

AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, OCTOBER 5, 2022

IN PERSON ONLY – GALLERY, COMMUNITY COLLEGE WORKFORCE ALLIANCE,
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Meeting will be Live-Streamed. Go to: www.deq.virginia.gov
Any Updates To Details/Final Arrangements To Be Announced On Virginia Regulatory Town Hall

Convene – 10:30 A.M

Agenda Item	Presenter	Tab
Call to Order	Guy	
Review and Approve Agenda	Board Members	
Review and Approve Minutes (August 31, 2022)	Board Members	A
Final Exempt Regulation General Provisions- 9VAC5-20 <i>Amend list of nonattainment areas (Rev. F22)</i>	Sabasteanski	B
Division Director Report	Dowd	
Public Forum <i>Individuals may comment on matters other than those on the agenda or pending regulatory actions</i>		
Future Meetings (TBA)	Board Members	

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 on the latest status of the agenda should be directed to Rachael Harrell at (804) 801-2932.

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 made by the Department of Environmental Quality (Department). These procedures establish the times for the public to provide appropriate comment to the Board for regulatory action and the Department for case decisions for 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 during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department and Virginia Regulatory Town Hall web sites 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 (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held, usually 45 days.

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 commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES ON REGULATORY ACTIONS: Those persons who commented during the public hearing or public comment period 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 ON A REGULATORY ACTION will not be accepted at the meeting. The Board expects comments and information on a regulatory action to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. Should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period 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 those on the agenda or pending regulatory actions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

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: Rachael Harrell, Policy Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 801-2932, e-mail: rachael.harrell@deq.virginia.gov .

Additional Meeting Information:

- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or stakes; or helium-filled balloons.
- All attendees are asked to be respectful of all speakers.
- Rules will be enforced fairly and impartially not only to ensure the efficient and effective conduct of business, but also to ensure no interference with the business of the Community College Workforce Alliance, its employees and guests.
- All violators are subject to removal.



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: Members of the State Air Control Board

From : Rachael Harrell

Date: September 15, 2022

Subject: Minutes

Attached are the minutes from your meeting on August 31, 2022. Staff will seek your approval of the minutes at your next meeting.

If you have any questions, please contact Rachael Harrell at (804) 801-2932 or rachael.harrell@deq.virginia.gov.

DRAFT MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, AUGUST 31, 2022

COMMUNITY COLLEGE WORKFORCE ALLIANCE
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Board Members Present:

Hope F. Cupit	Russell B. Mait
James Guy II	Dr. Lornel Tompkins
Jay Holloway	Staci H. Rijal
Colie D. Hudgins	

Board Members Absent: None

Department of Environmental Quality:

Michael S. Rolband, Director	Rachael Harrell, Board Coordinator
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Attorney General's Office:

Michael A. Jagels, Senior Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The Vice Chair convened the meeting at 10:00a.m. The meeting was recessed at 11:51a.m and resumed at 12:10p.m. The meeting was adjourned at 12:37p.m.

Minute No. 1 – Review and Approval of Agenda: The Board, on a motion by Ms. Rijal and seconded by Ms. Cupit, unanimously approved the agenda with the addition of board member introductions.

Minute No. 2- Election of Officers: Mr. Holloway motioned to nominate Mr. Guy as Chair and the motion was seconded by Mr. Mait. Dr. Tompkins motioned to nominate Ms. Rijal as Chair and the motion was seconded by Ms. Cupit. The motion to elect Ms. Rijal as Chair failed 4 to 2 with Mr. Holloway, Mr. Hudgins, Mr. Guy and Mr. Mait voting no. The motion to elect Mr. Guy as Chair passed 4 to 2 with Ms. Cupit and Dr. Tompkins voting no. Ms. Cupit nominated Ms. Rijal as Vice Chair and the motion was seconded by Dr. Tompkins. The motion to elect Ms. Rijal as Vice Chair failed 4 to 3 with Mr. Holloway, Mr. Hudgins, Mr. Guy and Mr. Mait voting no. Mr. Mait motioned to elect Mr. Holloway as Vice Chair and the motion was seconded by Mr. Hudgins. The motion passed 4 to 2 with Ms. Cupit and Dr. Tompkins voting no.

