 tons in 2015 of NO_x, and are 63,478 tons in 2010 and 44,435 tons in 2015 of SO₂. Virginia's ozone season budgets are 15,994 tons in 2009 and 13,328 tons in 2015 of NO_x.

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.

To solicit comment from the public on the proposed regulation amendments, the Department issued a notice that provided for receiving comment during a comment period and at a public hearing. The summary and analysis of public testimony is available upon request.

Summary of Proposed Amendments:

This regulatory action encompasses the establishment of three new parts to 9 VAC 5-140, each of which is addressed below. The numbers in the brackets are the last four digits of the corresponding section numbers from the applicable provision of 9 VAC 5 Chapter 140 [9 VAC 5-140-XXXX].

NO_x Annual Trading Program (Part II)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale. [1040]
2. The control period is January 1 through December 31 of each year. [1020, definition of "control period"]
3. The NO_x annual trading budgets for EGUs are (i) 36,074 tons for each control period in 2009 through 2014, and (ii) 30,062 tons for each control period in 2015 and thereafter. [1400]
4. A new unit set-aside budget is included consisting of 5.0% of the EGU budget for each control period in 2009 through 2013 or 2.0% for each control period in 2014 and thereafter. [1420 C 1]
5. Provision for a voluntary public health set-aside to retire allowances is included. [1420 F]
6. Existing units are those commencing operation prior to January 1, 2006. [1420 A 1 a]
7. New units are those commencing operation on or after January 1, 2006. [1420 A 1 b]
8. Initial allocations (2009 – 2013) for existing EGUs are issued on October 31, 2006 and based on heat input (2001 – 2005) normalized over the state budget. [1410 A; 1420 A 1 a and 2 a, and B]
9. Subsequent allocations (2014 and thereafter) for existing EGUs are issued annually beginning October 31, 2009, five years in advance; and based on the preceding five years of heat input. [1410 B; 1420 A 1 a and 2 a, and B]
10. Allocations for existing EGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years. [1420 A 1 a and 2 a]
11. Initial allocations (2009 – 2013) for new EGUs are issued on October 31, 2009 and based on

electrical output (2004 – 2008) normalized over the new unit set-aside budget. [1410 C; 1420 A 1 b and 2 b, C and E]

12. Subsequent allocations (2014 and thereafter) for new EGUs are issued annually beginning October 31, 2014 and based on the preceding five years of electrical output. [1410 D; 1420 A 1 b and 2 b, D and E]

13. Allocations for new EGUs are calculated using the converted heat input (electrical output), determined by averaging the three highest years of the preceding five years. [1420 A 1 b (1) and 2 b]

14. A compliance pool (5,134 tons) is established which allows for allocations from the pool for early reductions and to avoid an “undue risk to the reliability of electricity.” Allocations from the pool will be distributed to the sources prior to November 30, 2009. Allocations from the pool are valid for the 2009 control period only. [1430]

15. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units. [1060 C 1]

16. Use of allowances other than those allocated to the source by the board may not be used to comply in nonattainment areas. [1060 H, I and J]

17. Sources may bank any allowances not used during a specific control period. [1550]

18. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program. [1800]

19. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions. [1880]

20. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75 of the Code of Federal Regulations. [1060 B]

NO_x Ozone Season Trading Program (Part III)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale. [2040 A]

2. The regulation also applies to non-electric generating units (non-EGUs) above 250 mmBtu. A non-EGU is a fossil fuel-fired stationary boiler or combustion turbine that (i) at no time serves a generator producing electricity for sale under firm contract to the grid or (ii) at any time serves a generator producing electricity for sale under firm contract to the grid, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit. [2040 B]

3. The control period is May 1 through September 30 of each year. [2020, definition of “control period”]

4. The NO_x ozone season trading budgets for EGUs are (i) 15,994 tons for each control period in 2009 through 2014, and (ii) 13,328 tons for each control period in 2015 and thereafter. [2400]

