

TENATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, SEPTEMBER 13, 2023

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

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

Convene – 10:30 A.M

Agenda Item	Presenter
Call to Order/New Board Member Introduction	Guy
Review and Approve Agenda	Board Members
Review and Approve Minutes (June 7, 2023)	Board Members
Fast-Track Regulations	
<i>Definition of Volatile Organic Compound (Rev. A23) Regulations for the Control and Abatement of Air Pollution 9VAC5-10</i>	Sabasteanski
<i>Existing Stationary Sources (Rev.B23) Regulations for the Control and Abatement of Air Pollution 9VAC5-40</i>	
Report to the Board Regarding Controversial Permits <i>Chesterfield Energy Reliability Center (CERC)</i>	Dowd
Division Director’s Report	Dowd
Public Forum <i>Individuals may comment on matters other than those on the agenda or pending regulatory actions</i>	

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Rachael Harrell at (804) 801-2932.

PUBLIC COMMENTS AT STATE AIR POLLUTION CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions made by the Department of Environmental Quality (Department). These procedures establish the times for the public to provide appropriate comment to the Board for regulatory action and the Department for case decisions for consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (e.g., issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. (Note: as of July 1, 2022, the Department takes final action on all case decisions.) As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held, usually 45 days.

In light of these established procedures, the Board accepts public comment on regulatory actions as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES ON REGULATORY ACTIONS: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION ON A REGULATORY ACTION will not be accepted at the meeting. The Board expects comments and information on a regulatory action to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. Should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda or pending regulatory actions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

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

Additional Meeting Information:

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



Commonwealth of Virginia

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
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MEMORANDUM

To: Members of the State Air Pollution Control Board

From : Rachael Harrell

Date: August 31, 2023

Subject: Minutes

Attached are the minutes from your meeting on June 7, 2023. Staff will seek your approval of the minutes at your next meeting.

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

DRAFT MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, June 7, 2023

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

Board Members Present:

Hope Cupit
James Guy II
Jay Holloway
David Hudgins
Russell Mait
Staci Rijal
Dr. Lornel Tompkins

Board Members Absent: None.

Department of Environmental Quality:

Michael S. Rolband, Director

Rachael Harrell, Board Coordinator

Attorney General's Office:

Ross Phillips, Deputy Attorney General

The meeting convened at 10:30 a.m. The Board went into closed session at 2:35 p.m. and ended closed session at 3:11 p.m. The meeting adjourned at 3:18 p.m.

Minute No. 1 – Review and Approval of Agenda: The Board unanimously approved the agenda.

Minute No. 2– December 7, 2022 Minutes: The Board unanimously approved the minutes from the Board's meeting on December 7, 2022.

Minute No. 3- Report Regarding Controversial Permits: Mr. Dowd informed the Board that there are currently no controversial permits to present to the Board.

Minute No. 4- Division Director Report: The Board received updates from Michael Dowd, Air and Renewable Energy Division Director. Mr. Dowd reported on the status of DEQ's permit by rule program for small solar energy projects and the agency's progress towards meeting the requirements set forth by House Bill 206 of the 2022 General Assembly.

Minute No. 5- Repeal CO 2 Budget Trading Program as required by Executive Order 9 (Revision A22) Part VII of 9VAC5-140: The Board heard a presentation from Secretary Voyles on the final regulatory proposal. The Board heard from the following individuals: Senator Hashmi, Delegate Sullivan, Brett Vassey, Keith Martin, Hobey Bauhan, Nate Benforado, Weston Gobar, William Stiles Jr., Petrina Jones-Wrobleski, Glen Besa, Tyla Matteson, Peter Anderson, Scott Peterson, Chris Leyen, Lee Williams, Patrick Fanning, Tim Cywinski, Phillip Ignatoff, Walton Shepherd, Steven Arabia, Perry Cogburn, Joy Loving, Dylan Bishop, Paige Wesselink, Randy Fleitman, Bill Muth, Beth Kreydatus, Donna Shaunesen, Emily Morrow, Gabriella Negron, Jessica Schneider, Tyee Mallory, and Richard Walker. The Board was presented with the Department's recommendation to authorize the Department to adopt the final regulation in accordance with the Administrative Process Act. The Board voted to 4 to 3 to accept the Department's recommendation, with Mr. Guy, Mr. Holloway, Mr. Hudgins, and Mr. Mait voting yes, and Ms. Rijal, Dr. Tompkins and Ms. Cupit voting no.

Minute No. 6- Public Comment Forum: The following individual spoke during the public comment forum: Portnoy Evans Johnson.

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

September 2023

SUBJECT: Definition of Volatile Organic Compound (9VAC5-10, Rev. A23) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process

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

INTRODUCTION

Section 109 (a) of the federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to prescribe national ambient air quality standards (NAAQS) to protect public health. Section 110 mandates that each state adopt and submit to EPA a state implementation plan (SIP) which provides for the implementation, maintenance, and enforcement of the NAAQS. Ozone, one of the pollutants for which there is a NAAQS, is in part created by emissions of volatile organic compounds (VOCs). Therefore, in order to control ozone, VOCs must be addressed in Virginia's SIP.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. Section 51.100, which consists of a list of definitions, includes a definition of VOC. This definition is revised by EPA in order to add or remove VOCs as necessary. If it can be demonstrated that a particular VOC is "negligibly reactive"--that is, if it can be shown that a VOC is not as reactive and therefore does not have a significant effect on ground-level or upper atmospheric ozone--then EPA may remove that substance from the definition of VOC. On February 8, 2023 (88 FR 8226), EPA revised the definition of VOC to exclude *trans*-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz(E)).

The purpose of 9VAC5 Chapter 10 (general definitions) is not to impose any regulatory requirements in and of itself, but to provide a basis for and support to other provisions of the Regulations for the Control and Abatement of Air Pollution, which are in place in order to protect public health and welfare. The proposed amendments are being made to ensure that the definition of VOC, which is crucial to many of the regulations, is up-to-date and scientifically accurate, as well as consistent with the overall EPA requirements.

The department is requesting approval of a proposal for public comment that meets federal statutory and regulatory requirements. Approval of the proposal will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

PUBLIC PARTICIPATION ACTIVITIES

The department did not issue a notice of intended regulatory action nor conduct any associated public participation activities because we are requesting that the board adopt the amendments as final regulations provided they complete the fast-track rulemaking process as provided in the Code of Virginia. Under the provisions of § 2.2-4012.1 of the Administrative Process Act, agencies may use the fast-track rulemaking process for regulations that are expected to be noncontroversial. The reasons for using the fast-track rulemaking process may be found in the agency background document.

Under the fast-track process, the proposal will be subject to a 30-day public comment period. If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, or the department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the department will (i) file notice with the Registrar of Regulations for publication in the Virginia Register and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action. Otherwise, the regulation becomes effective 15 days after the end of the public comment period.

SUMMARY OF DRAFT REGULATION AMENDMENTS

The list of substances not considered to be VOCs in Virginia has been revised to include *trans*-1,1,1,4,4,4-hexafluorobut-2-ene.

SUPPORTING DOCUMENTATION

Immediately following this agenda memo are the following documents:

1. The agency background document.
2. The draft proposed regulation.

DEPARTMENT RECOMMENDATION

It is recommended that the board authorize the department to:

1. Promulgate the attached proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization should also be understood to constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or

more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

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Fast-Track Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-10 (General Definitions)
VAC Chapter title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Definition of Volatile Organic Compound (Rev. A23)
Date this document prepared	

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

Brief Summary

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

The general definitions of 9VAC5-10 impose no regulatory requirements in and of themselves but provide support to other provisions of the Regulations for the Control and Abatement of Air Pollution. The U.S. Environmental Protection Agency (EPA) has revised the definition of volatile organic compound (VOC) to add *trans*-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz(E)) to the list of substances excluded from the definition of VOC on the basis that this substance makes a negligible contribution to tropospheric ozone formation. The state definition must now be revised accordingly.