Minute No. 3 – April 20, 2022 Minutes: The Board, on a motion by Ms. Cupit and a second by Ms. Rijal, unanimously approved the minutes from the Board's meeting on April 20, 2022.

Minute No. 4 – Regulations for Control of Greenhouse Gases- 9VAC5-145: Ms. Karen G. Sabasteanski presented final exempt amendments to the Regulations for Control of Greenhouse Gases (9VAC5-145.) Ms. Sabasteanski explained that the amendments are necessary to conform to the 2022 Acts of Assembly, Virginia State Budget. Item 379 #1c D specifies that the State Air Pollution Control Board shall make modifications to its final regulation prohibiting the use of certain hydrofluorocarbons such that these regulations shall not prohibit the use of hydrofluorocarbons in the manufacturing process by aviation and aerospace businesses located in Virginia to produce products for sale and distribution. Additionally, Ms. Sabasteanski explained that the definition of "new" was originally improperly drafted; this definition is now being corrected in order that the cross-references are accurate, which in turn will enable the regulation to operate correctly. Ms. Sabasteanski stated that this correction is exempt from the state administrative procedures for adoption of regulations contained in the Administrative Process Act by § 2.2-4006 because it is only the correction of a technical error. Ms. Sabasteanski then made the following recommendation:

1. That the board adopt the proposal with an effective date consistent with the Administrative Process Act.
2. In adopting this proposal, the board affirms that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Rijal and seconded by Mr. Mait, unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

Minute No. 5 – Regulations for the Control and Abatement of Air Pollution; Permits for Stationary Sources of Pollutants Subject to Regulation; Regulation for General

Administration 9VAC5-80; 9VAC5-85; 9VAC5-170: Ms. Karen G. Sabasteanski presented final exempt amendments to the Regulations for Permits for Stationary Sources (9VAC5-80, -85 and -170). Ms. Sabasteanski stated that the department is required to meet a directive of the General Assembly: Chapter 356 of the 2022 Acts of Assembly, by modifying the Virginia Air Pollution Control Law (§ 10.1-1300 et seq.). Ms. Sabasteanski stated that a number of technical corrections are also being made and that the approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under state law.

Ms. Sabasteanski reviewed the following amendments for the Board:

1. Part I of 9VAC5-80 is amended to reflect the transfer of the board's existing authority to issue permits and orders to DEQ in accordance with Chapter 356, including replacing "board" with "department," and adding new procedures for "controversial" permits.
2. Articles 1 and 3 through 10 of Part II of 9VAC5-80) are amended such they comport with the requirements of Chapter 356, including new language under "action on permit application" sections in order to address the requirement that department provide a clear and concise statement of the legal basis, scientific rationale, and justification for the decision reached.

3. Permits for Stationary Sources of Pollutants Subject to Regulation (9VAC5-85) is amended in order to comport with the requirements of Chapter 356, primarily the replacement of "board" with "department."

4. The Regulation for General Administration (9VAC5-170) is amended to reflect the transfer of the board's existing authority to issue permits and orders to DEQ in accordance with Chapter 356.

Ms. Sabasteanski then made the following recommendation:

1. That the board adopt the proposal with an effective date consistent with the Administrative Process Act.
2. In adopting this proposal, the board affirms that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Hudgins and seconded by Mr. Mait, unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

Minute No. 6- Division Director Report: The Board received updates from Michael Dowd, Air Division Director. Mr. Dowd provided updates on Virginia air pollution emissions trends and briefed the Board on air quality trends and planning issues.

Minute No. 7- Report from the Acting Secretary of Natural and Historic Resources: Acting Secretary of Natural and Historic Resources Travis Voyles presented plans to withdraw Virginia from the Regional Greenhouse Gas Initiative. Mr. Voyles stated that the Administration will not renew the contract with RGGI, Inc. in 2023 and also initiate the repeal of the regulations that govern the state's participation in the market through the standard rulemaking process (a process set out in the Administrative Process Act) by beginning with the issuance of a Notice of Intended Regulatory Action.

