

TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING

THURSDAY, SEPTEMBER 17, 2020

ELECTRONIC COMMUNICATION MEETING

Registration Link: <https://attendee.gotowebinar.com/register/3698179180864816139>

Webinare ID: 664-974-475

Persons Wishing To Speak During The Public Forum Must Register By September 15, 2020

Any Updates To The Details/Final Arrangements Or The Addition Of An In-Person Location
To Be Announced At Least 3 Days In Advance Of Meeting

Convene – 10:30 A.M.

Agenda Item	Presenter	Tab
Call to Order	Hoagland	
Introductions	Board Members	
Review and Approve Agenda	Hoagland	
Review and Approve Minutes (June 18, 2020)	Hoagland	A (pg 5)
Election of Officer(s) Discussion	Board Members	
Final Regulation - Permits and Variances for Stationary Sources - Rev. E20 - Final Exempt Action	Sabasteanski	B (pg 9)
Final Regulation - Federal Documents Incorporated by Reference - Rev. F20	Sabasteanski	C (pg 49)
Director/Division Director Report/Updates	Paylor/Dowd	
Agency Budget		
Environmental Justice		
Agency COVID-19 Activities		
Pending Permit Applications and Upcoming Regulatory Actions		
EPA Ozone Standard Action		
Giles County 120-Day Letter for SO2		
Public Engagement Committee Update	Hoagland	
High Priority Violations Report	Nicholas	D (pg 91)
Public Forum		
Future Meetings (December 3, 2020)		
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 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 its 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 of Environmental Quality 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 (issuance and amendment of permits), 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. 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. In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, 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. 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 the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented at the public hearing or during the public comment period up to 3 minutes to exercise their rights to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a **FORMAL HEARING** is being held.

POOLING MINUTES: 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 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 commented 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. In the case of 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, 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, pending regulatory actions or pending case decisions. 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.

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, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cindy.berndt@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 hotel, its employees and guests.
- All violators are subject to removal.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

MEMORANDUM

TO: Members of the State Air Pollution Control Board

FROM: Cindy M. Berndt 

DATE: July 27, 2020

SUBJECT: Minutes

Attached are the minutes from your meeting on June 18, 2020. Staff will seek your approval of the minutes at your next regular meeting.

If you have any questions, please contact me at (804) 698-4378 or cindy.berndt@deq.virginia.gov.

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

THURSDAY, JUNE 18, 2020

ELECTRONIC COMMUNICATION MEETING

Board Members Present:

Ignacia S. Moreno, Chair
William H. Ferguson
Staci F. Rijal
Gail Bush

Roy A. Hoagland, Vice-Chair
Kajal B. Kapur
Richard D. Langford

Board Members Absent: None

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

Gray O'Dwyer, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The Board convened the meeting at 10:30 a.m. and adjourned the meeting at 1:13 p.m.

The Board convened the meeting electronically consistent with Governor Ralph Northam's Executive Order No. 51 (2020), Item 4-0.01 g of Chapter 1283 of the 2020 Acts of Assembly and the applicable provisions of § 2.2-3708.2 of the Freedom of Information Act. Further, the Board stated that a meeting was necessary for the Board to discharge its lawful purposes, duties, and responsibility; but impracticable or unsafe for the Board to assemble in a single location due to the declaration of a state of emergency for COVID-19.

Minute No. 1 - Review and Approval of Agenda - The Board, on a motion by Ms. Bush and seconded by Mr. Ferguson, unanimously approved the agenda as announced. (Vote was taken by roll call with all members voting aye.)

Minute No. 2 - December 6, 2019 Minutes - The Board, on a motion by Mr. Ferguson and seconded by Ms. Rijal, approved the minutes from the Board's meeting on December 6, 2019. (Vote was taken by roll call with Ms. Moreno, Mr. Hoagland, Mr. Ferguson, Ms. Kapur and Ms. Rijal voting aye and Mr. Langford and Ms. Bush abstaining.)

Minute NO. 3 - High Priority Violations Report - The Board received a report on high priority violations for the first and second quarters of 2020.

Minute No. 4 - Director's Report - The Board received updates from Mr. David Paylor on the budget, the environmental justice study and webinar, the health assessment by the Virginia Department of Health on the Buckingham Compressor Station, and the work force training plan for the Chickahominy Power Station. The

Board requested future updates on environmental justice activities as the study progresses and recommendations are developed.

Minute No. 5 - Division Director's Report - The Board received updates from Mr. Michael Dowd, Director of the Division of Air and Renewable Energy, on General Assembly action on the RGGI Regulation, Virginia Clean Economy Act , pending permit applications and upcoming regulatory actions, and agency COVID-19 activities.

Minute No. 6 - Public Engagement Committee Update - Mr. Roy Hoagland, reported to the Board, that the Committee had not met since the Board's meeting in December 2019 due to the COVID-19 pandemic. Mr. Hoagland advised the Board that the Committee will meet on July 27, 2020.

Minute No. 7 - Public Forum - The Board received comment from Chad Oba, Mary Finley-Brook, Suzanne Keller, Wanda Roberts, Jessica Sims, William Limpert, Lakshmir Fjord, and Kay Ferguson. One of the topics addressed by several commenters were concerns with the Atlantic Coast Pipeline Buckingham Compressor Station. Concerns raised included control of radiation discharges or imposing a 30-day storage requirement on the natural gas before transmission; the health assessment performed by the Virginia Department of Health, issuance of a new permit for the station, and environmental justice issues surrounding the siting of the station. The Board also received comments regarding the Public Engagement Committee and the Mountain Valley Pipeline Southgate Project.

Minute No. 7 - Future Meetings - The Board confirmed September 17 and December 3, 2020, as the dates of their future meetings and July 27, 2020, as the date of the next Public Engagement Committee.

Cindy M. Berndt

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

September 17, 2020

SUBJECT: Permits and Variances for Stationary Sources, Localities Particularly Affected (9VAC5-80, Rev. E20) - Request for Board Action on Exempt Final Regulation

CONTACT: Karen G. Sabasteanski
karen.sabasteanski@deq.virginia.gov/804-698-4426
Policy Analyst, Office of Regulatory Affairs
Department of Environmental Quality

INTRODUCTION

Chapter 1110 of the 2020 Acts of Assembly amended § 10.1-1307.01 to add new public participation requirements for permits and variances for certain facility types with the potential to have an impact on a particular locality. A "locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

The board will determine if a locality will be particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas,. The applicant must publish a notice at least 60 days prior to the close of the public comment period. The applicant must mail notice to local elected officials and the planning district commission; local public libraries and schools, and local property owners. Written comments must be accepted by the board for at least 30 days after the public hearing.

The department is requesting approval of draft final regulation amendments that meet a directive of the General Assembly: Chapter 1110 of the 2020 Acts of Assembly, modifying § 10.1-1307.01 of the Virginia Air Pollution Control Law. Approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under state law.

REGULATORY ACTION ADOPTION PROCESS

Because the regulation amendments are necessary to conform to Virginia statutory law, they are exempt from the standard regulatory adoption process (Article 2 of the Administrative Process Act) by the provisions of § 2.2-4006 A 4 a 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. The

notice of adoption will be published in the Virginia Register subsequently. Further, 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.

Notice that the regulation 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 AMENDMENTS

1. Add a definition of "locality particularly affected" where needed in order to be consistent with other new source review regulations and in order to implement the new requirements. [9VAC5-80-1110, 9VAC5-80-1410]
2. Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for certain localities in greater detail. [9VAC5-80-1170, 9VAC5-80-1460, 9VAC5-80-1775, 9VAC5-80-2070, 9VAC5-170-140]

SUPPORTING DOCUMENTATION

1. Chapter 1110 of the 2020 Acts of Assembly.
2. The agency background document.
3. The draft final regulation amendments.

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\20-07BF



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	Primary Action: Articles 6, 7, 8 and 9 of 9VAC5-80 Secondary Action: Part VI of 9VAC5-170
VAC Chapter title(s)	Part II of 9VAC5-80, Permits for Stationary Sources; Part VI of 9VAC5-170, Regulation for General Administration
Action title	Permits and Variances for Stationary Sources, Localities Particularly Affected (Revision E20)
Final agency action date	
Date this document prepared	

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

Chapter 1110 of the 2020 Acts of Assembly amended § 10.1-1307.01 to add new public participation requirements for permits and variances for certain facility types with the potential to have an impact on a particular locality. A "locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

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). "Mandate" is defined as "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."

The mandate for this regulatory change is a directive from the General Assembly: Chapter 1110 of the 2020 Acts of Assembly, modifying § 10.1-1307.01 of the Virginia Air Pollution Control Law.

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 September 17, 2020, the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically, Articles 6, 7, 8 and 9 of 9VAC5-80. Part VI of the Regulation for General Administration (9VAC5-170) was also amended. 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 a of the Administrative Process Act because they are necessary to conform to Virginia statutory law.

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.

State Requirements

Chapter 1110 of the 2020 Acts of Assembly, modifying § 10.1-1307.01 of the Virginia Air Pollution Control Law.

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 regulations is to protect the public's health or welfare by requiring sources of air pollution to obtain a permit or variance that meets federal and state standards for the control of air pollution with additional notice to and time for input from the public . The proposed amendments are being made to conform to new public participation procedures for permits and variances for certain types of stationary sources as mandated by Chapter 1110 of the 2020 Acts of Assembly.

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 board will determine if a locality will be particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas. The applicant must publish a notice at least 60 days prior to the close of the public comment period. The applicant must mail the notice to local elected officials and the planning district commission; local public libraries and schools, and local property owners. Written comments must be accepted by the board for at least 30 days after the public hearing.

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.

1. Public: The primary advantage to the general public is that a community that may experience additional impacts from certain projects will have additional notice and opportunity to comment on such projects. There may be a disadvantage to the regulated entities that must undergo the expense of additional public notice.

2. Department: The primary advantage to the department is that additional impacts on a specific community may be identified and resolved. There are no disadvantages to the department as a result of the regulatory change.

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 affected by this regulatory action.

Localities Particularly Affected:

Any locality that may experience a particular impact from a specific project is the specific target of this regulatory action.