Acronyms and Definitions

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

EPA – U.S. Environmental Protection Agency
VOC – volatile organic compound

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 7, 2023, the State Air Pollution Control Board:

1. Authorized the department to promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization constituted its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Authorized the department to set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

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

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The primary mandate for this regulatory change is § 109 (a) of the federal Clean Air Act, which requires EPA to prescribe national ambient air quality standards to protect public health. Section 110 mandates that each state adopt and submit to EPA a state implementation plan which provides for the implementation, maintenance, and enforcement of the standards. Ozone, one of the pollutants for which there is a federal standard, is in part created by emissions of VOCs. Therefore, in order to control ozone, VOCs must be addressed in Virginia's state plan.

The definition of VOC is being revised to add a less-reactive substance to the list of substances not considered to be VOCs. This amendment is not expected to affect a significant number of sources or have any significant impact, other than a positive one, on air quality overall. Additionally, removal of this substance at the federal level was accompanied by detailed scientific review and public comment. Therefore, no additional information on the reactivity of this substance or the appropriateness of its removal is anticipated.

Legal Basis

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

Promulgating Entity

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

Federal Requirements

Section 109 (a) of the federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to prescribe national ambient air quality standards (NAAQS) to protect public health. Section 110 mandates that each state adopt and submit to EPA a state implementation plan (SIP) which provides for the implementation, maintenance, and enforcement of the NAAQS. Ozone, one of the pollutants for which there is a NAAQS, is in part created by emissions of VOCs. Therefore, in order to control ozone, VOCs must be addressed in Virginia's SIP.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. Subpart F of Part 51, Procedural Requirements, includes § 51.100, which consists of a list of definitions. 40 CFR 51.100 contains a definition of VOC. This definition is revised by EPA in order to add or remove VOCs as necessary. If it can be demonstrated that a particular VOC is "negligibly reactive"--that is, if it can be shown that a VOC is not as reactive and therefore does not have a significant effect on ground-level (tropospheric) or upper-level (stratospheric) ozone--then EPA may remove that substance from the definition of VOC.

The Chemours Company submitted a petition to EPA on November 30, 2016, requesting that *trans*-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz(E)) be exempted from the regulatory definition of VOC. The petition was based on the argument that HFO-1336mzz(E) has low reactivity, and may be used in a variety of applications in foam expansion or blowing agents where it has significant performance and energy-saving advantages. Chemours specifically developed HFO-1336mzz(E) to support reductions in emissions of greenhouse gases.

After thorough scientific review and public comment, EPA took final action on February 8, 2023 (88 FR 8226) to respond to the petition by exempting HFO-1336mzz(E) from the regulatory definition of VOC. This action was based on consideration of the compound's low contribution to tropospheric ozone and the low likelihood of risk to human health or the environment, including stratospheric ozone depletion, toxicity, and climate change. This delisting became effective on April 10, 2023.

State Requirements

This specific amendment is not required by state mandate. Rather, Virginia's Air Pollution Control Law gives the State Air Pollution Control Board the discretionary authority to promulgate regulations "abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth" (§ 10.1-1308 A). The law defines such air pollution as "the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people or life or property" (§ 10.1-1300).

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 is intended to solve.

The purpose of the general definitions chapter is not to impose any regulatory requirements in and of itself, but to provide a basis for and support to other provisions of the Regulations for the Control and Abatement of Air Pollution, which are in place in order to protect public health and welfare. The proposed amendment is being made to ensure that the definition of VOC, which is crucial to most of the regulations, is up-to-date and scientifically accurate, as well as consistent with the overall EPA requirements under which the regulations operate. It may also encourage the use of a less-reactive substance and thereby reduce the production of ground-level ozone.

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 general definitions impose no regulatory requirements in and of themselves but provide support to other provisions of the Regulations for the Control and Abatement of Air Pollution. The list of substances not considered to be VOCs in Virginia has been revised to add removed *trans*-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO–1336mzz(E)).

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 general public health and welfare will benefit because the revision may encourage the use of the delisted substance in place of products containing more reactive and thereby more polluting substances. This substance is considered to be negligibly reactive in the formation of ground level (tropospheric) ozone, will not deplete upper level (stratospheric) ozone, and is not considered to be a hazardous (toxic) air pollutant. Therefore, this substance does not have a negative effect on human health or the environment.

Excluding this substance as a VOC will make it easier and less expensive for industry to use it. Companies that use this substance in place of more reactive substances may also benefit by reducing their VOC emissions and concomitant reductions in permitting and other regulatory requirements.

2. Department: The amendment will allow the department to focus VOC reduction strategies on substances that have a negative impact on human health and the environment.

Requirements More Restrictive than Federal

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

The proposed regulation amendment is not more restrictive than the applicable legal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “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

There is no state agency which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other state agencies.

Localities Particularly Affected

There is no locality which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other localities.

Other Entities Particularly Affected

There is no entity which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>It is not expected that the regulatory change will result in any cost to the department beyond that currently in the budget. The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by EPA under § 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following</p>
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	program (code): Environmental and Resource Management (51300); Air Protection Permitting (51325); Air Protection Compliance and Enforcement (51326); Air Protection Planning and Policy (51328). The costs are expected to be ongoing.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	It is not expected that the regulatory change will result in any cost to any state agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The amendment will allow the department to focus VOC reduction strategies on substances that have a negative impact on human health and the environment.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impacts to any locality are anticipated.
Benefits the regulatory change is designed to produce.	<p>The general public health and welfare will likely benefit because the revision may encourage the use of the affected substance in place of products containing more reactive and thereby more polluting substances. Due to its low photochemical reactivity, this substance is considered to be negligibly reactive in the formation of ground level ozone, will not deplete upper level ozone, and is not considered to be hazardous (toxic). Therefore, this substance does not have a negative effect on human health or the environment.</p> <p>Because the product is used primarily in industrial/manufacturing settings, it is unlikely that a locality would need or want to use the product, although nothing prevents one from doing so should it wish.</p> <p>Greater government efficiency may be realized as the department will be able to better focus VOC reduction strategies on substances that have a negative impact on human health and the environment.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be	Industries manufacturing or using HFO-1336mzz(E) for use in foam blowing, refrigeration, as well as applications in solvents
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<p>affected, include a specific statement to that effect.</p>	<p>and aerosol propellants, and other minor uses, including industrial gas manufacturing, semiconductor machinery manufacturing, all other miscellaneous chemical product and preparation manufacturing, polystyrene foam product manufacturing, urethane and other foam product (except polystyrene) manufacturing, air conditioning and warm air heating equipment and commercial and industrial refrigeration, equipment manufacturing, motor vehicle parts manufacturing, ship building and repairing, boat building, and all other miscellaneous manufacturing. These industries are located throughout the state.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. 	<p>No facilities in Virginia are known at this time to be manufacturing or utilizing this substance; however, there are approximately 45 permitted facilities that meet the above criteria and may potentially use this substance. Nineteen of these facilities are small businesses. Given the broad potential uses for this product, it is reasonable to assume that any manufacturing facility in the state may consider using this product if they are not already. Since the substance was delisted as a VOC at the federal level, it is reasonable to assume that use of this substance may increase among the various categories of manufacturers on a case-by-case basis dictated by various business needs, including the need to perform certain tasks balanced against the potential need to obtain or modify a permit.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. 	<p>No specific costs can be identified, as there is no current record of any facilities in Virginia that are using this substance or in what capacity. It is reasonable to assume that a facility may take advantage of the low volatility of this substance to reduce its VOC emissions and thereby be able to expand production without triggering new source review permitting.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>Excluding this substance as a VOC will make it easier and less expensive for industry to use it. Companies that use this substance in place of more reactive substances may also benefit by reducing their VOC emissions and concomitant reductions in permitting and other regulatory requirements.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

Alternatives to the proposed regulation amendment were considered by the board. The board determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation. The alternatives considered by the board, along with the reasoning by which the board has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulation to satisfy the provisions of the law and associated regulations and policies. This option was chosen because it meets the stated purpose of the regulation: to protect public health and welfare by encouraging the use of a substance that has less impact on either ground-level or upper-level ozone, does not contribute to global warming, and is not toxic or hazardous.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option was not chosen because it would not meet the stated purpose of the regulation.
3. Take no action to amend the regulation and continue to use an outdated definition. This option was not chosen because it would not meet stated purpose of the regulation.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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.