Minute No. 9- Public Comment Forum: The following persons addressed the Board during the public comment forum: Mr. Nate Benforado, Mr. Peter Anderson, Mr. Glen Besa, Ms. Kidest Gebre, Ms. Leah Jones, Mr. Brett Vassey and Ms. Tyla Matteson.

Minute No. 8 – Future Meetings: Staff will work with the Board to confirm the next meetings' dates.

**COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD MEETING**

October 5, 2022

SUBJECT: SO₂ Nonattainment Area (9VAC5-20, Rev. F22) - Request for Board Action on Exempt Final Regulation Amendment

CONTACT: Karen G. Sabasteanski
karen.sabasteanski@deq.virginia.gov/804-659-1973
Policy Analyst, Office of Air Data Analysis and Planning
Department of Environmental Quality

INTRODUCTION

On March 26, 2021 (86 FR 16055), the U.S. Environmental Protection Agency (EPA) established the initial air quality designations for the 2010 primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). EPA has determined that a portion of Giles County, Virginia is not meeting the SO₂ NAAQS, and has designated it as a nonattainment area at 40 CFR 81.347. In order to implement the standard, Virginia's list of nonattainment areas (9VAC5-20-204) must be updated accordingly, and the new SO₂ nonattainment area must be added.

The department is requesting approval of a draft final regulation amendment that meets federal requirements. Approval of the amendment will ensure that the Commonwealth will be able to meet its obligations under federal law.

REGULATORY ACTION ADOPTION PROCESS

Because the state regulation amendment is necessary to meet the requirements of the federal Clean Air Act and does not differ materially from the pertinent EPA regulations, the state regulation amendment is exempt from the standard regulatory adoption process (Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act) by 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 regulation is not materially different from the federal version and is, therefore, exempt from the standard regulatory adoption process and must notify the agency accordingly. This notification and the notice of adoption will be published in the Virginia Register subsequently. Further, in adopting the regulation amendment 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.

Notice that the regulation amendments would be considered by the board and that public comment would be accepted at the board meeting in accordance with the board's

policy on public comment at board meetings was provided to the public by posting of the board's agenda to the Virginia Regulatory Town Hall and DEQ web site. In addition, email notification was provided to those persons signed up to receive notifications of board meetings through the Town Hall website.

SUMMARY OF PROPOSED AMENDMENT

The list of nonattainment areas in 9VAC5-20-206 is updated to include the affected portion of Giles County for SO₂.

SUPPORTING DOCUMENTATION

1. The agency background document.
2. The draft final regulation amendment.

DEPARTMENT RECOMMENDATION

1. It is recommended that the board adopt the attached proposal, with an effective date as provided in the Administrative Process Act.
2. In adopting this proposal, the board should affirm that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

TEMPLATES\EXEMPT\ER09-NMD
REG\DEV\F22-07BF



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Exempt Action: Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-20
VAC Chapter title(s)	General Provisions
Action title	Amend list of nonattainment areas (Rev. F22)
Final agency action date	
Date this document prepared	

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

On March 26, 2021 (86 FR 16055), the U.S. Environmental Protection Agency (EPA) promulgated air quality designations for the 2010 primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). EPA has determined that a portion of Giles County, Virginia is not meeting the SO₂ NAAQS, and has designated it as a nonattainment area at 40 CFR 81.347. In order to implement the standard, Virginia's list of nonattainment areas (9VAC5-20-204) must be updated accordingly, and the new SO₂ nonattainment area must be added.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or

board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by §§ 109 and 110 of the federal Clean Air Act, EPA has designated certain areas as either nonattainment, attainment/unclassifiable, or unclassifiable for the 2010 SO₂ NAAQS. The designations are based on application of the EPA's nationwide analytical approach and technical analysis, including evaluation of monitoring data and air quality modeling, to determine the appropriate designation and area boundary based on the weight of evidence for each area. Areas that are designated as nonattainment must undertake certain planning and pollution control activities to attain the SO₂ NAAQS as expeditiously as practicable. In order to implement these activities at the state level, the state list of nonattainment areas at 9VAC5-20-204 must correspond to EPA's. Otherwise, Virginia will not have the legal authority to implement nonattainment