Other Entities Particularly Affected:

The other entities particularly affected have been identified by the General Assembly as (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this exempt action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please 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
9VAC5-80-1110 C		General definitions.	Definition of "locality particularly affected" added. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail, and to be consistent with other new source review regulations.
9VAC5-80-1170*	Subsection I	Public participation requirements.	Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail.
9VAC5-80-1410		General definitions.	Definition of "locality particularly affected" added. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail, and to be consistent with other new source review regulations.
9VAC5-80-1460*	Subsection K	Public participation requirements.	Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail.
9VAC5-80-1775*	Subsection K	Public participation requirements.	Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail.
9VAC5-80-2070*	Subsection K	Public participation requirements.	Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail.
9VAC5-170-140*	Subsection D	Public participation requirements.	Add additional public notice and participation requirements for specific source types. Needed in order to implement the requirement of state law to address public participation for such localities in greater detail.

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 state law. 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 requirements of state law. Any such changes would compromise the effectiveness of the regulation in protecting the health and welfare of the public.

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.

REGIDEME20-08TF

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

9VAC5 CHAPTER 80.
PERMITS FOR STATIONARY SOURCES.

PART II.
PERMIT PROCEDURES.

ARTICLE 6.
PERMITS FOR NEW AND MODIFIED STATIONARY SOURCES.

9VAC5-80-1110. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meanings given them in 9VAC5-10 (General Definitions), unless otherwise required by context.

C. Terms defined.

"Addition" means the construction of a new emissions unit at or the relocation of an existing emissions unit to a stationary source.

"Affected emissions units" means the following emissions units, as applicable:

1. For a new stationary source, all emissions units.
2. For a project, the added, modified, and replacement emissions units that are part of the project.

"Applicable federal requirement" means all of, but not limited to, the following as they apply to affected emissions units subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

1. Any standard or other requirement provided for in an implementation plan established pursuant to § 110, § 111(d), or § 129 of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.
2. Any term or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

operating permit program. However, those terms or conditions designated as state-only enforceable pursuant to 9VAC5-80-1120 F or 9VAC5-80-820 G shall not be applicable federal requirements.

3. Any emission standard, alternative emission standard, alternative emissions limitation, equivalent emissions limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.

4. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

5. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

6. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

7. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

8. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

9. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

10. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a federal operating permit.

12. With regard to temporary sources subject to 9VAC5-80-130, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in Article 8 (9VAC5-80-1605 et seq.) of this part.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

13. Any standard or other requirement under § 126 (a)(1) and (c) of the federal Clean Air Act.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. With respect to the initial location or relocation of a portable emissions unit, this term refers to the delivery of any portion of the portable emissions unit to the site.

"Clean wood" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings, or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained, or coated.

"Commence," as applied to the construction of an emissions unit, means that the owner has all necessary preconstruction approvals or permits and has either:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the unit, to be completed within a reasonable time; or
2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction of the unit, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and that the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construction" means fabrication, erection, installation, demolition, relocation, addition, replacement, or modification of an emissions unit that would result in a change in the uncontrolled emission rate.

"Construction waste" means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to, lumber, wire, sheetrock, broken brick, shingles, glass, pipe, concrete, paving materials, and metal and

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plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes.

"Debris waste" means wastes resulting from land clearing operations. Debris wastes include, but are not limited to, stumps, wood, brush, leaves, soil, and road spoils.

"Demolition waste" means that solid waste that is produced by the destruction of structures or their foundations, or both, and includes the same materials as construction wastes.

"Diesel engine" means, for the purposes of 9VAC5-80-1105 A 1 b, any internal combustion engine that burns diesel or #2 fuel oil to provide power to processing equipment for a vegetative waste recycling/mulching operation.

"Emergency" means a condition that arises from sudden and reasonably unforeseeable events where the primary energy or power source is disrupted or disconnected due to conditions beyond the control of an owner or operator of a facility including:

1. A failure of the electrical grid,
2. On-site disaster or equipment failure,
3. Public service emergencies such as flood, fire, natural disaster, or severe weather conditions, or
4. An ISO-declared emergency, where an ISO emergency is:
 - a. An abnormal system condition requiring manual or automatic action to maintain system frequency, to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property;
 - b. Capacity deficiency or capacity excess conditions;
 - c. A fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel;
 - d. Abnormal natural events or man-made threats that would require conservative operations to posture the system in a more reliable state; or

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e. An abnormal event external to the ISO service territory that may require ISO action.

"Emissions cap" means any limitation on the rate of emissions of any air pollutant from one or more emissions units established and identified as an emissions cap in any permit issued pursuant to the new source review program or operating permit program.

"Emissions limitation" means a requirement established by the board that limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emissions reduction, and any design standard, equipment standard, work practice, operational standard, or pollution prevention technique.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.

"Enforceable as a practical matter" means that the permit contains emissions limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent;
2. Contain a legal obligation for the owner to adhere to the terms and conditions;
3. Do not allow a relaxation of a requirement of the implementation plan;
4. Are technically accurate and quantifiable;
5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with this article and other regulations of the board; and
6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Existing stationary source" means any stationary source other than a new

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stationary source.

"Federal hazardous air pollutant new source review program" means a program for the preconstruction review and approval of the construction, reconstruction or modification of any stationary source in accordance with regulations specified below and promulgated to implement the requirements of § 112 (relating to hazardous air pollutants) of the federal Clean Air Act.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07, 40 CFR 61.08 and 40 CFR 61.15 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61.

2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for Subparts B, D and E.

3. The provisions of 40 CFR 63.50 through 40 CFR 63.56 for issuing Notices of MACT Approval prior to the construction of a new emissions unit.

"Federally enforceable" means all limitations and conditions that are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

1. Emission standards, alternative emission standards, alternative emissions limitations, and equivalent emissions limitations established pursuant to § 112 of the federal Clean Air Act, as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

3. All terms and conditions (unless expressly designated as state-only enforceable) in a federal operating permit, including any provisions that limit a source's potential to emit.

4. Limitations and conditions that are part of an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act.

5. Limitations and conditions (unless expressly designated as state-only enforceable) that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA into the

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implementation plan.

6. Limitations and conditions (unless expressly designated as state-only enforceable) that are part of a state operating permit where the permit and the permit program pursuant to which it was issued meet all of the following criteria:

a. The operating permit program has been approved by the EPA into the implementation plan under § 110 of the federal Clean Air Act.

b. The operating permit program imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not federally enforceable by EPA.

c. The operating permit program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the implementation plan, or that are otherwise federally enforceable.

d. The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter.

e. The permit in question was issued only after adequate and timely notice and opportunity for comment by the EPA and the public.

7. Limitations and conditions in a regulation of the board or program that has been approved by EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

8. Individual consent agreements that EPA has legal authority to create.

"Federal operating permit" means a permit issued under the federal operating permit program.

"Federal operating permit program" means an operating permit system (i) for issuing terms and conditions for major stationary sources, (ii) established to implement the requirements of Title V of the federal Clean Air Act and associated regulations, and (iii)

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codified in Article 1 (9VAC5-80-50 et seq.), Article 2 (9VAC5-80-310 et seq.), Article 3 (9VAC5-80-360 et seq.), and Article 4 (9VAC5-80-710 et seq.) of this part.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this article that meets the requirements of 9VAC5-80-1250.

"Hazardous air pollutant" means (i) any air pollutant listed in §112(b) of the federal Clean Air Act, as amended by Subpart C of 40 CFR Part 63, and (ii) incorporated by reference into the regulations of the board at 9VAC5-60-92 B.

"Independent system operator" or "ISO" means a person that may receive or has received, by transfer pursuant to § 56-576 of the Code of Virginia, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"Locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

"Major modification" means any project at a major stationary source that would result in a significant emissions increase in any regulated air pollutant. For projects, the emissions increase may take into consideration any state and federally enforceable permit conditions that will be placed in a permit resulting from a permit application deemed complete under the provisions of 9VAC5-80-1160 B.

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations; and (iii) codified in Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part.

"Major stationary source" means any stationary source that emits, or has

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the potential to emit, 100 tons or more per year of any regulated air pollutant. For new stationary sources, the potential to emit may take into consideration any state and federally enforceable permit conditions that will be placed in a permit resulting from a permit application deemed complete under the provisions of 9VAC5-80-1160 B.

"Minor new source review (NSR) permit" means a permit issued pursuant to this article.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for regulated air pollutants from new stationary sources or projects that are not subject to review under the major new source review program; (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations; and (iii) codified in this article. The minor NSR program may also be used to implement the terms and conditions described in 9VAC5-80-1120 F 1; however, those terms and conditions shall be state-only enforceable and shall not be applicable federal requirements.

"Modification" means any physical change in, or change in the method of operation of an emissions unit that increases the uncontrolled emission rate of any regulated air pollutant emitted into the atmosphere by the unit or that results in the emission of any regulated air pollutant into the atmosphere not previously emitted. The following shall not be considered physical changes or changes in the method of operation under this definition:

1. Maintenance, repair and replacement of components that the board determines to be routine for a source type and which does not fall within the definition of "replacement";
2. An increase in the throughput or production rate of a unit (unless previously limited by any state enforceable and federally enforceable permit conditions established pursuant to this chapter), if that increase does not exceed the operating design capacity of that unit;
3. An increase in the hours of operation (unless previously limited by any state enforceable and federally enforceable permit conditions established pursuant to this chapter);
4. Use of an alternative fuel or raw material (unless previously limited by any state enforceable and federally enforceable permit conditions established pursuant to this chapter) if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the emissions unit was designed to accommodate that alternative use. A unit shall be considered to be designed to accommodate an alternative

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fuel or raw material if provisions for that use were included in the final construction specifications;

5. Use of an alternative fuel or raw material that the emissions unit is approved to use under any new source review permit;

6. The addition, replacement or use of any system or device whose primary function is the reduction of air pollutants, except when a system or device that is necessary to comply with applicable air pollution control laws, permit conditions, or regulations is replaced by a system or device which the board considers to be less efficient in the control of air pollution emissions;

7. The removal of any system or device whose primary function is the reduction of air pollutants if the system or device is not (i) necessary for the source to comply with any applicable air pollution control laws, permit conditions or regulations or (ii) used to avoid any applicable new source review program requirement; or

8. A change in ownership at a stationary source.

"Necessary preconstruction approvals or permits" means those permits or approvals required under the NSR program that is part of the implementation plan.

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for regulated air pollutants from new stationary sources or projects (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in this article, Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part. The NSR program may also be used to implement the terms and conditions described in 9VAC5-80-1120 F 1; however, those terms and conditions shall be state-only enforceable and shall not be applicable federal requirements.

"New stationary source" means any stationary source to be constructed at or relocated to an undeveloped site.