The regulation applies to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or (5) exemption of small businesses from all or any part of the requirements contained in the proposed regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulation.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the

applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

In addition to any other comments, the board is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community, and impacts of the regulation on farm or forest land preservation. Also, the board is seeking information on impacts to small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the proposal on affected small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose of the proposal.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Karen G. Sabasteanski, Policy Analyst, Air and Renewable Energy Division, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia, 23218 (email karen.sabasteanski@deq.virginia.gov, fax 804-698-4178. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC5-10-20	subdivision jjjj	Definition does not include <i>trans</i> -1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz(E)).	Revise definition of "volatile organic compound" to add include <i>trans</i> -1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz(E)) to the list of substances not considered to be VOC. Needed for

			public health and welfare benefit, and consistency with federal requirements.
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Office of Regulatory Management
Economic Review Form

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-10 (General Definitions)
VAC Chapter title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Definition of Volatile Organic Compound (Rev. A23)
Date this document prepared	
Regulatory Stage (including Issuance of Guidance Documents)	Fast-track final

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs: Describe the direct costs of this proposed change here. There are no direct costs associated with this action.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change. There are no indirect costs associated with this action.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here. Needed in order to meet federal requirements for protecting human health and welfare, and to assure state control over the federal program. The amendment will allow the department to focus VOC reduction strategies on substances that have a negative impact on human health and the environment, and may help streamline the permitting process. No significant impacts are anticipated.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change. The general public health and welfare will likely benefit because the revision may encourage the use of the affected substance in place of products containing more reactive and thereby more polluting substances. Due to its low photochemical reactivity, this substance is considered to be negligibly reactive in the formation of ground level ozone, will not deplete upper level ozone, and is not considered to be hazardous (toxic). Therefore, this substance does not have a negative effect on human health or the environment.</p> <p>Excluding this substance as VOC may make it easier and less expensive for industry to use it. Companies that use this substance in place of more reactive substances may also benefit by reducing their VOC emissions and concomitant reductions in permitting and other regulatory requirements.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) None.</p>	<p>(b) None.</p>
<p>(3) Net Monetized Benefit</p>	<p>None.</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>Greater government efficiency may be realized as the department will be able to better focus VOC reduction strategies on substances that have a negative impact on human health and the environment.</p>	
<p>(5) Information Sources</p>	<p>DEQ's Comprehensive Emissions Data System (CEDS), DEQ Office of Air Compliance; EPA Rulemaking Docket</p>	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here. None.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change. None.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here. None.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change. Not amending the regulation will not enable the potentially positive outcomes described in Table 1a.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Net Monetized Benefit	None.	
(4) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here. None.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change. None.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here. None.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change. There are no available alternatives to the approach in Table 1a.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Net Monetized Benefit	None.	

(4) Other Costs & Benefits (Non-Monetized)	See Table 1a.
(5) Information Sources	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Assistance		
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Information Sources		

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a. There are approximately 45 facilities located throughout the state that could potentially use this substance, 19 of which are small businesses. In addition to reviewing the CEDS database, DEQ Office of Air Compliance staff contacted each facility on a personal basis and verified that no facilities are currently using this substance. As discussed in Table 1a, switching to this substance as a replacement for more polluting substances may enable a facility that wishes to expand operations to avoid new source review permitting if it reduces its VOC emissions below applicability levels.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) None.	(b) None.
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Alternatives	None.	
(5) Information Sources	DEQ's Comprehensive Emissions Data System (CEDDS), DEQ Office of Air Compliance; EPA Rulemaking Docket	

Changes to Number of Regulatory Requirements

None.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

9VAC5 CHAPTER 10.
GENERAL DEFINITIONS.

9VAC5-10-20. Terms defined.

"Actual emissions rate" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

"Affected facility" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated. The term "affected facility" includes any affected source as defined in 40 CFR 63.2.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air quality" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"Air quality control region" means any area designated as such in 9VAC5-20-200.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

"Ambient air quality standard" means any primary or secondary standard designated as such in 9VAC5-30 (Ambient Air Quality Standards).

"Board" means the State Air Pollution Control Board or its designated representative. When used outside the context of the promulgation of regulations, including regulations to establish general permits, pursuant to this chapter, "board" means the Department of Environmental Quality.

"Certified mail" means electronically certified or postal certified mail, except that this definition shall only apply to the mailing of plan approvals, permits, or certificates issued under the provisions of these regulations and only where the recipient has notified the department of the recipient's consent to receive plan approvals, permits, or certificates by electronic mail. Any provision of these regulations requiring the use of certified mail to transmit special orders or administrative orders pursuant to enforcement proceedings shall mean postal certified mail.

"Class I area" means any prevention of significant deterioration area (i) in which virtually any deterioration of existing air quality is considered significant and (ii) designated as such in 9VAC5-20-205.

"Class II area" means any prevention of significant deterioration area (i) in which any deterioration of existing air quality beyond that normally accompanying well-controlled growth is considered significant and (ii) designated as such in 9VAC5-20-205.

"Class III area" means any prevention of significant deterioration area (i) in which deterioration of existing air quality to the levels of the ambient air quality standards is permitted and (ii) designated as such in 9VAC5-20-205.

"Continuous monitoring system" means the total equipment used to sample and condition (if applicable), to analyze, and to provide a permanent continuous record of emissions or process parameters.

"Control program" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.

2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.

3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.

4. The date by which final compliance is to be achieved.

"Criteria pollutant" means any pollutant for which an ambient air quality standard is established under 9VAC5-30 (Ambient Air Quality Standards).

"Day" means a 24-hour period beginning at midnight.

"Delayed compliance order" means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable implementation plan.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" or "executive director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Dispersion technique"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

a. Using that portion of a stack which exceeds good engineering practice stack height;

b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

2. The preceding sentence does not include:

a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

(1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emissions limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emissions limitation or, in the event that no emissions limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

"Emissions limitation" means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

"Emission standard" means any provision of 9VAC5-40 (Existing Stationary Sources), 9VAC5-50 (New and Modified Stationary Sources), or 9VAC5-60 (Hazardous Air Pollutant Sources) which prescribes an emissions limitation, or other requirements that control air pollution emissions.

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

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a consistent and quantitative relationship to the reference method under specified conditions.

"EPA" means the U.S. Environmental Protection Agency or an authorized representative.

"Excess emissions" means emissions of air pollutant in excess of an emission standard.

"Excessive concentration" is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of Article 8 (9VAC5-80-1605 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Existing source" means any stationary source other than a new source or modified source.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means Chapter 85 (§ 7401 et seq.) of Title 42 of the United States Code.

