

MEMORANDUM

TO: Regional Directors
Regional Permit Managers
Regional Air Permit Managers
Regional Air Compliance Managers

FROM: John M. Daniel, Jr., P.E., DEE
Director, Division of Air Programs Coordination

SUBJECT: Memo Number 99-1004, Public participation requirements prior to issuing any permit for the construction of a new major stationary source or for a major modification to an existing source pursuant to Section 10.1-1307.01 (Localities Particularly Affected)

Copies: David K. Paylor
Director of Program Coordination

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DATE: August 19, 1999 (amended January 25, 2010)

This sets forth the procedures that should be followed to meet the requirements of Section 10.1-1307.01 of the Air Pollution Control Law of Virginia for issuing any permit for the construction of a new major stationary source or for a major modification to an existing source. It replaces all previous air guidance documents on this subject (Policy Statement No. 3-96 and Guidance Document Nos. APG-96-240 and 97-1005.)

Background. This guidance is based on Section 10.1-1307.01 of the Air Pollution Control Law of Virginia. This section specifies that after June 30, 1994, certain specific requirements must be

met when processing variances, promulgating regulations, and issuing any permit for construction of a new major stationary source or for a major modification to an existing source. Specifically, DEQ must publish or require the source to publish a notice in a local paper of general circulation in the localities particularly affected at least thirty days prior to the close of any public comment period. The notice should contain a statement of the estimated local impact which, at a minimum, should provide information on quantity of fuels to be used and quantities of each pollutant emitted.

A copy of the public notice must be sent to the chief elected official, the chief administrative officer, and the planning district commission for those localities.

Written comments must be accepted for at least 15 days following any public hearing for new major stationary sources and major modifications, unless SAPCB votes to shorten the period.

Guidance

A. Definitions

(1) **Locality Particularly Affected:** Any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities.

(2) **Disproportionate Material Air Quality Impact:** Any ambient air quality impact determined by air quality modeling to meet or exceed the significance levels outlined below:

SO _x	Annual	1 microgram/cubic meter
	24-hour	5 microgram/cubic meter
	3-hour	25 microgram/cubic meter
PM(10)	Annual	1 microgram/cubic meter
	24-hour	5 microgram/cubic meter
NO ₂	Annual	1 microgram/cubic meter
CO	8-hour	500 microgram/cubic meter
	1-hour	2,000 microgram/cubic meter

The terms "major stationary source" and "major modification" are defined in Articles 6, 8, and 9 of 9 VAC 5 Chapter 80. Please use the definition from the regulation which applies to your situation.

(NOTE: Permits issued for minor modifications to major stationary sources are not subject to the requirements of Section 10.1-1307.01)

B. Public Hearing Notice

Any notice of a public comment period/hearing for the construction of a new major stationary source or for a major modification to an existing source should, at a minimum, contain the following information:

- (1) The quantity of each specific pollutant emitted.
- (2) The type and quantity of any fuels to be used.

Note that the decision as to how to model the emissions, addressed in other agency guidance, is not affected. A brief statement should be included in the notice, indicating whether or not any regulation would be violated.

The public notice should be published in a newspaper of general circulation in any localities particularly affected as defined above and should specify that comments will be accepted for 15 days following the day of the public hearing, if any.

A copy of the public notice should be mailed to the chief elected office and chief administrative officer of any locality particularly affected and the planning district commission for those localities.

(NOTE: Since the notice must be published at least 30 days prior to a public hearing and the written comments are to be accepted for at least 15 days following the public hearing, the total comment period would be 45 days or longer.)

If you have questions on this subject, please contact the Office of Air Permit Programs.