"Nonroad engine" means any internal combustion engine:

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1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);

2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

An internal combustion engine is not a nonroad engine if (i) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under § 202 of the federal Clean Air Act; or (ii) the engine otherwise included in subdivision 3 of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source.

For purposes of this definition, a location is any single site at a building, structure, facility or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at the single location approximately three months (or more) each year. This subdivision does not apply to an engine after the engine is removed from the location.

"Plantwide applicability limitation" or "PAL" means an emissions limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established sourcewide in accordance with 9VAC5-80-1865 or 9VAC5-80-2144.

"PAL permit" means the state operating permit issued by the board that establishes a PAL for a major stationary source.

"Portable," in reference to emissions units, means an emissions unit that is designed to have the capability of being moved from one location to another for the purpose of operating at multiple locations and storage when idle. Indications of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

"Potential to emit" means the maximum capacity of a stationary source to

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emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Precursor pollutant" means the following:

1. Volatile organic compounds and nitrogen oxides are precursors to ozone.
2. Sulfur dioxide is a precursor to PM_{2.5}.
3. Nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5}, unless the board determines that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.
4. Volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5}, unless the board determines that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

"Process operation" means any method, form, action, operation or treatment of manufacturing or processing, including any storage or handling of materials or products before, during or after manufacturing or processing.

"Project" means any change at an existing stationary source consisting of the addition, replacement, or modification of one or more emissions units.

"Public comment period" means a time during which the public shall have the opportunity to comment on the permit application information (exclusive of confidential information) for a new stationary source or project, the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Reactivation" means beginning operation of an emissions unit that has been shut down.

"Reconstruction" means, for the sole purposes of 9VAC5-80-1210 A, B, and C, the replacement of an emissions unit or its components to such an extent that:

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1. The fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new unit;
 2. The replacement significantly extends the life of the emissions unit;
- and
3. It is technologically and economically feasible to meet the applicable emission standards prescribed under regulations of the board.

Any determination by the board as to whether a proposed replacement constitutes reconstruction shall be based on:

1. The fixed capital cost of the replacements in comparison to the fixed capital cost of the construction of a comparable entirely new unit;
2. The estimated life of the unit after the replacements compared to the life of a comparable entirely new unit;
3. The extent to which the components being replaced cause or contribute to the emissions from the unit; and
4. Any economic or technical limitations on compliance with applicable standards of performance that are inherent in the proposed replacements.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound.
2. Any pollutant (including any associated precursor pollutant) for which an ambient air quality standard has been promulgated.
3. Any pollutant subject to any standard promulgated under 40 CFR Part 60.
4. Any pollutant subject to a standard promulgated under or other requirements established under 40 CFR Part 61 and any pollutant regulated under 40 CFR Part 63.
5. Any pollutant subject to a regulation adopted by the board.

"Relocation" means a change in physical location of a stationary source or an emissions unit from one stationary source to another stationary source.

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"Replacement" means the substitution of an emissions unit for an emissions unit located at a stationary source, which will thereafter perform the same function as the replaced emissions unit.

"Secondary emissions" means emissions which occur or would occur as a result of the construction or operation of a new stationary source or an emissions unit, but do not come from the stationary source itself. For the purpose of this article, secondary emissions must be specific, well-defined, and quantifiable; and must affect the same general areas as the stationary source that causes the secondary emissions. Secondary emissions include emissions from any off site support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source or emissions unit. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

1. In reference to an emissions increase, an increase in potential to emit that would equal or exceed any of the following rates:

a. In ozone nonattainment areas classified as serious or severe in 9VAC5-20-204:

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	25 tpy
Sulfur Dioxide	40 tpy
Particulate Matter (PM)	25 tpy
Particulate Matter (PM ₁₀)	15 tpy
Particulate Matter (PM _{2.5})	10 tpy
Volatile organic compounds	25 tpy
Lead	0.6 tpy

b. In all other areas:

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter (PM)	25 tpy
Particulate Matter (PM ₁₀)	15 tpy

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Pollutant	Emissions Rate
Particulate Matter (PM _{2.5})	10 tpy
Volatile organic compounds	40 tpy
Lead	0.6 tpy

2. In reference to an emissions increase for a regulated air pollutant not listed in subdivision 1 of this definition, there is no emissions rate that shall be considered significant.

3. If the particulate matter (PM₁₀ or PM_{2.5}) emissions for a stationary source or emissions unit can be determined in a manner acceptable to the board and the emissions increase is determined to be significant using the emission rate for particulate matter (PM₁₀ or PM_{2.5}), the stationary source or emissions unit shall be considered to be significant for particulate matter (PM). If the emissions of particulate matter (PM₁₀ or PM_{2.5}) cannot be determined in a manner acceptable to the board, the emission rate for particulate matter (PM) shall be used to determine whether the emissions increase is significant.

"Significant emissions increase" means, for a regulated air pollutant, an increase in emissions that is significant for that pollutant.

"Site" means one or more contiguous or adjacent properties under the control of the same person (or persons under common control).

"Source category schedule for standards" means the schedule (i) issued pursuant to § 112(e) of the federal Clean Air Act for promulgating MACT standards issued pursuant to § 112(d) of the federal Clean Air Act and (ii) incorporated by reference into the regulations of the board in subdivision 2 of 9VAC5-60-92.

"Space heater" means any fixed or portable, liquid or gaseous fuel-fired, combustion unit used to heat air in a space, or used to heat air entering a space, for the purpose of maintaining an air temperature suitable for comfort, storage, or equipment operation. Space heaters do not include combustion units used primarily for the purpose of conditioning or processing raw materials or product, such as driers, kilns, or ovens.

"State enforceable" means all limitations and conditions that are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9VAC5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"State operating permit" means a permit issued under the state operating permit program.

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"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources; (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability; and (iii) codified in Article 5 (9VAC5-80-800 et seq.) of this part.

"Stationary source" means any building, structure, facility or installation that emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any watercraft or any nonroad engine. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., that have the same two-digit code) as described in the "Standard Industrial Classification Manual" (see 9VAC5-20-21).

"Synthetic minor source" means a stationary source that otherwise has the potential to emit regulated air pollutants in amounts that are at or above those for major stationary sources, as applicable, but is subject to restrictions such that its potential to emit is less than such amounts for major stationary sources. Such restrictions must be enforceable as a practical matter. The term "synthetic minor source" applies independently for each regulated air pollutant that the source has the potential to emit.

"Temporary facility" means a facility that (i) is operated to achieve a specific objective (such as serving as a pilot test facility, a process feasibility project, or a remediation project) and (ii) does not contribute toward the commercial production of any product or service (including byproduct and intermediate product) during the operational period. Portable emissions units covered by the exemption under 9VAC5-80-1105 A 1 c and facilities used to augment or enable routine production are not considered temporary facilities for the purposes of this definition.

"Toxic pollutant" means any air pollutant (i) listed in § 112(b) of the federal Clean Air Act, as amended by Subpart C of 40 CFR Part 63 and (ii) incorporated by reference into the regulations of the board at subdivision 1 of 9VAC5-60-92, or any other air pollutant that the board determines, through adoption of regulation, to present a significant risk to public health. This term excludes asbestos, fine mineral fibers, radionuclides, and any glycol ether that does not have a TLV®.

"Uncontrolled emission rate" means the emission rate from an emissions unit when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment that is not vital to its operation, except that its use enables the owner to conform to applicable air pollution control laws

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and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the emissions unit, unless the emissions unit or stationary source is subject to state and federally enforceable permit conditions that limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted, stored, or processed may be used in determining the uncontrolled emission rate of an emissions unit or stationary source. The uncontrolled emission rate of a stationary source is the sum of the uncontrolled emission rates of the individual emissions units. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.

"Undeveloped site" means any site or facility at which no emissions units are located at the time the permit application is deemed complete, or at the time the owner begins actual construction, whichever occurs first. An undeveloped site also includes any site or facility at which all of the emissions units have been determined to be shut down pursuant to the provisions of 9VAC5-20-220.

"Vegetative waste" means decomposable materials generated by land clearing activities and includes shrub, bush and tree prunings, bark, brush, leaves, limbs, roots, and stumps. Vegetative waste does not include construction or demolition waste or any combination of them.

"Vegetative waste recycling/mulching operation" means any activity related to size reduction or separating, or both, of clean wood or vegetative waste, or both, by grinding, shredding, chipping, screening, or any combination of them.

9VAC5-80-1170. Public participation.

A. No later than 15 days after receiving the initial determination notification required under 9VAC5-80-1160 B, the applicant for a minor NSR permit for a new major stationary source shall notify the public of the proposed major stationary source in accordance with subsection B of this section.

B. The public notice required by subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

1. The source name, location, and type;
2. The pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;

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3. The control technology proposed to be used at the time of the publication of the notice; and

4. The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

C. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a minor NSR permit may implement an alternative plan for notifying the public to that required in subsections A and B of this section.

D. Prior to the decision of the board, minor NSR permit applications as specified below shall be subject to a public comment period of at least 30 days. At the end of the public comment period, a public hearing shall be held in accordance with subsection E of this section.

1. Applications for stationary sources of hazardous air pollutants requiring a case-by-case maximum achievable control technology determination under Article 3 (9VAC5-60-120 et seq.) of Part II of 9VAC5-60 (Hazardous Air Pollutant Sources).

2. Applications for new major stationary sources and major modifications.

3. Applications for projects that would result in an increase in the potential to emit of any regulated air pollutant that would equal or exceed 100 tons per year, considering any state and federally enforceable permit conditions that will be placed on the source by a minor NSR permit.

4. Applications for new stationary sources or projects that have the potential for public interest concerning air quality issues, as determined by the board. The identification of such sources shall be made using the following nonexclusive criteria:

a. Whether the new stationary source or project is opposed by any person;

b. Whether the new stationary source or project has resulted in adverse media;

c. Whether the new stationary source or project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and

d. Whether the new stationary source or project has generated

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adverse comment by a local official, governing body, or advisory board.

5. Applications for stationary sources for which any provision of the minor NSR permit is to be based upon a good engineering practice (GEP) stack height that exceeds the height allowed by subdivisions 1 and 2 of the GEP definition. The demonstration specified in subdivision 3 of the GEP definition and required by 9VAC5-50-20 H 3 shall be included in the application.