"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

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

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 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 implementation plan.

5. Limitations and conditions that are part of a § 111(d) or § 111(d)/129 plan.

6. 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.

7. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into an implementation plan 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.

8. 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 implementing and enforcing § 112 of the federal Clean Air Act.

9. Individual consent agreements issued pursuant to the legal authority of EPA.

"Good engineering practice" or "GEP," with reference to the height of the stack, means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;

2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under 9VAC5-80 (Permits for Stationary Sources),

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$$H_g = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emissions limitation;

b. For all other stacks,

$$H_g = H + 1.5L,$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structures measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structures provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved under § 110 of the federal Clean Air Act, or promulgated under § 110(c) of the federal Clean Air Act, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

"Initial emission test" means the test required by any regulation, permit issued pursuant to 9VAC5-80 (Permits for Stationary Sources), control program, compliance schedule or other enforceable mechanism for determining compliance with new or more stringent emission standards or permit limitations or other emissions limitations requiring the installation or modification of air pollution control equipment or

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

implementation of a control method. Initial emission tests shall be conducted in accordance with 9VAC5-40-30.

"Initial performance test" means the test required by (i) 40 CFR Part 60 for determining compliance with standards of performance, or (ii) a permit issued pursuant to 9VAC5-80 (Permits for Stationary Sources) for determining initial compliance with permit limitations. Initial performance tests shall be conducted in accordance with 9VAC5-50-30 and 9VAC5-60-30.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Mail" means electronic or postal delivery.

"Maintenance area" means any geographic region of the United States previously designated as a nonattainment area and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan and designated as such in 9VAC5-20-203.

"Malfunction" means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Metropolitan statistical area" means any area designated as such in 9VAC5-20-202.

"Monitoring device" means the total equipment used to measure and record (if applicable) process parameters.

"Nearby" as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and:

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometers (1/2 mile); and

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 kilometers (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed two miles if such feature achieves a height (Ht) 0.8 kilometers from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in 9VAC5-20-204.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Organic compound" means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

"PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"Performance test" means a test for determining emissions from new or modified sources.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"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.

"Prevention of significant deterioration area" means any area not designated as a nonattainment area in 9VAC5-20-204 for a particular pollutant and designated as such in 9VAC5-20-205.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Public hearing" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 2.2-4007.02 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in 9VAC5-30 (Ambient Air Quality Standards): the applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16;

2. For emission standards in 9VAC5-40 (Existing Stationary Sources) and 9VAC5-50 (New and Modified Stationary Sources): Appendix M of 40 CFR Part 51 or Appendix A of 40 CFR Part 60; or

3. For emission standards in 9VAC5-60 (Hazardous Air Pollutant Sources): Appendix B of 40 CFR Part 61 or Appendix A of 40 CFR Part 63.

"Regional director" means the regional director of an administrative region of the Department of Environmental Quality or a designated representative.

"Regulation of the board" means any regulation adopted by the State Air Pollution Control Board under any provision of the Code of Virginia.

"Regulations for the Control and Abatement of Air Pollution" means 9VAC5-10 (General Definitions) through 9VAC5-80 (Permits for Stationary Sources).

"Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials publication, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)" (see 9VAC5-20-21).

"Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Section 111(d) plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with § 111(d)(1) of the federal Clean Air Act, or promulgated under 40 CFR 60.27(d) in accordance with § 111(d)(2) of the federal Clean Air Act, and which implements the relevant requirements of the federal Clean Air Act.

"Section 111(d)/129 plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with §§ 111(d)(1) and 129(b)(2) of the federal Clean Air Act, or promulgated under 40 CFR 60.27(d) in accordance with §§ 111(d)(2) and 129(b)(3) of the federal Clean Air Act, and which implements the relevant requirements of the federal Clean Air Act.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-10)

"Source" means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or chemicals.

"Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

"Stack in existence" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or
2. Entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 millimeters of Hg (29.92 inches of Hg).

"Standard of performance" means any provision of 9VAC5-50 (New and Modified Stationary Sources which prescribes an emissions limitation or other requirements that control air pollution emissions.

"Startup" means the setting in operation of an affected facility for any purpose.

"State enforceable" means all limitations and conditions which are enforceable by the board or department, including, but not limited to, those requirements developed pursuant to 9VAC5-170-160, requirements within any applicable regulation, order, consent agreement or variance, and any permit requirements established pursuant to 9VAC5-80 (Permits for Stationary Sources).

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under § 110 of the federal Clean Air Act, and which implements the requirements of § 110.

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

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which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which 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 vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see 9VAC5-20-21).

"These regulations" means 9VAC5-10 (General Definitions) through 9VAC5-80 (Permits for Stationary Sources).

"Total suspended particulate" or "TSP" means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

"True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) publication, "Evaporative Loss from Floating-Roof Tanks" (see 9VAC5-20-21). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

"Urban area" means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in 9VAC5-20-201.

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in American Petroleum Institute publication, "Evaporative Loss from Floating-Roof Tanks" (see 9VAC5-20-21).

"Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

1. This includes any such organic compounds which have been determined to have negligible photochemical reactivity other than the following:

- a. Methane;

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- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (HCFC-22);
- i. Trifluoromethane (HFC-23);
- j. 1,2-dichloro 1,1,2,2,-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. Parachlorobenzotrifluoride (PCBTF);
- v. Cyclic, branched, or linear completely methylated siloxanes;

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- w. Acetone;
- x. Perchloroethylene (tetrachloroethylene);
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1 chloro-1-fluoroethane (HCFC-151a);
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane
(C₄F₉OCH₃ or HFE-7100);
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-hepta-
fluoropropane ((CF₃)₂CF₂CF₂OCH₃);
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅
or HFE-7200);

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qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-hepta-fluoropropane ((CF₃)₂CF₂OC₂H₅);

rr. Methyl acetate;

ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃) (HFE-7000);

tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);

uu. 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);

vv. methyl formate (HCOOCH₃);

ww. (1)1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);

xx. propylene carbonate;

yy. dimethyl carbonate;

zz. trans-1,3,3,3-tetrafluoropropene;

aaa. HCF₂OCF₂H (HFE-134);

bbb. HCF₂OCF₂OCF₂H (HFE-236cal2);

ccc. HCF₂OCF₂CF₂OCF₂H (HFE-338pcc13);

ddd. HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));

eee. *trans* 1-chloro-3,3,3-trifluoroprop-1-ene;

fff. 2,3,3,3-tetrafluoropropene;

ggg. 2-amino-2-methyl-1-propanol;

hhh. t-butyl acetate;

iii. 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane; and

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jjj. *trans*-1,1,1,4,4,4-hexafluorobut-2-ene; and

kkk. Perfluorocarbon compounds which fall into these classes:

- alkanes;
- (1) Cyclic, branched, or linear, completely fluorinated
- ethers with no unsaturations;
- (2) Cyclic, branched, or linear, completely fluorinated
- tertiary amines with no unsaturations; and
- (3) Cyclic, branched, or linear, completely fluorinated
- (4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For purposes of determining compliance with emissions standards, volatile organic compounds shall be measured by the appropriate reference method in accordance with the provisions of 9VAC5-40-30 or 9VAC5-50-30, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as a volatile organic compound if the amount of such compounds is accurately quantified, and such exclusion is approved by the board.