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

EPA - U.S. Environmental Protection
NAAQS - National Ambient Air Quality Standard
SO₂ - sulfur dioxide

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On #[date], the State Air Pollution Control Board took final action to adopt amendments to the Regulations for the Control and Abatement of Air Pollution, specifically, General Provisions (9VAC5-20). The regulatory action is to be effective as provided in the Administrative Process Act.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent U.S. EPA regulations.

In adopting these amendments, the board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

Legal Basis

Identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments is available upon request.

Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

Federal Requirements

Sections 109 and 110 of the federal Clean Air Act; 40 CFR 81.347.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of the regulation amendment is to meet federal requirements for the protection of public health and welfare through the development of air quality standards and procedures for ensuring that those standards are being met.

SO₂ is one of a group of highly reactive gases known as sulfur oxides. Highly reactive gases have a high potential to change in composition under certain conditions of pressure, temperature, or light, or upon contact with another chemical. SO₂ is emitted from fossil fuel combustion at power plants and other industrial facilities. Other sources of SO₂ include industrial processes such as Kraft paper production and coke production as well as the combustion of high sulfur fuels by large maritime vessels. SO₂ can be carried by the wind and affect air quality in downwind locations.

Breathing SO₂ has been linked to an array of adverse respiratory effects including: narrowing of the airways leading to breathing difficulty; increased asthma symptoms, especially during exercise; and increased emergency department visits and hospital admissions for all respiratory illnesses and asthma. SO₂ is a primary contributor to acid rain, which causes acidification of lakes and streams, damages trees at high elevations, and damages sensitive forest soils. SO₂ can be transformed into sulfate particles that contribute to impaired visibility and regional haze. Acid rain and particles that fall to the ground can land on statues, monuments, buildings, and other structures, causing damage to surfaces and paints.

The current primary federal standard for SO₂, which was established in 2010, is 75 parts per billion based on the 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum concentrations. Based on inventory data, air quality monitoring data, and air quality modeling information, Virginia recommended that a portion of Giles County (FIPS 51-071) be designated as nonattainment for the 2010 SO₂ NAAQS. This boundary, which was developed in accordance with EPA guidance, includes one large manufacturer: Lhoist North America - Kimballton. This facility has established a site-specific monitoring network, and has made great progress toward compliance with the standard. However, this progress has not yet been sufficient to achieve compliance with the NAAQS. The department continues to work with this facility to further improve local air quality.

Based on the state's recommendation, EPA designated the portion of Giles County that contains the Lhoist facility as nonattainment for the SO₂ NAAQS. Virginia must update its list of nonattainment areas to correspond with the EPA list in order that federal nonattainment area requirements may be implemented by the state. This will enable the department to work with the affected facility toward attaining the federally mandated clean air standard, which in turn will protect public health and welfare in Giles County as well as the rest of the Commonwealth. It will also enable the state to meet its legal obligations under the federal Clean Air Act, and ensure that the state has direct control over its regulated entities.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The list of nonattainment areas in 9VAC5-20-206 is updated to include the affected portion of Giles County for SO₂.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Public: Advantages to the regulated community include more certainty, as consistency with EPA requirements enables assurance regarding specific federal and state requirements. Properly implementing federal requirements will ensure the control of SO₂, which is proven to harm human health and welfare. Finally, this action will help to ensure that the state retains the authority to implement the federal program. It is beneficial to all Virginians for the program to continue to be managed by the Commonwealth.

Department: The department will benefit by meeting its federal mandates in a consistent and clear manner.

There are no disadvantages associated with this regulatory action to either the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements of the regulatory change that are more restrictive than the federal.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:

No other state agencies will be particularly affected by this regulatory action.