E. When a public comment period and public hearing are required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for the public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. For permits subject to § 10.1-1307.01 of the Code of Virginia, written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the minor NSR permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region. Any demonstration included in an application specified in subdivision D 5 of this section shall be available for public inspection during the public comment period.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

F. Following the initial publication of the notice required under subsection E of this section, the board will receive written requests for direct consideration of the minor NSR permit application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

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2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

G. The board will review any request made under subsection F of this section, and will take final action on the request as provided in 9VAC5-80-1160 D.

H. In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board shall process the minor NSR permit application using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

I. If the board finds that there is a locality particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas:

1. The applicant shall perform the following:

a. Publish a notice in at least one local paper of general circulation in any locality particularly affected at least 60 days prior to the close of any public comment period. Such notice shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information regarding specific pollutants and the total quantity of each that may be emitted; (iii) list the type, quantity, and source of any fuel to be used; (iv) advise the public how to request board consideration; and (v) advise the public where to obtain information regarding the proposed action; and

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b Mail the notice to (i) the chief elected official of, chief administrative officer of, and planning district commission for each locality particularly affected; (ii) every public library and public school located within five miles of such facility; and (iii) the owner of each parcel of real property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the locality. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

2. The department shall post the notice required in I 1 a of this subsection on the department website and on a department social media account.

3. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

ARTICLE 7.

PERMITS FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.

9VAC5-80-1410. Definitions.

A. For the purpose of this article and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this section, all terms not defined here shall have the meaning given them in 9VAC5 Chapter 10 (9VAC5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Affected source" means the stationary source, the group of stationary sources, or the portion of a stationary source which is regulated by a MACT standard.

"Affected states" are all states:

1. Whose air quality may be affected and that are contiguous to the Commonwealth; or

2. Whose air quality may be affected and that are within 50 miles of the major source for which a case-by-case MACT determination is made in accordance with this article.

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"Available information" means, for purposes of identifying control technology options for the stationary source, information contained in the following information sources as of the date of approval of the permit:

1. A relevant proposed regulation, including all supporting information.
2. Background information documents for a draft or proposed regulation.
3. Data and information available from the Control Technology Center developed pursuant to § 113 of the federal Clean Air Act.
4. Data and information contained in the Aerometric Informational Retrieval System including information in the MACT database.
5. Any additional information that can be expeditiously provided by the Administrator.
6. For the purpose of determinations by the board, any additional information provided by the applicant or others, and any additional information considered available by the board.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

"Begin actual reconstruction" means initiation of permanent physical on-site reconstruction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

"Best controlled similar source" means a stationary source that (i) has comparable emissions and is structurally similar in design and capacity to other stationary sources such that the stationary sources could be controlled using the same control technology, and (ii) uses a control technology that achieves the lowest emission rate among all other similar sources in the United States.

"Case-by-case MACT determination" means a determination by the board, pursuant to the requirements of this article, which establishes a MACT emission limitation,

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MACT work practice standard, or other MACT requirements for a stationary source subject to this article.

"Commenced," means, with respect to construction or reconstruction of a stationary source, that the owner has undertaken a continuous program of construction or reconstruction or that an owner has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

"Complete application" means that the application contains all the information necessary for processing the application and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construct a major source" means:

1. To fabricate, erect, or install a major source at any undeveloped site, or
2. To fabricate, erect, or install a major process or production unit at any site.

"Construction" means:

1. The fabrication, erection, or installation of a major source at any undeveloped site, or
2. The fabrication, erection, or installation of a major process or production unit at any site.

"Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including, but not limited to, measures that:

1. Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;
2. Enclose systems or processes to eliminate emissions;
3. Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

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4. Are design, equipment, work practice, or operational standards (including requirements for operator training or certification); or

5. Are a combination of subdivisions 1 through 4 of this definition.

"Electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

"Emergency" means, in the context of 9VAC5-80-1580 C, a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any hazardous air pollutant.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent.
2. Contain a legal obligation for the owner to adhere to the terms and conditions.
3. Do not allow a relaxation of a requirement of the state implementation plan.
4. Are technically accurate and quantifiable.
5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the emission standard) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with 9VAC5-80-1490 and other regulations of the board.
6. Require a level of recordkeeping, reporting and monitoring

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sufficient to demonstrate compliance.

"EPA" means the United States Environmental Protection Agency.

"Federal operating permit" means a permit issued under Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of Part II of 9VAC5 Chapter 80.

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the Administrator. Federally enforceable limitations and conditions include, but are not limited to the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.

4. Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP).

5. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51. This does not include limitations and conditions that are established to address plans, programs, or regulatory requirements that are enforceable only by the Commonwealth.

6. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into a SIP as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability. This does not include limitations or conditions that are established to address plans, programs, or regulatory requirements that are enforceable only by the Commonwealth.

7. Limitations and conditions in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of

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implementing and enforcing § 112.

8. Individual consent agreements that EPA has legal authority to create.

"Fixed capital cost" means the capital needed to provide all the depreciable components of an existing source.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Hazardous air pollutant" means any air pollutant listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60.

"Locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

"MACT standard" means (i) an emission standard; (ii) an alternative emission standard; or (iii) an alternative emission limitation promulgated in 40 CFR Part 63 that applies to the stationary source, the group of stationary sources, or the portion of a stationary source regulated by such standard or limitation. A MACT standard may include or consist of a design, equipment, work practice, or operational requirement, or other measure, process, method, system, or technique (including prohibition of emissions) that the Administrator establishes for new or existing sources to which such standard or limitation applies. Every MACT standard established pursuant to § 112 of the federal Clean Air Act includes subpart A of 40 CFR Part 63 and all applicable appendices of 40 CFR Part 63 or of other parts of Title 40 of the Code of Federal Regulations that are referenced in that standard.

"Major process or production unit" means any process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any hazardous air pollutant or 25 tons per year of any combination of hazardous air pollutants.

"Major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the board establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence.

"Maximum achievable control technology (MACT) emission limitation"

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means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the board, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas) and 173 (relating to permits in nonattainment areas) and 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.

"Permit" means a document issued pursuant to this article containing all federally enforceable conditions necessary to enforce the application and operation of any maximum achievable control technology or other control technologies such that the MACT emission limitation is met.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable.

"Presumptive MACT" means a preliminary MACT determination made by EPA, in consultation with states and other stakeholders, after data on a source category's emissions and controls have been collected and analyzed, but before the MACT standard has been promulgated.

"Process or production unit" means any collection of structures or equipment or both, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

"Public comment period" means a time during which the public shall have the opportunity to comment on the permit application information (exclusive of confidential information), the preliminary review and analysis, and the preliminary decision of the board regarding the permit application.

"Reconstruct a major source" means to replace components at an existing

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major process or production unit whenever:

1. The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new process or production unit; and

2. It is technically and economically feasible for the reconstructed major source to meet the applicable standard for new sources established in a permit.

"Reconstruction" means the replacement of components at an existing major process or production unit whenever:

1. The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new process or production unit; and

2. It is technologically and economically feasible for the reconstructed process or production unit to meet the applicable standard for new sources established in a permit.

"Research and development activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

"Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

"Source category list" means the list and schedule issued pursuant to § 112(c) and (e) for promulgating MACT standards issued pursuant to § 112(d) of the federal Clean Air Act and published in the Federal Register at 63 FR 7155, February 12, 1998.

"State enforceable" means all limitations and conditions which are enforceable as a practical matter, including those requirements developed pursuant to 9VAC5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"Stationary source" means any building, structure, facility or installation

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which emits or may emit any air pollutant.

"Uncontrolled emission rate" means the emission rate from a source when operating at maximum capacity without air pollution control equipment. Air pollution control equipment is equipment that enables the source to conform to applicable air pollution control laws and regulations and that is not vital to its operation.

9VAC5-80-1460. Public participation.

A. No later than 15 days after receiving the initial determination notification required under 9VAC5-80-1450 A, the applicant for a permit for a major source of hazardous air pollutants shall notify the public of the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

1. The source name, location, and type;
2. The applicable pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;
3. The control technology proposed to be used at the time of the publication of the notice;
4. The date, time and place of the informational briefing; and
5. The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board shall attend and provide

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information and answer questions on the permit application review process.

D. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. Prior to the decision of the board, all permit applications shall be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing will be held with notice in accordance with subsection F of this section.

F. The board shall notify the public, by advertisement in at least one newspaper of general circulation in the area affected, of the opportunity for the public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected area.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional EPA administrator.

3. Notices of public hearings published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated

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association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-1450 D.

I. In order to facilitate the efficient issuance of permits under Articles 1 and 3 of this chapter, upon request of the applicant the board shall process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

J. If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of subsection F of this section concerning public notification will be followed.

K. If the board finds that there is a locality particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas:

1. The applicant shall perform the following:

a. Publish a notice in at least one local paper of general circulation in any locality particularly affected at least 60 days prior to the close of any public comment period. Such notice shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information regarding specific pollutants and the total

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quantity of each that may be emitted; (iii) list the type, quantity, and source of any fuel to be used; (iv) advise the public how to request board consideration; and (v) advise the public where to obtain information regarding the proposed action. The department shall post such notice on the department website and on a department social media account; and

b. Mail the notice to (i) the chief elected official of, chief administrative officer of, and planning district commission for each locality particularly affected; (ii) every public library and public school located within five miles of such facility; and (iii) the owner of each parcel of real property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the locality. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

2. The department shall post the notice required in I 1 a of this subsection on the department website and on a department social media account.

3. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

ARTICLE 8.

PERMITS FOR MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS
LOCATING IN PREVENTION OF SIGNIFICANT DETERIORATION AREAS.

(replaces Article 8 [9VAC5-80-1700 et seq.]

9VAC5-80-1775. Public participation.

A. No later than 30 days after receiving the initial determination notification required under 9VAC5-80-1773 A, the applicant shall notify the public about the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the

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publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board will attend and provide information and answer questions on the permit application review process.

D. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. The board will provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

F. The board will notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The notification will contain a statement of the estimated local impact of the proposed source or modification, which at a minimum will provide information regarding specific pollutants and the total quantity of each that may be emitted, and will list the type and quantity of any fuels to be used. The notification will be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. All materials the applicant submitted (exclusive of confidential information under 9VAC5-170-60), a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination will be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice will be sent to the applicant, the administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief elected official and chief administrative officer of the city and county where the source or modification would be located and any other locality particularly affected, the planning

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district commission, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.
2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).
3. The reason why direct consideration by the board is requested.
4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.
5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-1773 D.