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

4. Exclusion of the compounds listed in subdivision 1 of this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

5. Reserved.

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals,

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wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

REGDEVA23-REG-FIN

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

September 2023

SUBJECT: Existing Stationary Sources (9VAC5-40, Rev. B23) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process

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INTRODUCTION

In accordance with the Office of Regulatory Management Procedures for Review of State Regulations, state agencies are required to review regulations periodically in order to determine whether they are still needed. As a result of a review of 9VAC5-40 (Existing Stationary Sources), it has been determined that the following regulations may be repealed:

[Article 11](#), Emission Standards for Petroleum Refinery Operations

[Article 26](#), Emission Standards for Large Appliance Coating Application Systems

According to DEQ's CEDS database, there are no longer any affected facilities located within the state that are subject to these regulations, and there is therefore no more need for these regulations.

The department is requesting approval of a proposal for public comment that meets federal and state statutory and regulatory requirements. Approval of the proposal will ensure that the Commonwealth will be able to meet its obligations to regulate in the most efficient and effective way possible.

PUBLIC PARTICIPATION ACTIVITIES

The department did not issue a notice of intended regulatory action nor conduct any associated public participation activities because we are requesting that the board adopt the amendments as final regulations provided they complete the fast-track rulemaking process as provided in the Code of Virginia. Under the provisions of § 2.2-4012.1 of the Administrative Process Act, agencies may use the fast-track rulemaking process for regulations that are expected to be noncontroversial. The reasons for using the fast-track rulemaking process may be found in the agency background document.

Under the fast-track process, the proposal will be subject to a 30-day public comment period. If an objection to the use of the fast-track process is received within the 30-day

public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, or the department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the department will (i) file notice with the Registrar of Regulations for publication in the Virginia Register and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action. Otherwise, the regulation becomes effective 15 days after the end of the public comment period.

SUMMARY OF DRAFT REGULATION AMENDMENTS

The regulations are repealed in their entirety.

SUPPORTING DOCUMENTATION

Immediately following this agenda memo are the following documents:

1. The agency background document.
2. The draft proposed regulations.

DEPARTMENT RECOMMENDATION

It is recommended that the board authorize the department to:

1. Promulgate the attached proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization should also be understood to constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

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Fast-Track Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-40 (Existing Stationary Sources)
VAC Chapter title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Existing Stationary Sources (Rev. B23)
Date this document prepared	

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

Brief Summary

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

In accordance with the Office of Regulatory Management Procedures for Review of State Regulations, state agencies are required to review regulations periodically in order to determine whether they are still needed. As a result of a review of 9VAC5-40 (Existing Stationary Sources), it has been determined that the following regulations may be repealed:

[Article 11](#), Emission Standards for Petroleum Refinery Operations

[Article 26](#), Emission Standards for Large Appliance Coating Application Systems

According to DEQ's CEDS database, there are no longer any affected facilities located within the state that are subject to these regulations, and there is therefore no more need for these regulations.

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.

CEDS - Comprehensive Environmental Data System
DEQ – Department of Environmental Quality
EPA - Environmental Protection Agency
NAAQS - National Ambient Air Quality Standard
ppmv - parts per million by volume

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 13, 2023, the State Air Pollution Control Board:

1. Authorized the department to promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization constituted its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Authorized the department to set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

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

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The primary impetus for this regulatory change is the Office of Regulatory Management Procedures for Review of State Regulations, which implements Executive Order 19, Development and Review of State Regulations. All existing state regulations promulgated by executive branch agencies must be reviewed every four years to determine whether they should be continued without change or be amended or repealed. A periodic review was conducted accordingly for 9VAC5-40, Existing Stationary Sources, from June 6 through June 27, 2022.

In order to determine the ongoing applicability of the regulations, a review of the Comprehensive Environmental Data System (CEDS) was made. CEDS is Virginia's air regulatory registration database. Facilities must register in this database all units to which a regulation of the board applies. This review revealed that two facility types covered by a Chapter 40 regulation no longer operate in the state: petroleum refinery operations and large appliance coating application systems. Therefore, Article 11,

Emission Standards for Petroleum Refinery Operations, and Article 26, Emission Standards for Large Appliance Coating Application Systems, should be repealed.

Legal Basis

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

Promulgating Entity

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

Federal Requirements

Section 109 (a) of the federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to prescribe national ambient air quality standards (NAAQS) for criteria pollutants to protect public health. Section 110 mandates that each state adopt and submit to EPA a state implementation plan (SIP) which provides for the implementation, maintenance, and enforcement of the NAAQS.

Article 11 of 9VAC5-40 was originally promulgated in 1972 in order to control emissions of several criteria pollutants (particulate matter, sulfur dioxide, and volatile organic compounds) as well as hydrogen sulfide, from petroleum refineries. Article 26 was also originally promulgated in 1972 in order to control emissions of volatile organic compounds, a criteria pollutant, from large appliance coating application systems. These regulations were adopted by EPA as revisions to the Virginia SIP, and are thus federally enforceable.

State Requirements

These regulations and their repeal are not required by state mandate. Rather, Virginia's Air Pollution Control Law gives the State Air Pollution Control Board the discretionary authority to promulgate regulations "abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth" (§ 10.1-1308 A). The law defines such air pollution as "the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people or life or property" (§ 10.1-1300).

The original Clean Air Act (1970) was relatively broad in how it expected states to meet the NAAQS and develop SIPs. At the time the early Chapter 40 rules were adopted, including Articles 11 and 26, Virginia had broad latitude in choosing what facility types would be covered by the regulations of the Board. Since then, EPA's regulations that implement the Clean Air Act have become considerably more proscriptive and detailed. While many of the legacy 9VAC5-40 regulations still apply to affected facilities and continue to be an important underpinning to the SIP, Articles 11 and 26 no longer serve any useful purpose.

A number of general provisions and state-specific requirements are cross-referenced in each rule, but these were originally intended for the convenience of the affected facilities, and not individual state requirements in and of themselves.

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 is intended to solve.

Given that there are no longer any facilities subject to the two subject regulations, there is no longer a need for them to remain on the books. Removing outdated regulations is important in order to maintain clarity and effectiveness of the regulations overall. This benefits public welfare in general in that it will contribute to a more efficient and effective functioning of government.

Even if there were still affected sources in the state, EPA's regulations have become much more protective of public health and welfare since state regulations were originally promulgated in 1972. For example, Article 11 limits sulfur dioxide emissions to an in-stack concentration of 2,000 parts per million by volume (ppmv). The currently effective federal standard limits sulfur dioxide emissions to 50 ppmv (7-day rolling average) and 25 ppmv (365-day rolling average).

Any new petroleum refining or large appliance coating facilities locating in Virginia will now be subject to federal New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants for Source Categories, and a suite of other permitting requirements implemented since 1972.

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 regulations are no longer needed, and are therefore repealed in their entirety.

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: There are no direct impacts on public health as there are no longer any petroleum refineries or large appliance coating application systems emitting pollutants in the Commonwealth. There is a general benefit to the overall welfare of the public in that removing outdated regulations maintains clarity and effectiveness of the regulations overall, which in turn contributes to the efficient and effective functioning of government.
2. Department: The repeals will allow the department to focus pollution reduction strategies on facilities that have a negative impact on human health and the environment.

Requirements More Restrictive than Federal

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

The proposed regulation amendment is not more restrictive than the applicable legal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "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

There is no state agency which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other state agencies.

Localities Particularly Affected

There is no locality which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other localities.