5. The NO_x ozone season trading budget for non-EGUs is 3,840 tons for each control period in 2009 and thereafter (reduced from the NO_x SIP Call budget of 4104 tons). [2405]
6. A new unit set-aside budget is included consisting of 5.0% of the EGU budget for each control period in 2009 through 2013 or 2.0% for each control period in 2014 and thereafter and 700 tons from the non-EGU budget. [2020, definition of “new unit set-aside budget”]
7. A set-aside for efficient energy/renewable energy sources is included consisting of 36 tons for each control period in 2009 and thereafter, which expire after three years. [2420 G]
8. Provision for a voluntary public health set-aside to retire allowances is included. [2420 H]
9. Existing units are those commencing operation prior to January 1, 2006. [2420 A 1 a]
10. New units are those commencing operation on or after January 1, 2006. [2420 A 1 b]
11. Initial allocations (2009 – 2013) for existing EGUs are issued on October 31, 2006 and based on heat input (2001 – 2005) normalized over the state budget. [2410 A; 2420 A 1 a and 2 a, and C]
12. Subsequent allocations (2014 and thereafter) for existing EGUs are issued annually beginning October 31, 2009, five years in advance; and based on the preceding five years of heat input. [2410 B; 2420 A 1 a and 2 a, and C]
13. Allocations for existing EGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years. [2420 A 1 a and 2 a]
14. The allocations (2009 and thereafter) for existing non-EGUs are carried over from the NO_x SIP call program, are set forth in the regulation, and are permanent. [2430]
15. Initial allocations (2009 – 2013) for new EGUs are issued on July 31, 2009 and based on electrical output (2004 – 2008) normalized over the new unit set-aside budget. [2410 C; 2420 A 1 b and 2 b, D and F]
16. Subsequent allocations (2014 and thereafter) for new EGUs are issued annually beginning July 31, 2014 and based on the preceding five years of electrical output. [2410 D; 2420 A 1 b and 2 b, E and F]
17. Allocations for new EGUs are calculated using the converted heat input (electrical output), determined by averaging the three highest years of the preceding five years. [2420 A 1 b (1) and 2 b]
18. Initial allocations (2009 – 2013) for new non-EGUs are issued on July 31, 2009 and based on heat input (2004 – 2008) normalized over the state budget. [2410 C; 2420 B, D and F]
19. Subsequent allocations (2014 and thereafter) for new non-EGUs are issued annually beginning July 31, 2014 and based on the preceding five years of heat input. [2410 D; 2420 B, E and F]
20. Allocations for new non-EGUs are calculated using the baseline heat input, determined by averaging the three highest years of the preceding five years. [2420 B 1 a]
21. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units. [2060 C 1]

22. Use of allowances other than those allocated to the source by the board may not be used to comply in nonattainment areas. [2060 H, I and J]
23. Sources may bank any allowances not used during a specific control period. [2550]
24. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program. [2800]
25. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions. [2880]
26. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75 of the Code of Federal Regulations. [2060 B]

SO₂ Annual Trading Program (Part IV)

1. The regulation applies to electric generating units (EGUs) with a nameplate capacity greater than 25 MWe. An EGU is a fossil fuel-fired stationary boiler or combustion turbine serving at any time a generator with nameplate capacity of more than 25 MWe producing electricity for sale. [3040]
2. The control period is January 1 through December 31 of each year. [3020, definition of “control period”]
3. The SO₂ annual trading budgets for EGUs are (i) 63,478 tons for each control period in 2010 through 2014, and (ii) 44,435 tons for each control period in 2015 and thereafter.
4. The program is administered almost in its entirety by EPA, including the allocations of allowances.
5. EPA has already allocated the allowances which are good indefinitely, except the value of the allowances is reduced over time. [3020, definition of “CAIR SO₂ allowance”]
6. The only role for the state is to issue the budget permits. [3200]
7. Compliance is determined by comparing the amount of allowances in the owner's account with the total amount of emissions from all of the affected units. [3060 C 1]
8. Sources may bank any allowances not used during a specific control period. [3550]
9. Smaller sources within the core source categories are not mandated to be included in the program; however, smaller sources within the core source categories are allowed to opt-in to the program. [3800]
10. Sources that opt-in the program have a separate budget. Baseline determined for opt-ins is based upon the previous year's emissions. [3880]
11. All sources participating in the program, including those that chose to opt-in, must meet the monitoring requirements of 40 CFR Part 75 of the Code of Federal Regulations. [3060 B]

Summary of Changes to Proposal:

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

This regulatory action encompasses the establishment of three new parts to 9 VAC 5-140, each of which is addressed below. The numbers in the brackets are the last four digits of the corresponding section numbers from the applicable provision of 9 VAC 5 Chapter 140 [9 VAC 5-140-XXXX].