I. In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board will process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

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J. If appropriate, the board may hold a public briefing on the preliminary determination prior to the public comment period but no later than the day before the beginning of the public comment period. The board will notify the public of the time and place of the briefing, by advertisement in a newspaper of general circulation in the air quality control region in which the proposed source or modification would be constructed. The notification will be published at least 30 days prior to the day of the briefing.

K. If the board finds that there is a locality particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas:

1. The applicant shall perform the following:

a. Publish a notice in at least one local paper of general circulation in any locality particularly affected at least 60 days prior to the close of any public comment period. Such notice shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information regarding specific pollutants and the total quantity of each that may be emitted; (iii) list the type, quantity, and source of any fuel to be used; (iv) advise the public how to request board consideration; and (v) advise the public where to obtain information regarding the proposed action. The department shall post such notice on the department website and on a department social media account; and

b. Mail the notice to (i) the chief elected official of, chief administrative officer of, and planning district commission for each locality particularly affected; (ii) every public library and public school located within five miles of such facility; and (iii) the owner of each parcel of real property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the locality. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

2. The department shall post the notice required in I 1 a of this subsection on the department website and on a department social media account.

3. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

ARTICLE 9.
PERMITS FOR MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS
LOCATING IN NONATTAINMENT AREAS OR THE OZONE TRANSPORT REGION.
(replaces 9VAC5-80-30)

9VAC5-80-2070. Public participation.

A. No later than 30 days after receiving the initial determination notification required under 9VAC5-80-2060 A, the applicant shall notify the public about the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each that the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board will attend and provide information and answer questions on the permit application review process.

D. Upon determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. Prior to the decision of the board, all permit applications will be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing shall be held with notice in accordance with subsection F of this section.

F. The board will notify the public, by advertisement in at least one newspaper of

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general circulation in the affected air quality control region, of the opportunity for public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.
2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).
3. The reason why direct consideration by the board is requested.
4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

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5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-2060 C.

I. In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board will process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

J. If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of subsection F of this section concerning public notification shall be followed.

K. If the board finds that there is a locality particularly affected by (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas:

1. The applicant shall perform the following:

a. Publish a notice in at least one local paper of general circulation in any locality particularly affected at least 60 days prior to the close of any public comment period. Such notice shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information regarding specific pollutants and the total quantity of each that may be emitted; (iii) list the type, quantity, and source of any fuel to be used; (iv) advise the public how to request board consideration; and (v) advise the public where to obtain information regarding the proposed action. The department shall post such notice on the department website and on a department social media account; and

b. Mail the notice to (i) the chief elected official of, chief administrative officer of, and planning district commission for each locality particularly

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

affected; (ii) every public library and public school located within five miles of such facility; and (iii) the owner of each parcel of real property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the locality. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

2. The department shall post the notice required in 1 a of this subsection on the department website and on a department social media account.

3. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

9VAC5 CHAPTER 170.
REGULATION FOR GENERAL ADMINISTRATION.

PART VI.
BOARD ACTIONS.

9VAC5-170-140. Variances.

A. Pursuant to § 10.1-1307 C of the Virginia Air Pollution Control Law, the board may in its discretion grant local variances to a provision of the regulations of the board after an investigation and public hearing. If a local variance is appropriate, the board shall issue an order to this effect. The order shall be subject to amendment or revocation at any time.

B. The board shall adopt variances and amend or revoke variances if warranted only after conducting a public hearing pursuant to public advertisement in at least one major newspaper of general circulation in the affected area of the subject, date, time, and place of the public hearing at least 30 days prior to the scheduled hearing.

C. The public participation procedures of § 10.1-1307.01 and of the Virginia Air Pollution Control Law shall be followed in the consideration of variances.

D. Notwithstanding the requirements of subsection B of this section, if the board finds that there is a locality particularly affected by a variance involving (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii) a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas:

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-80, 9VAC5-170)

1. The applicant shall perform the following:

a. Publish a notice in at least one local paper of general circulation in any locality particularly affected at least 60 days prior to the close of any public comment period. Such notice shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information regarding specific pollutants and the total quantity of each that may be emitted; (iii) list the type, quantity, and source of any fuel to be used; (iv) advise the public how to request board consideration; and (v) advise the public where to obtain information regarding the proposed action. The department shall post such notice on the department website and on a department social media account; and

b. Mail the notice to (i) the chief elected official of, chief administrative officer of, and planning district commission for each locality particularly affected; (ii) every public library and public school located within five miles of such facility; and (iii) the owner of each parcel of real property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the locality. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

2. The department shall post the notice required in 1 a of this subsection on the department website and on a department social media account.

3. Written comments shall be accepted by the board for at least 30 days after any hearing on such variance or permit, unless the board votes to shorten the period.

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

September 17, 2020

SUBJECT: Federal Documents Incorporated by Reference (Rev. F20) - Request for Board Action on Exempt Final Regulation

CONTACT: Karen G. Sabasteanski
karen.sabasteanski@deq.virginia.gov/804-698-4426
Policy Analyst, Office of Regulatory Affairs
Department of Environmental Quality

INTRODUCTION

The purpose of the proposed action is to amend the regulations to incorporate newly promulgated federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and national emission standards for hazardous air pollutants for source categories (Maximum Achievable Control Technology, or MACT), Rules 5-5, 6-1, and 6-2, respectively, of the board's regulations.

The board needs to incorporate newly promulgated NSPS, NESHAP, and MACT standards in order for the department to obtain authority from the U.S. Environmental Protection Agency (EPA) to enforce these standards. If the board does not do so, authority to enforce the standards remains with the federal government. Further, the standards reflect the most current technical research on the subjects addressed by the standards. To continue to follow the old standards would mean relying on inaccurate and outdated information.

In addition, an outdated reference to a specific version of a federal code citation is being removed, and an internal reference to a federal standard in a regulation affecting a specific stationary source (landfills) is being updated.

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 and the Air Pollution Control Law.

REGULATORY ACTION ADOPTION PROCESS

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 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 regulations are not materially different from the federal version and are, 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 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.

Notice that the regulations 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 AMENDMENTS TO REGULATION

1. The regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2020. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
2. Subpart OOOOa (Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015) and Subpart XXX (Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014) of 40 CFR Part 60 are being added to the list of new source performance standards adopted by reference in order that they be implemented by the state.
3. A specific version of an emissions guideline relative to Article 43.1 of 9VAC5-40, Emission Standards for Municipal Solid Waste Landfills for Which Construction, Reconstruction, or Modification Was Commenced on or Before July 17, 2014, was adopted by reference at 9VAC5-20-21 in order to create a transition between the 2016 and 2017 federal code books. Subsequently, federal issues with respect to this standard have been resolved, and there is no longer a need to cite a previous version of the standard. Additionally, the federal guidelines were amended by adding a new subdivision (see 9VAC5-40-5970 B 3 with respect to 40 CFR 60.38f); the state regulation implementing the federal regulation by reference must now be updated.

SUPPORTING DOCUMENTATION

Immediately following this agenda memo are:

1. The agency background document.

2. The draft proposed regulation.

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.

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townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	Primary: Article 5 (9VAC5-50-400 et seq.), 9VAC5-50 Secondary: 9VAC5-20-21; 9VAC5-40-5970; Article 1 (9VAC5-60-60 et seq.) and Article 2 (9VAC5-60-90 et seq.), 9VAC5-60
VAC Chapter title(s)	General Provisions (9VAC5-20); Existing Stationary Sources (9VAC5-40); New and Modified Stationary Sources (9VAC5-50), Hazardous Air Pollutant Sources (9VAC5-60)
Action title	Update state regulations that incorporate by reference certain federal regulations to reflect the current Code of Federal Regulations (Rev. F20)
Final agency action date	
Date this document prepared	

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

The regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2020. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version. Two new source performance standards are being added. An outdated reference to a specific version of a federal code citation is being removed. Finally, an internal reference to a federal standard in a regulation affecting a specific stationary source (landfills) has been updated in order that the updated federal standard is correctly referenced.

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). "Mandate" is defined as "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."

Section 111 of the federal Clean Air Act requires that EPA develop new source performance standards (NSPSs). The Standards of Performance for New Stationary Sources are found in 40 CFR Part 60. Emissions guidelines for existing sources are also codified under 40 CFR Part 60.

Hazardous air pollutants (HAPs) are pollutants for which no ambient air quality standard is applicable, yet pose the risk of serious health problems. EPA's program for dealing with HAPs is established in § 112 of the Clean Air Act. The National Emission Standards for Hazardous Air Pollutants are found in 40 CFR Part 61. In addition, EPA controls HAPs for specific source categories as required under § 112. The National Emission Standards for Hazardous Air Pollutants for Source Categories are more familiarly referred to as Maximum Achievable Technology Standards (MACT), and are found in 40 CFR 61.

The Act provides that each state may develop and submit to EPA a procedure for implementing and enforcing these standards. If EPA finds the state procedures adequate, the state is delegated the authority to implement and enforce the standards.

Section 111(d) of the Act requires that states adopt emissions guidelines for existing sources that would otherwise be regulated as new sources. Landfills are a category of sources regulated by § 111(d) and implemented in Virginia in a standalone regulation that references EPA's implementing regulation at Subpart Cf of 40 CFR Part 60 and adopts that federal standard by reference.

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.

HAP - hazardous air pollutant
 MACT - Maximum Achievable Control Technology
 NESHAP - National Emissions Standards for Hazardous Air Pollutants
 NSPS - New Source Performance Standard

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 September 17, 2020, the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically federal regulations incorporated by reference (9VAC5-20-21, 9VAC5-40-5970, Article 5 of 9VAC5-50, and Articles 1 and 2 of 9VAC5-60). 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. Environmental Protection Agency (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.

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 regulatory changes are needed in order to meet the mandates of the federal Clean Air Act and its implementing regulations in order to protect public health and welfare from hazardous air pollutants and pollution generated by categories of new sources, which are proven to be detrimental to both health and welfare. The goal of the regulatory changes is to address air pollution throughout the Commonwealth by controlling emissions of hazardous air pollutants and pollution emitted by categories of new and existing sources. The regulation amendments update the version of regulations being implemented in Virginia to the most current federal versions, as required by the Clean Air Act and the state's delegation agreement with EPA.

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 regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2020. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Subpart OOOOa (Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015) and Subpart XXX (Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014) of 40 CFR Part 60 are being added to the list of new source performance standards adopted by reference in order that they be implemented by the state.