Other Entities Particularly Affected

There is no entity which will bear any identified disproportionate material air quality impact due to the proposal which would not be experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and</p>	<p>The regulatory change will not result in any cost to the department.</p>
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c) whether any costs or revenue loss can be absorbed within existing resources	
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	The regulatory change will not result in any cost to any state agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Repeal of these regulations will allow the department to focus pollution reduction strategies and resources on facilities that have a negative impact on human health and the environment. Improved clarity of the regulations overall is an ongoing agency obligation.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impacts to any locality are anticipated.
Benefits the regulatory change is designed to produce.	The general public welfare will likely benefit because the repeal of unnecessary regulations results in the efficient and effective functioning of government. The removal of unnecessary regulatory language will contribute to the clarity of the regulations overall.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	No individuals, businesses, or other entities will be affected by the regulatory change.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are no longer any petroleum refineries or large appliance coating application systems in the state.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;	No projected costs for any individuals, businesses, or other entities will result from the regulatory change.

c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	The repeal of unnecessary regulations promotes the efficient and effective functioning of government.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

Alternatives to the proposed regulation amendments were considered by the Board. The Board determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation. The alternatives considered by the Board, along with the reasoning by which the board has rejected any of the alternatives being considered, are discussed below.

1. Repeal the regulations. This option was chosen because it meets the stated purpose of the regulation: to promote public welfare by eliminating unnecessary regulatory requirements.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option was not chosen because it would not meet the stated purpose of the regulation.
3. Take no action to amend the regulation and continue to use an outdated definition. This option was not chosen because it would not meet stated purpose of the regulation.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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.

Repeal of regulations that are no longer needed will have no impact on small businesses other than making the regulations of the Board generally easier to manage and follow.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community, and impacts of the regulation on farm or forest land preservation. Also, the Board is seeking information on impacts to small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the proposal on affected small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose of the proposal.

The Board also seeks comments on whether or not there may be any impacts to the Virginia SIP as a result of this action.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Karen G. Sabasteanski, Policy Analyst, Air and Renewable Energy Division, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia, 23218 (email karen.sabasteanski@deq.virginia.gov, fax 804-698-4510). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

Article 11, Emission Standards for Petroleum Refinery Operations			
9VAC5-40-1340		Applicability and designation of affected facility	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1350		Definitions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1360		Standard for particulate matter	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1370		Standard for sulfur dioxide	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1380		Standard for hydrogen sulfide	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1390		Standard for volatile organic compounds	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1400		Control technology guidelines	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1410		Standard for visible emissions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1420		Standard for fugitive dust/emissions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1430		Standard for odor	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1440		Standard for toxic pollutants	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to

			promote clarity and the efficient operation of government.
9VAC5-40-1450		Compliance	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1460		Test methods and procedures	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1470		Monitoring	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1480		Notification, records and reporting	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1490		Registration	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1500		Facility and control equipment maintenance or malfunction	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-1510		Permits	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
Article 26. Emission Standards for Large Appliance Coating Application Systems			
9VAC5-40-3560		Applicability and designation of affected facility	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3570		Definitions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3580		Standard for volatile organic compounds	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3590		Control technology guidelines	Repealed because there are no longer any affected facilities in the state that

			are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3600		Standard for visible emissions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3610		Standard for fugitive dust/emissions	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3620		Standard for odor	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3630		Standard for toxic pollutants	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3640		Compliance	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3650		Test methods and procedures	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3660		Monitoring	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3670		Notification, records and reporting	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3680		Registration	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3690		Facility and control equipment maintenance or malfunction	Repealed because there are no longer any affected facilities in the state that are subject to this regulation. Needed to promote clarity and the efficient operation of government.
9VAC5-40-3700		Permits	Repealed because there are no longer any affected facilities in the state that

			are subject to this regulation. Needed to promote clarity and the efficient operation of government.
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Office of Regulatory Management
Economic Review Form

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-40 (Existing Stationary Sources)
VAC Chapter title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Existing Stationary Sources (Rev. B23)
Date this document prepared	
Regulatory Stage (including Issuance of Guidance Documents)	Fast-track final

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here. There are no direct costs associated with this action.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change. There are no indirect costs associated with this action.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here. There are no direct benefits associated with this action.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change. Repeal of these regulations will allow the department to focus pollution reduction strategies and resources on facilities that have a negative impact on human health and the environment. The general public welfare will likely benefit because the repeal of unnecessary regulations generally results in the efficient and effective functioning of government. The removal of unnecessary regulatory language will contribute to the clarity of the regulations of the Board overall.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Net Monetized Benefit	None.	
(4) Other Costs & Benefits (Non-Monetized)	None.	
(5) Information Sources	DEQ's Comprehensive Emissions Data System (CEDS); periodic review of regulations (no comment was received during the public comment period in which the potential repeal of these regulations was discussed).	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here. None.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change. None.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here. None.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change. Not repealing the regulations will not enable the potentially positive outcomes described in Table 1a.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) None.	(b) None.
(3) Net Monetized Benefit	None.	
(4) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. There are no available alternatives to the approach in Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Net Monetized Benefit	None.	
(4) Other Costs & Benefits (Non-Monetized)	See Table 1a.	
(5) Information Sources		

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Other Costs & Benefits (Non-Monetized)		
(4) Assistance		
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.

(3) Other Costs & Benefits (Non-Monetized)	
(4) Information Sources	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. None. Indirect Costs: Describe the indirect costs of the proposed change. None. Direct Benefits: Describe the direct benefits of this proposed change here. None. Indirect Benefits: Describe the indirect benefits of the proposed change. See Table 1a. No small businesses are affected by the regulation repeals.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) None.	(b) None.
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Alternatives		
(5) Information Sources		

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Authority of Change	Initial Count	Additions	Subtractions	Net Change
For All:	Statutory: All				
	Discretionary: None				
Article 11 of 9VAC5-40					
9VAC5-40-1340		2	0	2	-2
9VAC5-40-1350		0	0	0	0
9VAC5-40-1360		1	0	1	-1
9VAC5-40-1370		1	0	1	-1
9VAC5-40-1380		1	0	1	-1
9VAC5-40-1390		4	0	4	-4
9VAC5-40-1400		0	0	0	0
9VAC5-40-1410		1	0	1	-1
9VAC5-40-1420		2	0	2	-2
9VAC5-40-1430		0	0	0	0
9VAC5-40-1440		0	0	0	0
9VAC5-40-1450		0	0	0	0
9VAC5-40-1460		0	0	0	0
9VAC5-40-1470		0	0	0	0
9VAC5-40-1480		0	0	0	0
9VAC5-40-1490		0	0	0	0
9VAC5-40-1500		0	0	0	0
9VAC5-40-1510		0	0	0	0
Article 26 of 9VAC5-40					
9VAC5-40-3560		2	0	2	-2
9VAC5-40-3570		0	0	0	0
9VAC5-40-3580		3	0	3	-3
9VAC5-40-3590		0	0	0	0
9VAC5-40-3600		0	0	0	0
9VAC5-40-3610		0	0	0	0
9VAC5-40-3620		0	0	0	0
9VAC5-40-3630		3	0	3	-3
9VAC5-40-3640		0	0	0	0
9VAC5-40-3650		0	0	0	0
9VAC5-40-3670		0	0	0	0
9VAC5-40-3680		0	0	0	0

9VAC5-40-3690		0	0	0	0
9VAC5-40-3700		0	0	0	0

Cost Reductions or Increases (if applicable)

None.

Other Decreases or Increases in Regulatory Stringency (if applicable)

None.

Length of Guidance Documents (only applicable if guidance document is being revised)

None.

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

9VAC5 CHAPTER 40.
EXISTING STATIONARY SOURCES.

PART II.
EMISSION STANDARDS.