NO_x Annual Trading Program (Part II)

Proposed	Final
<p>For units in nonattainment areas, provisions are included to automatically convert (by regulation) the CAIR NO_x allowances to an emissions limit. Use of allowances other than those allocated to the unit may not be used to comply with the limit. Provisions are included to allow permits to be issued to impose more stringent emissions limit if necessary. The affected unit may not engage in any emissions trading activities or use any emissions credits obtained from emissions reductions external to the unit to comply with the requirements of the permit. [1060 H, I and J]</p>	<p>Provisions have been added to ensure that the implementation of the nonattainment area requirements will not interfere with operation of the EPA CAIR trading program. The provisions related to the emissions limit have been revised to establish an independent annual emissions cap equivalent to the number of allowances issued to the affected unit for the preceding control period. Compliance with the emissions cap would not rely on the use of allowances under the EPA trading program but would be accomplished by comparing the actual emissions with the emissions cap. Compliance with the EPA trading program and any nonattainment area caps is determined separately and in accordance with the terms of the provisions of each. [1061] Provisions have been added to allow compliance to be demonstrated in the aggregate for all units under common ownership. [1062]</p>
<p>None.</p>	<p>Provisions have been added to establish a set-aside budget for efficient energy/renewable energy (EERE) sources, along with procedures for its allocation, similar to the provisions in the NO_x Ozone Season Trading Rule. [1420 G]</p>
<p>A compliance supplement pool (CSP) is established which allows for allocations from the pool for voluntary early reductions and to avoid an “undue risk to the reliability of electricity.” Allocations (5,134 tons) from the pool are to be distributed to the sources prior to November 30, 2009. Allocations from the pool are valid for the 2009 control period only. [1430]</p>	<p>§ 10.1-1328 B of the Code of Virginia mandates that the owners of early reduction credit (ERC) units (units under single ownership with combined emissions of NO_x that exceeded 40,000 tons in 2004) reduce their emissions in amount that is at least equal to the CSP (i.e., 5,134 tons). Since the ERC units must reduce their emissions by at least the full amount of the CSP and the state must award them allowances to cover this reduction, there will be nothing left over in case a portion of the CSP is needed by units in order to avoid an “undue risk to the reliability of electricity.”</p>

NO_x Ozone Season Trading Program (Part III)

Proposed	Final
Provisions are included to allow the transition of non-electric generating units (non-EGUs) from the NO _x SIP Call Program to the CAIR program. [2020, 2040 B, 2400 B, 2405, 2410, 2420 B, D & E, and 2430]	The non-EGU provisions have been revised to follow recent guidance from EPA regarding the transition. Changes include the addition of several new definitions, the revision of the applicability criteria and other clarifying revisions. [2020, 2040 C, 2400 B, 2405, 2410, 2420 B, D & E, and 2430]
For units in nonattainment areas, provisions are included to automatically convert (by regulation) the CAIR NO _x allowances to an emissions limit. Use of allowances other than those allocated to the unit may not be used to comply with the limit. Provisions are included to allow permits to be issued to impose more stringent emissions limit if necessary. The affected unit may not engage in any emissions trading activities or use any emissions credits obtained from emissions reductions external to the unit to comply with the requirements of the permit. [2060 H, I and J]	Provisions have been added to ensure that the implementation of the nonattainment area requirements will not interfere with operation of the EPA CAIR trading program. The provisions related to the emissions limit have been revised to establish an independent ozone season emissions cap equivalent to the number of allowances issued to the affected unit for the preceding control period. Compliance with the emissions cap would not rely on the use of allowances under the EPA trading program but would be accomplished by comparing the actual emissions with the emissions cap. Compliance with the EPA trading program and any nonattainment area caps is determined separately and in accordance with the terms of the provisions of each. [2061] Provisions have been added to allow compliance to be demonstrated in the aggregate for all units under common ownership. [2062]
A set-aside for efficient energy/renewable energy (EERE) sources, along with procedures for its allocation, is included consisting of 36 tons (from the non-EGU trading budget) for each control period in 2009 and thereafter, which expire after three years. [2020, 2420 G]	The EERE provisions have been reconfigured to increase the set-aside to a value equal to 1% of the EGU trading budget. Provisions are included to allow for the aggregation of projects. The 36 tons (from the non-EGU trading budget) have been returned to the new unit set-aside. [2020, 2420 G]