A specific version of an emissions guideline relative to Article 43.1 of 9VAC5-40, Emission Standards for Municipal Solid Waste Landfills for Which Construction, Reconstruction, or Modification Was Commenced on or Before July 17, 2014, was adopted by reference at 9VAC5-20-21 in order to create a transition

between the 2016 and 2017 federal code books. Subsequently, federal issues with respect to this standard have been resolved, and there is no longer a need to cite a previous version of the standard. Additionally, the federal standard was amended by adding a new subdivision (see 9VAC5-40-5970 B 3 with respect to 40 CFR 60.38f); the state regulation implementing the federal regulation by reference must now be updated.

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. The general public will benefit from a reduction in the health and welfare effects of air pollution, as the most current standards are more protective of human health and welfare. Properly implementing federal requirements will ensure the control of numerous types of air pollutants, which are proven to harm human health and welfare.

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.

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:

There are no localities particularly affected.

Other Entities Particularly Affected:

There are no other entities particularly affected.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this exempt action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please 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
9VAC5-20-21 B	n/a	Federal documents incorporated by reference.	Updates referenced Code of Federal Regulations to the most current version; removes reference to a specific version of the federal code that is no longer needed. Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are anticipated.
9VAC5-40-5970 B	n/a	Reporting and recordkeeping requirements.	Updates referenced Code of Federal Regulations to reflect an added subdivision. Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are anticipated.
9VAC5-50-400	n/a	General requirements for NSPSs.	Updates referenced Code of Federal Regulations to the most current version. Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are anticipated.
9VAC5-50-410	n/a	List of incorporated standards.	Adds two new standards (Subparts OOOOa and XXX). Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are anticipated.
9VAC5-60-60	n/a	General requirements for NESHAPs.	Updates referenced Code of Federal Regulations to the most current version. Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are anticipated.
9VAC5-60-90	n/a	General requirements for MACTs.	Updates referenced Code of Federal Regulations to the most current version. Needed in order to meet federal requirements for protecting human health and welfare. No significant impacts are 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 requirements of federal law and regulation. Any such changes would compromise the effectiveness of the regulation in protecting the health and welfare of the public.

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.

It is not anticipated that the proposal will have a direct impact on families.

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REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

9VAC5 CHAPTER 20.
GENERAL PROVISIONS.

PART I.
ADMINISTRATIVE.

9VAC5-20-21. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (2016 2020) in effect July 1, 2016 2020. ~~For the purposes of Article 43.1 (9VAC5-40-5925 et seq.) of 9VAC5-40 (Existing Stationary Sources), the EPA regulations promulgated at Subpart Cf (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) of 40 CFR Part 60 as published in the Federal Register of August 29, 2016 (81 FR 59276) and effective on October 28, 2016, is the version incorporated by reference into this article and Article 43.1.~~ In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 1111 East Main Street, Suite 1400, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.

a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50 - National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A-1 -- Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method).

(b) Appendix A-2 -- Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(c) Appendix B -- Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(d) Appendix C -- Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(e) Appendix D -- Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(f) Appendix E -- Reserved.

(g) Appendix F -- Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(h) Appendix G -- Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(i) Appendix H -- Interpretation of the National Ambient Air Quality Standards for Ozone.

(j) Appendix I -- Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone.

(k) Appendix J -- Reference Method for the

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(l) Appendix K -- Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(m) Appendix L -- Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere.

(n) Appendix M -- Reserved.

(o) Appendix N -- Interpretation of the National Ambient Air Quality Standards for PM_{2.5}.

(p) Appendix O -- Reference Method for the Determination of Coarse Particulate Matter as PM in the Atmosphere.

(q) Appendix P -- Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone.

(r) Appendix Q -- Reference Method for the Determination of Lead in Suspended Particulate Matter as PM₁₀ Collected From Ambient Air.

(s) Appendix R -- Interpretation of the National Ambient Air Quality Standards for Lead.

(t) Appendix S -- Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide).

(u) Appendix T -- Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide).

(v) Appendix U -- Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone.

(2) 40 CFR Part 51 -- Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

(a) Appendix M -- Recommended Test Methods for State Implementation Plans.

(b) Appendix S -- Emission Offset Interpretive Ruling.

(c) Appendix W -- Guideline on Air Quality Models
(Revised).

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(d) Appendix Y - Guidelines for BART Determinations
Under the Regional Haze Rule.

(3) 40 CFR Part 55 -- Outer Continental Shelf Air
Regulations, except §§ 55.5, 55.11, and 55.12.

(4) 40 CFR Part 58 -- Ambient Air Quality Surveillance.

Appendix A -- Quality Assurance Requirements for
SLAMS, SPMs and PSD Air Monitoring.

(5) 40 CFR Part 59 -- National Volatile Organic Compound
Emission Standards for Consumer and Commercial Products.

(a) Subpart C -- National Volatile Organic Compound
Emission Standards for Consumer Products.

(b) Subpart D -- National Volatile Organic Compound
Emission Standards for Architectural Coatings, Appendix A -- Determination of Volatile
Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking
Coatings.

(6) 40 CFR Part 60 -- Standards of Performance for New
Stationary Sources.

The specific provisions of 40 CFR Part 60
incorporated by reference are found in Article 5 (9VAC5-50-400 et seq.) of Part II of
9VAC5-50 (New and Modified Sources).

(7) 40 CFR Part 61 -- National Emission Standards for
Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61
incorporated by reference are found in Article 1 (9VAC5-60-60 et seq.) of Part II of
9VAC5-60 (Hazardous Air Pollutant Sources).

(8) 40 CFR Part 63 -- National Emission Standards for
Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63
incorporated by reference are found in Article 2 (9VAC5-60-90 et seq.) of Part II of
9VAC5-60 (Hazardous Air Pollutant Sources).

(9) 40 CFR Part 64, Compliance Assurance Monitoring.

(10) 40 CFR Part 72, Permits Regulation.

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- (11) 40 CFR Part 73, Sulfur Dioxide Allowance System.
- (12) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.
- (13) 40 CFR Part 75, Continuous Emission Monitoring.
- (14) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.
- (15) 40 CFR Part 77, Excess Emissions.
- (16) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.
- (17) 40 CFR Part 152 Subpart I, Classification of Pesticides.
- (18) 49 CFR Part 172, Hazardous Materials Table. Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements, Subpart E, Labeling.
- (19) 29 CFR Part 1926 Subpart F, Fire Protection and Prevention.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

(3) "Guidelines for Determining Capture Efficiency" (GD-35), Emissions Monitoring and Analysis Division, Office of Air Quality Planning and Standards, January 9, 1995.

b. Copies of the document identified in subdivision E 2 a (1) of this

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

section, and Volume I and Supplements A through C of the document identified in subdivision E 2 a (2) of this section, may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E of the document identified in subdivision E 2 a (2) of this section may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/index.html>. Copies of the document identified in subdivision E 2 a (3) of this section are only available online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/emc/guidlnd.html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

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(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).

(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).

(18) D86-04b, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure" (2004).

(19) D4359-90, "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (reapproved 2000).

(20) E260-96, "Standard Practice for Packed Column Gas Chromatography" (reapproved 2001).

(21) D3912-95, "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants" (reapproved 2001).

(22) D4082-02, "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants."

(23) F852-99, "Standard Specification for Portable Gasoline Containers for Consumer Use" (reapproved 2006).

(24) F976-02, "Standard Specification for Portable Kerosine

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and Diesel Containers for Consumer Use."

(25) D4457-02, "Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph" (reapproved 2008).

(26) D3792-05, "Standard Test Method for Water Content of Coatings by Direct Injection Into a Gas Chromatograph."

(27) D2879-97, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope" (reapproved 2007).

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: 1991-1992 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

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(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.

9. American Hospital Association (AHA).

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

10. Bay Area Air Quality Management District (BAAQMD).

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

(1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).

(2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

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b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD).

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

(1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(3) Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

(4) Method 304-91, "Determination of Volatile Organic Compounds (VOC) in Various Materials," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(5) Method 316A-92, "Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings" in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(6) "General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems," October 3, 1989.

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB).

a. The following documents from the California Air Resources Board are incorporated herein by reference:

(1) Test Method 510, "Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(2) Test Method 511, "Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(3) Method 100, "Procedures for Continuous Gaseous

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Emission Stack Sampling" (July 28, 1997).

(4) Test Method 513, "Determination of Permeation Rate for Spill-Proof Systems" (July 6, 2000).

(5) Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products (Including Appendices A and B)" (May 5, 2005).

(6) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1, § 94503.5 (2003).

(7) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2, §§ 94509 and 94511 (2003).

(8) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 4, §§ 94540-94555 (2003).

(9) "Certification Procedure 501 for Portable Fuel Containers and Spill-Proof Spouts, CP-501" (July 26, 2006).

(10) "Test Procedure for Determining Integrity of Spill-Proof Spouts and Spill-Proof Systems, TP-501" (July 26, 2006).

(11) "Test Procedure for Determining Diurnal Emissions from Portable Fuel Containers, TP-502" (July 26, 2006).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

13. American Architectural Manufacturers Association.

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).

(2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

14. American Furniture Manufacturers Association.

a. The following document from the American Furniture Manufacturers Association is incorporated herein by reference: Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (January 2001).

b. Copies may be obtained from: American Furniture Manufacturers Association, P.O. Box HP-7, High Point, NC 27261; phone (336) 884-5000.

15. Petroleum Equipment Institute.

a. The following document from the Petroleum Equipment Institute is incorporated herein by reference: Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites, PEI/RP300-09 (2009).

b. Copies may be obtained from: Petroleum Equipment Institute, 6931 S. 66th E. Ave., Suite 310, Tulsa, OK 74133; telephone (918) 494-9696; www.pei.org.

16. American Architectural Manufacturers Association (AAMA).

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification, Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels, publication number AAMA 2604-05.

(2) Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels, publication number AAMA 2605-05.

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173-4268; phone 847-303-5774.

9VAC5 CHAPTER 40.
EXISTING STATIONARY SOURCES.

PART II.
EMISSION STANDARDS.

ARTICLE 43.1.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

EMISSION STANDARDS FOR MUNICIPAL SOLID WASTE LANDFILLS FOR WHICH
CONSTRUCTION, RECONSTRUCTION, OR MODIFICATION WAS COMMENCED
ON OR BEFORE JULY 17, 2014 (RULE 4-43.1).

9VAC5-40-5970. Reporting and recordkeeping.

A. With regard to the emissions standards in 9VAC5-40-5940 and 9VAC5-40-5945, the provisions of 9VAC5-40-50 (Notification, records and reporting) apply.