ARTICLE 11.
~~EMISSION STANDARDS FOR PETROLEUM REFINERY OPERATIONS (RULE 4-11).~~

~~9VAC5-40-1340. Applicability and designation of affected facility. (Repealed.)~~

~~A. The affected facilities in petroleum refineries to which the provisions of this article apply are: each petroleum catalytic cracking unit, each petroleum refinery component, each vacuum producing system, each wastewater separator, and each process unit turnaround.~~

~~B. The provisions of this article apply throughout the Commonwealth of Virginia.~~

~~9VAC5-40-1350. Definitions.~~

~~A. For the purpose of these regulations 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 article, 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.~~

~~"Condensate" means a hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature or pressure or both and remains liquid at standard conditions.~~

~~"Crude oil" means a naturally occurring mixture which consists of any combination of hydrocarbons, sulfur, nitrogen or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.~~

~~"Firebox" means the chamber or compartment of a boiler or furnace in which materials are burned, but does not mean the combustion chamber of an incinerator.~~

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~"Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch or greater.~~

~~"Hot well" means the reservoir of a condensing unit receiving the warm condensate from the condenser.~~

~~"Petroleum liquids" means crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery.~~

~~"Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants or other products through distillation of petroleum or through redistillation, cracking, rearrangement or reforming of unfinished petroleum derivatives.~~

~~"Petroleum refinery component" means any petroleum refinery component that could potentially leak volatile organic compounds to the atmosphere. Such components include, but are not limited to, pump seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices process drains and open ended pipes.~~

~~"Refinery fuel gas" means any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas.~~

~~"Turnaround" means the procedure of shutting a refinery unit down after a run to do necessary maintenance and repair work and putting the unit back on stream.~~

~~"Vacuum producing system" means any reciprocating, rotary or centrifugal blower or compressor, or any jet ejector or device that takes suction from a pressure below atmospheric and discharges against atmospheric pressure.~~

~~"Wastewater separator" means any single or multiple compartment equipment which is designed to physically separate and remove any volatile organic compound floating on or entrained or contained in water entering such equipment from such water prior to outfall, drainage or recovery of such water.~~

9VAC5-40-1360. Standard for particulate matter. (Repealed.)

~~No owner or other person shall cause or permit to be discharged into the atmosphere from any petroleum catalytic cracking unit any particulate emissions in excess of 0.05% of the rate of catalyst recirculation within the unit.~~

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

9VAC5-40-1370. Standard for sulfur dioxide. (Repealed.)

~~No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any sulfur dioxide emissions in excess of an in-stack concentration of 2,000 ppm by volume.~~

9VAC5-40-1380. Standard for hydrogen sulfide. (Repealed.)

~~No owner or other person shall cause or permit to be discharged into the atmosphere from any refinery process gas stream any hydrogen sulfide emissions in excess of a concentration of 15 grains per 100 cubic feet of gas without burning or removing H₂S in excess of this concentration, provided that sulfur dioxide emissions in the burning operation meet the requirements of 9VAC5-40-1370.~~

9VAC5-40-1390. Standard for volatile organic compounds. (Repealed.)

~~A. Vacuum producing systems.~~

~~1. No owner or other person shall use or permit the use of a vacuum producing system unless such system is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 95% by weight of volatile organic compound emissions.~~

~~2. Achievement of the emission standard in subdivision A 1 of this section by use of methods in 9VAC5-40-1400 A will be acceptable to the board.~~

~~B. Wastewater separators.~~

~~1. No owner or other person shall use or permit the use of any wastewater separator unless such separator is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 95% by weight of volatile organic compound emissions.~~

~~2. Achievement of the emission standard in subdivision B 1 of this section by use of methods in 9VAC5-40-1400 B will be acceptable to the board.~~

~~C. Process unit turnarounds.~~

~~1. No owner or other person shall conduct or permit the conduct of a process unit turnaround unless such unit is equipped with a vapor control system that will remove, destroy or prevent the discharge into the atmosphere of at least 95% by weight of volatile organic compound emissions.~~

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~2. Achievement of the emission standard in subdivision C 1 of this section by use of methods in 9VAC5-40-1400 C will be acceptable to the board.~~

~~D. The provisions of this section apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9VAC5-20-206.~~

~~E. The provisions of this section do not apply to sources using petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions. (Kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of this section when used or stored at ambient temperatures).~~

9VAC5-40-1400. Control technology guidelines. (Repealed.)

~~A. Vacuum producing system. The control system should either vent noncondensable vapors to a firebox, incinerator or compress the vapors and add them to the refinery fuel gas. The associated hot wells should be covered and equipped with a vapor control system that incinerates the vapors.~~

~~B. Wastewater separators. The control system should consist of one of the following:~~

~~1. A solid cover with all openings sealed and totally enclosing the liquid contents of that compartment;~~

~~2. A floating pontoon or double-deck type cover, equipped with closure seals to enclose any space between the cover's edge and compartment wall; or~~

~~3. Any system of equal or greater control efficiency to the system in subsection B 1 or 2 of this section, provided such system is approved by the board.~~

~~C. Process unit turnaround. The units should be depressurized to a flare, fuel gas system or to some other combustion device before being opened for inspection or maintenance. Such units should be depressurized to five psi or below before venting to the atmosphere.~~

9VAC5-40-1410. Standard for visible emissions. (Repealed.)

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~The provisions of Article 1 (9VAC5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~9VAC5-40-1420. Standard for fugitive dust/emissions. (Repealed.)~~

~~A. The provisions of Article 1 (9VAC5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~B. For petroleum refineries located in volatile organic compound emission control areas designated in 9VAC5-20-206, the following requirements apply:~~

~~1. When any petroleum refinery component within the refinery complex is found to be leaking, the owner shall make every reasonable effort to repair the leak within 15 days. A leaking component is defined as one which has a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when testing using procedures acceptable to the board.~~

~~2. Compliance with the above emission standard shall be determined based upon monitoring, records and reporting conducted by the owner using procedures acceptable to the board.~~

~~3. Any time a valve is located at the end of a pipe or line containing volatile organic compounds, the end of the line shall be sealed with a second valve, a blind flange, a plug or a cap. This sealing device may be removed only when the line is in use (i.e., when a sample is being taken). This requirement does not apply to safety pressure relief valves.~~

~~9VAC5-40-1430. Standard for odor. (Repealed.)~~

~~The provisions of Article 2 (9VAC5-40-130 et seq.) of this chapter (Emission Standards for Odor, Rule 4-2) apply.~~

~~9VAC5-40-1440. Standard for toxic pollutants. (Repealed.)~~

~~The provisions of Article 3 (9VAC5-40-160 et seq.) of this chapter (Emission Standards for Toxic Pollutants, Rule 4-3) apply.~~

~~9VAC5-40-1450. Compliance. (Repealed.)~~

~~The provisions of 9VAC5-40-20 (Compliance) apply.~~

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

9VAC5-40-1460. Test methods and procedures. (Repealed.)

The provisions of 9VAC5-40-30 (Emission Testing) apply.

9VAC5-40-1470. Monitoring. (Repealed.)

~~A. The provisions of 9VAC5-40-40 (Monitoring) apply.~~

~~B. Unless otherwise approved by the board, owners of process units specified in subsection C of this section shall install, calibrate, maintain and operate systems for continuously monitoring and recording specified emissions in accordance with 9VAC5-40-40 and 9VAC5-40-41.~~

~~C. Catalyst regenerators for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh feed capacity at petroleum refineries shall be monitored for opacity.~~

~~D. The continuous monitoring system shall be spanned at 60, 70 or 80% opacity.~~

9VAC5-40-1480. Notification, records and reporting. (Repealed.)

~~A. The provisions of 9VAC5-40-50 (Notification, Records and Reporting) apply.~~

~~B. For the purpose of reports required under 9VAC5-40-50 C, periods of excess emissions that shall be reported are defined as any one-hour period during which there are two or more six-minute periods when the average opacity exceeds 20%.~~

9VAC5-40-1490. Registration. (Repealed.)