SO₂ Annual Trading Program (Part IV)

Proposed	Final
None.	§ 10.1-1328 A 5 of the Code of Virginia authorizes the Board to promulgate regulations that address compliance in nonattainment areas. Provisions have been added to address Virginia's environmental needs in

	nonattainment areas, similar to the provisions in the NO _x Annual Trading Rule. [3061 and 3062]
Since EPA has already allocated the allowances which are good indefinitely, except the value of the allowances is reduced over time, provisions specifying the timing and methodology for the allowance allocations are not included in the rule. [3020, definition of “CAIR SO ₂ allowance”]	§ 10.1-1328 A 2 and 3 of the Code of Virginia requires the Board to promulgate regulations that provide for the allocation to all units allowances. Provisions have been added to incorporate by reference the federal provisions for the allocation of the allowances. [Article 35 (9 VAC 5-140-3400 et seq.)]

All

- The state rules have been revised to comply with final amendments to the federal CAIR published in the Federal Register on April 28, 2006. The only substantive change is to exempt solid waste incineration units from the rule.
- The state rules have been revised to correct a number of errors identified by EPA during the comment period.

REPORT ON HIGH PRIORITY VIOLATORS (HPVs) FOR THE THIRD QUARTER, 2006

ACTIVE CASES — Table A *			
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; pending
NRO	Potomac River Generating Station/Mirant, Alexandria (coal-fired electric power plant)	Alleged exceedance of ozone season NO _x 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 NO _x emission limits on Potomac River; Mirant system-wide ozone season NO _x limits; .15 lbs/MMBtu system-wide ozone season NO _x emission rate starting in 2008; system-wide annual NO _x limits; \$1mil in coal yard dust/particulate projects at Potomac River; payment of \$500K civil fine; public comment on the decree closed 6/26/06; government

			plaintiffs are currently analyzing and preparing a response to the public comments
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NRO	TransMontaigne Product Services, Inc., Fairfax (gasoline pipeline terminal)	Alleged failure to conduct annual VOC stack test for 2005 required by terms of NSR permit	NOV issued 7/6/06; 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 in violation of regulations	NOV issued 7/27/06; pending
PRO	Payne, Chesterfield County (printing facility)	Alleged improper operation and testing of RTOs; inadequate recordkeeping and monitoring regarding RTOs; extensive improper handling of VOC materials; extensive improper handling of VOC and HAP emissions and recordkeeping in violation of permit and regulations	NOV issued 4/19/06; pending
PRO	Quebecor Printing Richmond, Inc., Henrico County (printing facility)	Alleged failure to maintain required 92% VOC and HAP emissions control efficiency	NOV issued 8/28/06; pending
SWRO	Galax Energy Concepts, LLC Galax, Carroll County (wood burning steam generator)	Alleged violations of lbs/hr and lb/mmBtu emission limits for particulate matter for the facility's 3 boilers resulting from stack tests performed in March '05 under low-load and high-load conditions; exceedances ranged from 15% over the limit to 245% over the limit; failure to comply with regulations for small waste combustors (Rule 46)	NOVs issued 4/14/05 and 6/2/05; pending (plant has been shut down since 9/23/05); EPA issued Notice of Noncompliance 2/22/06; pending
SWRO	Merillat Corporation, Atkins (cabinet manufacturer)	Alleged excess fugitive emissions from baghouse and various violations of MACT subpart JJ including use of non-compliant spray gun, lack of work practice and formulation assessment plans, and failure to submit compliance status reports	NOV issued 3/17/06; pending
SWRO	Merillat Corporation, Atkins (cabinet manufacturer)	Alleged failure to submit initial compliance and status report regarding implementation of work practice standards and semi-annual report required by MACT regulations; use of conventional spray guns in violation of MACT	NOV issued 5/11/06; pending