Localities Particularly Affected:

The regulation amendment affects one facility located in the area designated as nonattainment for SO₂: Lhoist North America - Kimballton. The specific nonattainment area is delineated by EPA at 40 CFR 81.347 using Geographic Coordinate System GCS_North_American_1983 and Datum D_North_American_1983, as the area bounded by the lines connecting the following coordinate points (Latitude, Longitude):

- 37.385249, - 80.718248
- 37.431656, - 80.619986
- 37.391368, - 80.597698
- 37.369986, - 80.649488
- 37.354441, - 80.642085
- 37.338479, - 80.676322

37.339474, - 80.676771
37.340652, - 80.677123
37.341580, - 80.677298
37.343330, - 80.678318
37.344937, - 80.679026
37.345866, - 80.679692
37.347105, - 80.680670
37.347976, - 80.681783
37.348229, - 80.682898
37.348480, - 80.683657
37.348185, - 80.684689
37.347824, - 80.685948
37.347241, - 80.687983
37.346509, - 80.689766
37.346075, - 80.691489
37.345317, - 80.693571
37.345091, - 80.694767
37.344900, - 80.696603
37.344679, - 80.697755
37.344700, - 80.698520
37.344989, - 80.699570
37.345395, - 80.700635
37.345740, - 80.701485
37.347021, - 80.701929
37.348308, - 80.701922
37.349556, - 80.701498
37.350789, - 80.701099
37.352718, - 80.700642
37.354894, - 80.700352
37.356601, - 80.700486
37.358442, - 80.700844
37.359567, - 80.701852
37.361185, - 80.702914
37.361950, - 80.703726
37.362516, - 80.705580
37.362901, - 80.707040
37.363285, - 80.708539

The remainder of the county is designated attainment/unclassifiable.

Other Entities Particularly Affected:
There are no other entities particularly affected.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
*9VAC5-20-204		Nonattainment areas.	Update list of nonattainment areas to include the new SO ₂ nonattainment areas. Needed to implement federal requirements. No significant impacts anticipated.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

This regulation meets the requirements of federal law and regulation. Any less stringent compliance requirements, any delays in adopting the standards, any different compliance or reporting requirements, any substitution of performance standards, and any exemption of small businesses from these requirements will not meet the minimum federal requirements. Any such changes would compromise the effectiveness of the regulation in protecting the health and welfare of the public, and could potentially subject the Commonwealth to federal control over the state permitting program.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

No family impacts are anticipated.

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REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20)

9VAC5 CHAPTER 20.
GENERAL PROVISIONS.

PART II.
AIR QUALITY PROGRAMS.

9VAC5-20-204. Nonattainment areas.

A. Nonattainment areas are geographically defined below by locality for the criteria pollutants indicated. Following the name of each ozone nonattainment area, in parenthesis, is the classification assigned pursuant to § 181(a) of the federal Clean Air Act (42 USC § 7511(a)), 40 CFR 51.903(a), 40 CFR 51.1103(a), and 40 CFR 51.1203(a).

1. Ozone (1-hour).

Northern Virginia Ozone Nonattainment Area (severe).

Arlington County
Fairfax County
Loudoun County
Prince William County
Stafford County
Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

2. Ozone (8-hour, 0.08 ppm).

Northern Virginia Ozone Nonattainment Area (moderate).

Arlington County
Fairfax County
Loudoun County
Prince William County
Stafford County
Alexandria City
Fairfax City
Falls Church City
Manassas City

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20)

Manassas Park City

3. Ozone (8-hour, 0.075 ppm).

Northern Virginia Ozone Nonattainment Area (marginal).

Arlington County
Fairfax County
Loudoun County
Prince William County
Stafford County
Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

4. Ozone (8-hour, 0.070 ppm).

Northern Virginia Ozone Nonattainment Area (marginal).

Arlington County
Fairfax County
Loudoun County
Prince William County
Stafford County
Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

5. Sulfur dioxide.

Giles County Sulfur Dioxide Nonattainment Area (part)

That part of Giles County bounded by the lines connecting the coordinate points as designated in 40 CFR 81.347.

6. All other pollutants.

None.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20)

B. Subdivision A 1 of this section shall not be effective after June 15, 2005.

REG\DEV\F22-REG-FIN.DOC