B. With regard to the emission limits in 9VAC5-40-5935 and 9VAC5-40-5955, the following provisions apply:

1. 9VAC5-40-50 F and H;
2. 40 CFR 60.7; and
3. 40 CFR 60.38f(a) through ~~(m)~~ (n) except as provided in 40 CFR 60.24 and 40 CFR 60.38f(d)(2), and 40 CFR 60.39f(a) through (j).

9VAC5 CHAPTER 50.
NEW AND MODIFIED STATIONARY SOURCES.

PART II.
Emission Standards.

ARTICLE 5.
Environmental Protection Agency Standards of Performance
For New Stationary Sources (Rule 5-5).

9VAC5-50-400. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (NSPSs), as promulgated in 40 CFR Part 60 and designated in 9VAC5-50-410 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-50-420. The complete text of the subparts in 9VAC5-50-410 incorporated in this regulation by reference is contained in 40 CFR Part 60. The 40 CFR section numbers appearing under each subpart in 9VAC5-50-410 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2019~~ 2020) in effect July 1, ~~2019~~ 2020. In making reference to the Code of Federal Regulations, 40 CFR Part 60 means Part 60 of Title 40 of the Code of Federal Regulations; 40 CFR 60.1 means Section 60.1 in Part 60 of Title 40 of the Code of Federal Regulations.

9VAC5-50-410. Designated standards of performance.

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Subpart A -- General Provisions.

40 CFR 60.1 through 60.3, 40 CFR 60.7 through 60.8, 40 CFR 60.11 through 40 CFR 60.15, 40 CFR 60.18 through 60.19

(applicability, definitions, units and abbreviations, notification and record keeping, performance tests, compliance, circumvention, monitoring requirements, modification, reconstruction, general control device requirements, and general notification and reporting requirements)

Subpart B -- Not applicable.

Subpart C -- Not applicable.

Subpart Ca -- Reserved.

Subpart Cb -- Not applicable.

Subpart Cc -- Not applicable.

Subpart Cd -- Not applicable.

Subpart Ce -- Not applicable.

Subpart D -- Fossil Fuel-Fired Steam Generators.

40 CFR 60.40 through 40 CFR 60.46

(fossil fuel-fired steam generating units of more than 250 million Btu per hour heat input rate and fossil fuel-fired and wood residue-fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da -- Electric Utility Steam Generating Units.

40 CFR 60.40Da through 40 CFR 60.52Da

(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel, and for which construction, reconstruction or modification is commenced after September 18, 1978)

Subpart Db -- Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40b through 40 CFR 60.49b

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

Subpart Dc -- Small Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40c through 60.48c

(industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

Subpart E -- Incinerators.

40 CFR 60.50 through 40 CFR 60.54

(incinerator units of more than 50 tons per day charging rate)

Subpart Ea -- Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.

40 CFR 60.50a through 60.59a

(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

Subpart Eb -- Large Municipal Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.

40 CFR 60.50b through 40 CFR 60.59b.

(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

Subpart Ec -- Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.

40 CFR 60.50c through 40 CFR 60.58c

(hospital/medical/infectious waste incinerators that combusts any amount of hospital waste and medical/infectious waste or both)

Subpart F -- Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.66

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(kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G -- Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74

(nitric acid production units)

Subpart Ga -- Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011.

40 CFR 60.70a through 40 CFR 60.77a

(nitric acid production units producing weak nitric acid by either the pressure or atmospheric pressure process)

Subpart H -- Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85

(sulfuric acid production units)

Subpart I -- Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93

(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt; and the loading, transfer and storage systems associated with emission control systems)

Subpart J -- Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106

(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart Ja -- Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.

40 CFR 60.100a through 40 CFR 60.109a

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

(fluid catalytic cracking units, fluid coking units, delayed coking units, fuel gas combustion devices, including flares and process heaters, and sulfur recovery plants)

Subpart K -- Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973 and Prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka -- Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

40 CFR 60.110a through 40 CFR 60.115a

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Kb -- Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

40 CFR 60.110b through 40 CFR 60.117b

(storage vessels with capacity greater than or equal to 10,566 gallons)

Subpart L -- Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123

(pot furnaces of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M -- Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133

(reverberatory and electric furnaces of 2205 pound or greater production capacity and blast (cupola) furnaces of 550 pounds per hour or greater production capacity)

Subpart N -- Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced after June 11, 1973.

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40 CFR 60.140 through 40 CFR 60.144

(basic oxygen process furnaces)

Subpart Na -- Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983.

40 CFR 60.140a through 40 CFR 60.145a

(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs)

Subpart O -- Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154

(incinerators that combust wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2205 pounds per day municipal sewage sludge (dry basis))

Subpart P -- Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166

(dryers, roasters, smelting furnaces, and copper converters)

Subpart Q -- Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176

(roasters and sintering machines)

Subpart R -- Primary Lead Smelters.

40 CFR 60.180 through 40 CFR 60.186

(sintering machines, sintering machine discharge ends, blast furnaces, dross reverberatory furnaces, electric smelting furnaces, and converters)

Subpart S -- Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195

(potroom groups and anode bake plants)

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Subpart T -- Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.205

(reactors, filters, evaporators, and hot wells)

Subpart U -- Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.215

(evaporators, hot wells, acid sumps, and cooling tanks)

Subpart V -- Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.225

(reactors, granulators, dryers, coolers, screens, and mills)

Subpart W -- Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.235

(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate)

Subpart X -- Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.245

(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y -- Coal Preparation and Processing Plants.

40 CFR 60.250 through 40 CFR 60.258

(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems)

Subpart Z -- Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266

(electric submerged arc furnaces which produce silicon metal, ferrosilicon,

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calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA -- Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276

(electric arc furnaces and dust-handling systems that produce carbon, alloy, or specialty steels)

Subpart AAa -- Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a

(electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that produce carbon, alloy, or specialty steels)

Subpart BB -- Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285

(digester systems, brown stock washer systems, multiple effect evaporator systems, black liquor oxidation systems, recovery furnaces, smelt dissolving tanks, lime kilns, condensate strippers, and kraft pulping operations)

Subpart BBa -- Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.

40 CFR 60.280a through 40 CFR 60.288a

(digester systems, brown stock washer systems, multiple effect evaporator systems, black liquor oxidation systems, recovery furnaces, smelt dissolving tanks, lime kilns, condensate strippers, and kraft pulping operations)

Subpart CC -- Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296

(glass melting furnaces)

Subpart DD -- Grain Elevators.

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40 CFR 60.300 through 40 CFR 60.304

(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers, and all grain handling operations)

Subpart EE -- Surface Coating of Metal Furniture.

40 CFR 60.310 through 40 CFR 60.316

(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF -- Reserved.

Subpart GG -- Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335

(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH -- Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344

(each rotary lime kiln)

Subpart II -- Reserved.

Subpart JJ -- Reserved.

Subpart KK -- Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374

(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL -- Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386

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(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart.)

Subpart MM -- Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397

(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN -- Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404

(phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorus production)

Subpart OO -- Reserved.

Subpart PP -- Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424

(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ -- Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435

(publication rotogravure printing presses, except proof presses)

Subpart RR -- Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447

(pressure sensitive tape and label material coating lines)

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Subpart SS -- Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456

(surface coating operations in large appliance coating lines)

Subpart TT -- Metal Coil Surface Coating.

40 CFR 60.460 through 40 CFR 60.466

(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU -- Asphalt Processing and Asphalt Roofing Manufacture.

40 CFR 60.470 through 40 CFR 60.474

(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV -- Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart VVa - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced after November 7, 2006.

40 CFR 60.480a through 40 CFR 60.489a

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW -- Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

Subpart XX -- Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506

(total of all the loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks)

Subpart YY -- Reserved.

Subpart ZZ -- Reserved.

Subpart AAA -- New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b

(NOTE: In accordance with Chapter 471 of the 2015 Acts of Assembly, authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations. A state permit may be required of certain facilities if the provisions of 9VAC5-50 and 9VAC5-80 apply. Owners should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.)

Subpart BBB -- Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548

(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subpart CCC -- Reserved.

Subpart DDD -- Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566

(For polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility; if

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

Subpart EEE -- Reserved.

Subpart FFF -- Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585

(each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG -- Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006.

40 CFR 60.590 through 40 CFR 60.593

(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart GGGa -- Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

40 CFR 60.590a through 60.593a

(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH -- Synthetic Fiber Production Facilities.

40 CFR 60.600 through 40 CFR 60.604

(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III -- Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618

(each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged)

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Subpart JJJ -- Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625

(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks)

Subpart KKK -- Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.

40 CFR 60.630 through 40 CFR 60.636

(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL -- Sulfur Dioxide Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.

40 CFR 60.640 through 40 CFR 60.648

(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM -- Reserved.

Subpart NNN -- Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668

(each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two of more units and the recovery system into which their vent streams are discharged)

Subpart OOO -- Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676

(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor,

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bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP -- Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685

(each rotary spin wool fiberglass insulation manufacturing line)

Subpart QQQ -- VOC Emissions From Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699

(individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries)

Subpart RRR -- Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

40 CFR 60.700 through 40 CFR 60.708

(each reactor process not discharging its vent stream into a recovery system, each combination of a reactor process and the recovery system into which its vent stream is discharged, and each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged)

Subpart SSS -- Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718

(each coating operation and each piece of coating mix preparation equipment)

Subpart TTT -- Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726

(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Subpart UUU -- Calciners and Dryers in Mineral Industries.

40 CFR 60.730 through 60.737

(each calciner and dryer at a mineral processing plant)

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Subpart VVV -- Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748

(each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates)

Subpart WWW -- Municipal Solid Waste Landfills.

40 CFR 60.750 through 40 CFR 60.759

(municipal solid waste landfills for the containment of household and RCRA Subtitle D wastes)

Subpart XXX - Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014

40 CFR 60.760 through 40 CFR 60.769

(municipal solid waste landfills for the containment of household and RCRA Subtitle D wastes)

Subpart AAAA -- Small Municipal Waste Combustors for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.

40 CFR 60.1000 through 40 CFR 60.1465

(municipal waste combustor units with a capacity less than 250 tons per day and greater than 35 tons per day of municipal solid waste or refuse-derived fuel)

Subpart BBBB -- Not applicable.

Subpart CCCC -- Commercial/Industrial Solid Waste Incinerators.

40 CFR 60.2000 through 40 CFR 60.2265

(an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility, or an air curtain incinerator without energy recovery, that is a distinct operating unit of any commercial or industrial facility)

Subpart DDDD -- Not applicable.

Subpart EEEE -- Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is

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Commenced on or After June 16, 2006.

40 CFR 60.2880 through 40 CFR 60.2977

(very small municipal waste combustion units with the capacity to combust less than 35 tons per day of municipal solid waste or refuse-derived fuel, and institutional waste incineration units owned or operated by an organization having a governmental, educational, civic, or religious purpose)

Subpart FFFF -- Reserved.