		requirements	
SWRO	Merillat LP, Plant #12, Atkins (furniture manufacturer)	Alleged failure to continuously operate and properly maintain RTO; failure to maintain records of RTO combustion temperatures as required by terms of title V permit and regulations	NOV issued 8/23/06; pending
VRO	Harrisonburg Resource Recovery Facility (municipal waste incinerator)	Alleged exceedance of HCL emission limits discovered during stack test (25 ppmv limit – 30.84 ppmv observed); violations of various requirements of facility's Title V permit, including failure to maintain carbon feed rate necessary to control HAP emissions; failure to notify DEQ of low carbon feed rate; failure to maintain records of daily observations of fabric filters	NOVs issued 7/22/05 and 9/16/06; Consent Order dated 4/13/06 imposed a civil charge of \$45,000, of which \$27,000 goes toward a SEP for the retrofitting at least 24 City of Harrisonburg diesel trucks with devices to reduce particulate exhaust
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; Consent Order dated 7/8/05 imposed various injunctive measures to control toxics emissions and a civil charge of \$500,000, of which \$300,000 goes toward a SEP calling for retrofitting Rockingham County and Harrisonburg City school buses with control devices for particulates and other pollutants
VRO	Valley Proteins, Inc., Linville (rendering facility)	Alleged violation of sulfur in fuel requirements and SO2 emission limits; failure to conduct required visible emission evaluations	NOV issued 2/8/06; 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 charge of \$20,668 of which \$14,468 goes toward a SEP 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	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
WCRO	Southern	Alleged exceedance of VOC	NOV issued 3/6/06; pending

	Finishing Co., Martinsville, Henry County (furniture manufacturer)	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	
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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 2006 that have not been settled by Consent Order, and;
- 2) Those settled by Consent Order prior to the third quarter of 2006 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	Motiva Enterprises, LLC, Fairfax Terminal (petroleum liquid storage and distribution facility)	Alleged exceedances of VOC emission limits contained in Title V permit on approximately 146 days; failure to maintain data related to CEM maintenance, tank throughput, tank inspections, and tank vapor pressure readings; failure to maintain and repair emissions control equipment and other alleged violations of facility's Title V permit	NOV issued 5/26/05; Consent Order dated 4/6/06 imposed a civil charge of \$55,376, of which \$41,500 will go toward a SEP for the installation and operation of VOC CEMs on the facility's vapor recovery unit and purchase of NOx offset credits
SWRO	Turman Sawmill, Hillsville	Alleged failure to partially enclose truck load-out area and properly maintain baghouse resulting in excess fugitive emissions; installation of 2 spray application areas w/o a permit; improper open burning	NOV issued 5/2/06; Consent Order dated 6/14/06 imposed civil charge of \$6,200 and implementation of a corrective action plan
TRO	Norfolk Naval Shipyard	Alleged failure to provide VOC content certification for paint batches	NOV issued 4/4/06; Consent Order dated 10/3/06 requires development and implementation of a plan to address availability of VOC content certifications for paint used in ship repair (no civil charge imposed because alleged violator is federal facility)
TRO	Naval Station Norfolk	Alleged failure to provide VOC content certification for paint batches	NOV issued 4/4/06; Consent Order dated 10/3/06 requires development and implementation of a plan to address availability of VOC content certifications for paint used in ship repair (no civil charge imposed because alleged violator is federal facility)
WCRO	Norfolk Southern	Alleged violation NOx emission	NOV issued 1/19/06; Consent

	Railway Company, Roanoke (railway maintenance facility)	limits contained in NOx RACT permit by 3 boilers (0.4 lbs/MMBtu limit – test results ranged from 0.614 to 0.428 lbs/MMBtu)	Order dated 8/14/06 imposed a civil charge of \$5,775
WCRO	Roanoke Cement Company, Troutville (cement manufacturing facility)	Alleged violations of stack test protocol, particulate matter control device operating parameters, and recordkeeping requirements	NOV issued 2/2/06; Consent Order dated 7/5/06 imposed a civil charge of \$17,500, of which \$13,125 goes toward a SEP for the installation of a totally enclosed air supported conveyor system the facility's finish mill

**** Table B includes HPV cases resolved by Consent Order during the third quarter of 2006 where the alleged violator has complied with substantially all of the terms of the Consent Order.**