Subpart GGGG -- Reserved.

Subpart HHHH -- Reserved.

Subpart IIII -- Stationary Compression Ignition Internal Combustion Engines.

40 CFR 60.4200 through 40 CFR 60.4219

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations for any source that is not (i) a major source as defined in 9VAC5-80-60 and subject to Article 1, Federal Operating Permits for Stationary Sources, or (ii) an affected source as defined in 9VAC5-80-370 and subject to Article 3, Federal Operating Permits for Acid Rain Sources, of Part II of 9VAC5-80 (Permits for Stationary Sources).)

Subpart JJJJ -- Stationary Spark Ignition Internal Combustion Engines.

40 CFR 60.4230 through 40 CFR 60.4248

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations for any source that is not (i) a major source as defined in 9VAC5-80-60 and subject to Article 1, Federal Operating Permits for Stationary Sources, or (ii) an affected source as defined in 9VAC5-80-370 and subject to Article 3, Federal Operating Permits for Acid Rain Sources, of Part II of 9VAC5-80 (Permits for Stationary Sources).)

Subpart KKKK -- Stationary Combustion Turbines.

40 CFR 60.4300 through 40 CFR 60.4420

(stationary combustion turbine with a heat input at peak load equal to or greater than 10.7 gigajoules (10 MMBtu) per hour)

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Subpart LLLL -- Sewage Sludge Incineration Units.

40 CFR 60.4760 through 40 CFR 60.4925

(an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter, including the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, and bottom ash system; and all ash handling systems connected to the bottom ash handling system)

Subpart MMMM -- Reserved.

Subpart NNNN -- Reserved.

Subpart OOOO -- Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after August 23, 2011, and on or before September 18, 2015.

40 CFR 60.5360 through 40 CFR 60.5499

(facilities that operate gas wells, centrifugal compressors, reciprocating compressors, pneumatic controllers, and storage vessels)

Subpart OOOOa -- Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015.

40 CFR 60.5360a through 40 CFR 60.5499a

~~(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations for any source that is not (i) a major source as defined in 9VAC5-80-60 and subject to Article 1, Federal Operating Permits for Stationary Sources, or (ii) an affected source as defined in 9VAC5-80-370 and subject to Article 3, Federal Operating Permits for Acid Rain Sources, of Part II of 9VAC5-80 (Permits for Stationary Sources). facilities that operate gas wells, centrifugal compressors, reciprocating compressors, pneumatic controllers and pumps, storage vessels, and sweetening units)~~

Subpart PPPP -- Reserved.

Subpart QQQQ -- New Residential Hydronic Heaters and Forced-Air Furnaces.

40 CFR 60.5472 through 40 CFR 60.5483

(NOTE: In accordance with Chapter 471 of the 2015 Acts of Assembly, authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations. A state permit may

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-20, -40, 50 AND -60)

be required of certain facilities if the provisions of 9VAC5-50 and 9VAC5-80 apply. Owners should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.)

Subpart RRRR -- Reserved.

Subpart SSSS -- Reserved.

Subpart TTTT -- Reserved.

Appendix A -- Test Methods.

Appendix B -- Performance Specifications.

Appendix C -- Determination of Emission Rate Change.

Appendix D -- Required Emission Inventory Information.

Appendix E -- Reserved.

Appendix F -- Quality Assurance Procedures.

Appendix G -- Not applicable.

Appendix H -- Reserved.

Appendix I -- Removable Label and Owner's Manual.

9VAC5-60.
HAZARDOUS AIR POLLUTANT SOURCES.

PART II.
Emission Standards.

ARTICLE 1.
Environmental Protection Agency National Emission
Standards For Hazardous Air Pollutants (Rule 6-1).

9VAC5-60-60. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (NESHAP), as promulgated in 40 CFR Part 61 and designated in 9VAC5-60-70 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-60-80. The complete text of the subparts in 9VAC5-60-70

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incorporated in this regulation by reference is contained in 40 CFR Part 61. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-70 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2019~~ 2020) in effect July 1, ~~2019~~ 2020. In making reference to the Code of Federal Regulations, 40 CFR Part 61 means Part 61 of Title 40 of the Code of Federal Regulations; 40 CFR 61.01 means Section 61.01 in Part 61 of Title 40 of the Code of Federal Regulations.

ARTICLE 2.

Environmental Protection Agency National Emission Standards for
Hazardous Air Pollutants for Source Categories (Rule 6-2).

9VAC5-60-90. General.

The Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technologies, or MACTs) as promulgated in 40 CFR Part 63 and designated in 9VAC5-60-100 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-60-110. The complete text of the subparts in 9VAC5-60-100 incorporated in this regulation by reference is contained in 40 CFR Part 63. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-100 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2019~~ 2020) in effect July 1, ~~2019~~ 2020. In making reference to the Code of Federal Regulations, 40 CFR Part 63 means Part 63 of Title 40 of the Code of Federal Regulations; 40 CFR 63.1 means Section 63.1 in Part 63 of Title 40 of the Code of Federal Regulations.

REG\DEV\F20-REG-FIN

**REPORT TO THE STATE AIR POLLUTION CONTROL BOARD
CONCERNING HIGH PRIORITY VIOLATIONS (HPVs)
FOR THE THIRD QUARTER 2020**

NOVs Issued from April through June 2020

BRRO	Dynax America Corp USA Roanoke, Virginia Registration No. 21279	Discovery Dates: 3/31/2020 Alleged Violations: Exceeded limit for total annual HCL throughput and failed to report the deviation.	NOV: Issued 6/2/2020
BRRO	Lhoist North America – Kimballton Plant Ripplemead, Virginia Registration No. 20225	Discovery Date: 4/23/2020 Alleged Violations: Continuous Opacity Monitoring System not calibrated in accordance with MACT AAAAA requirements.	NOV: Issued 5/27/2020
BRRO	U.S. Army – Radford Army Ammunition Plant Radford, Virginia Registration No. 20656	Discovery Date: 4/30/2020 Alleged Violations: Failed to conduct twelve weekly Method 22 visible emissions observations and failed to report these deviations in Semi-Annual Monitoring Report.	NOV: Issued 5/13/2020
PRO	INGENCO – Rockville Plant Rockville, Virginia Registration No. 51201	Discovery Date: 2/12/2020 Alleged Violations: Failed to maintain records and failed to report deviations in Semi-Annual Monitoring Reports.	NOV: Issued 5/6/2020
VRO	Valley Proteins, Inc. - Linville Linville, Virginia Registration No. 80144	Discovery Date: 5/1/2020 Alleged Violations: Failed stack test –exceeded the exemption emission rate for formaldehyde emissions.	NOV: Issued 6/15/2020

Consent Orders issued from April through June 2020

NRO	Digital Loudoun II, LLC Ashburn, Virginia Registration No. 73670	Discovery Date: 11/29/2018 Alleged Violation: Failed to conduct stack testing on new units in accordance with permit.	NOVs: Issued 1/14/2019, 4/8/2019 Consent Order effective 5/14/2020, including civil charge of \$25,204.42.
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Consent Orders in Development – Previously Reported NOVs

BRRO	Southern Finishing Company, Inc. Martinsville, Virginia Registration No. 30515	Discovery Date: 10/2/2019 Alleged Violation: Excess opacity observed during VEE; missing MACT DDDDD compliance reporting; missing required MACT JJ certification for how facility complies with formaldehyde usage.	NOV: Issued 11/13/2019
BRRO	Wolverine Advanced Materials – Cedar Run Blacksburg, Virginia Registration No. 21240	Discovery Date: 1/4/2019 Alleged Violation: Late submittal of catalyst activity report, failed to demonstrate permitted destruction efficiency rate in catalyst activity test.	NOVs: Issued 2/5/2019, 4/17/2019, 6/4/2019
NRO	Panda Stonewall LLC Leesburg, Virginia Registration No. 73826	Discovery Dates: 11/27/2018, 3/28/2019 Alleged Violations: Exceeded short term and annual CO limit in permit during early stages of operation of the new facility. Also, exceeded short term NOx limit	NOVs: Issued 12/20/2018, 4/23/2019
PRO	AdvanSix Resins and Chemicals LLC Hopewell, Virginia Registration No. 50232	Discovery Dates: 9/10/2018, 4/26/2019 Alleged Violation: Title V permit violations reported after third party audit. VOC emissions bypassed flare and vented directly to ambient air through cold box vent stack.	NOVs: Issued 2/4/2019, 7/15/2019

PRO	AMPAC Fine Chemicals Virginia, LLC Petersburg, Virginia Registration No. 50856	Discovery Date: 5/8/2019 Alleged Violations: Late submittal of Title V application, late submittal of notification of use of methylene chloride, improper leak testing of chemical manufacturing process unit, missing or incomplete records and inspection plans.	NOV: Issued 8/12/2019
PRO	INGENCO – Amelia Jetersville, Virginia Registration No. 31047	Discovery Date: 5/10/2018 Alleged Violations: Failed to maintain records as required by permit or regulation, exceeded inlet charge air temperature.	NOV: Issued 8/13/2018
PRO	Richmond Energy LLC Henrico, Virginia Registration No. 52198	Discovery Date: 8/12/2019 Alleged Violation: Exceeded maximum sulfur content in landfill gas analysis; exceeded short term VOC and SO ₂ emissions limits during stack test	NOV: Issued 10/31/2019
PRO	River Pools and Spas Warsaw, Virginia Registration No. 52484	Discovery Date: 1/17/2019 Alleged Violation: Exceeded permitted VOC (styrene) limits at major source levels.	NOV: Issued 2/26/2019
TRO	Perdue AgriBusiness LLC - Chesapeake Chesapeake, Virginia Registration No. 60277	Discovery Date: 5/13/2019 Alleged Violation: Exceeded permitted solvent loss ratio for Hexane at the Soybean Oil Extraction Facility.	NOV: Issued 10/8/2019
VRO	University of Virginia Charlottesville, Virginia Registration No. 40200	Discovery Date: 5/17/2019, 9/9/2019 Alleged Violations: Exceeded opacity and CO emission limits from boilers, late tune-up on	NOV: Issued 6/6/2019, 10/4/2019

		<p>boiler, failure to notify DEQ of a malfunction.</p> <p>Exceeded CO and SO₂ emission limits from boilers; sorbent injection rates below recommended low level and no alarms activated.</p>	
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