~~The provisions of 9VAC5-20-160 (Registration) apply.~~

9VAC5-40-1500. Facility and control equipment maintenance or malfunction.

~~The provisions of 9VAC5-20-180 (Facility and Control Equipment Maintenance or Malfunction) apply.~~

9VAC5-40-1510. Permits. (Repealed.)

~~A permit may be required prior to beginning any of the activities specified below and the provisions of 9VAC5 Chapter 50 (9VAC5-50-10 et seq.) and 9VAC5 Chapter 80 (9VAC5-80-10 et seq.) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.~~

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

- ~~1. Construction of a facility.~~
- ~~2. Reconstruction (replacement of more than half) of a facility.~~
- ~~3. Modification (any physical change to equipment) of a facility.~~
- ~~4. Relocation of a facility.~~
- ~~5. Reactivation (restart-up) of a facility.~~

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REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

9VAC5 CHAPTER 40.
EXISTING STATIONARY SOURCES.

PART II.
EMISSION STANDARDS.

ARTICLE 26.
~~EMISSION STANDARDS FOR LARGE APPLIANCE COATING APPLICATION
SYSTEMS (RULE 4-26).~~

9VAC5-40-3560. ~~Applicability and designation of affected facility. (Repealed.)~~

~~A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each large appliance coating application system.~~

~~B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9VAC5-20-206.~~

~~C. The provisions of this article do not apply to coating application systems used exclusively for determination of product quality and commercial acceptance provided:~~

- ~~1. The operation is not an integral part of the production process;~~
- ~~2. The emissions from all product quality coating application systems do not exceed 400 pounds in any 30 day period; and~~
- ~~3. The exemption is approved by the board.~~

9VAC5-40-3570. ~~Definitions. (Repealed.)~~

~~A. For the purpose of these regulations 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 article, 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.~~

~~"Application area" means the area where the coating is applied by spraying, dipping or flow coating techniques.~~

REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~"Carbon adsorption system" means a device containing activated carbon as the adsorbent material, an inlet and outlet for exhaust gases, and a system to regenerate the saturated adsorbent. The carbon adsorption system must provide for the proper disposal or reuse of all volatile organic compounds in the adsorbate.~~

~~"Coating applicator" means an apparatus used to apply a surface coating.~~

~~"Coating application system" means any operation or system where a surface coating of one type or function is applied, dried or cured and which is subject to the same emission standard. May include any equipment which applies, conveys, dries or cures a surface coating, including, but not limited to, spray booths, flow coaters, flashoff areas, air dryers, drying areas and ovens. It is not necessary for a coating application system to have an oven, flashoff area or drying area to be included in this definition.~~

~~"Flashoff area" means the space between the application area and the oven.~~

~~"Large appliance" means residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners and other similar metal products. Includes doors, cases, lids, panels and interior metal support parts.~~

~~"Oven" means a chamber within which heat is used to bake, cure, polymerize or dry a surface coating or any combination of those.~~

9VAC5-40-3580. Standard for volatile organic compounds. (Repealed.)

~~A. Prime or single coat application.~~

~~1. No owner or other person shall cause or permit the discharge into the atmosphere from a coating application system any volatile organic compound in excess of 2.8 pounds per gallon of coating excluding water, as delivered by the coating applicator.~~

~~2. Achievement of the emission standard in subsection A 1 of this section by use of methods in 9VAC5-40-3590 A will be acceptable to the board.~~

~~B. Topcoat or sound deadener application.~~

~~1. No owner or other person shall cause or permit the discharge into the atmosphere from any coating application system any volatile organic compound in excess of 2.8 pounds per gallon of coating, excluding water, as delivered by the coating applicator.~~

REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~2. Achievement of the emission standard in subsection B 1 of this section by use of methods in 9VAC5-40-3590 B will be acceptable to the board.~~

~~C. This section shall not be applicable to the use of quick-drying lacquers for the repair of scratches and nicks that occur during assembly, provided that the volume of coating does not exceed two quarts in any eight-hour period.~~

~~D. No owner or other person shall use any coating application system or equipment unless reasonable precautions are taken to minimize the discharge of emissions from cleaning or purging operations. Reasonable precautions may include the following:~~

- ~~1. The use of capture or control devices or both;~~
- ~~2. The use of detergents, high pressure water, or other non-volatile cleaning methods;~~
- ~~3. The minimization of the quantity of volatile organic compounds used to clean lines of equipment; or~~
- ~~4. The adjustment of production schedules to minimize coating changes thereby reducing the need for frequent cleaning or purging of a system.~~

9VAC5-40-3590. Control technology guidelines. (Repealed.)

~~A. Prime or single coat application. The control technology should consist of one or more of the following:~~

- ~~1. Use of electrodeposited waterborne coatings.~~
- ~~2. Use of other waterborne coatings.~~
- ~~3. Use of high-solids coatings.~~
- ~~4. Use of powder coatings.~~
- ~~5. Carbon adsorption.~~
- ~~6. Incineration.~~
- ~~7. Any technology of equal or greater control efficiency when compared to the use of a coating complying with 9VAC5-40-3580 A 1, provided such technology is approved by the board.~~

REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~B. Topcoat or sound deadener application. The control technology should consist of one or more of the following:~~

- ~~1. Use of waterborne coatings.~~
- ~~2. Use of high-solids coatings.~~
- ~~3. Use of powder coatings.~~
- ~~4. Carbon adsorption.~~
- ~~5. Incineration.~~

~~6. Any technology of equal or greater control efficiency when compared to the use of a coating complying with 9VAC5-40-3580 B 1, provided such technology is approved by the board.~~

~~9VAC5-40-3600. Standard for visible emissions. (Repealed.)~~

~~The provisions of Article 1 (9VAC5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~9VAC5-40-3610. Standard for fugitive dust/emissions. (Repealed.)~~

~~The provisions of Article 1 (9VAC5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~9VAC5-40-3620. Standard for odor. (Repealed.)~~

~~The provisions of Article 2 (9VAC5-40-130 et seq.) of this chapter (Emission Standards for Odor, Rule 4-2) apply.~~

~~9VAC5-40-3630. Standard for toxic pollutants. (Repealed.)~~

~~The provisions of Article 3 (9VAC5-40-160 et seq.) of this chapter (Emission Standards for Toxic Pollutants, Rule 4-3) apply.~~

~~9VAC5-40-3640. Compliance. (Repealed.)~~

~~A. The provisions of 9VAC5-40-20 (Compliance) apply.~~

REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

~~B. The emission standards in 9VAC5-40-3580 apply coating by coating or to the volume weighted average of coatings where the coatings are used on a single coating application system and the coatings are the same type or perform the same function. Such averaging shall not exceed 24 hours.~~

~~C. Compliance determinations for control technologies not based on compliant coatings (i.e., coating formulation alone) shall be based on the applicable standard in terms of pounds of volatile organic compounds per gallon solids or pounds of volatile organic compounds per gallon solids applied according to the applicable procedure in 9VAC5-20-121. Compliance may also be based on transfer efficiency greater than the board accepted baseline transfer efficiency if demonstrated by methods acceptable to the board according to the applicable procedure in 9VAC5-20-121.~~

~~9VAC5-40-3650. Test methods and procedures. (Repealed.)~~

~~The provisions of 9VAC5-40-30 (Emission Testing) apply.~~

~~9VAC5-40-3660. Monitoring. (Repealed.)~~

~~The provisions of 9VAC5-40-40 (Monitoring) apply.~~

~~9VAC5-40-3670. Notification, records and reporting. (Repealed.)~~

~~The provisions of 9VAC5-40-50 (Notification, Records and Reporting) apply.~~

~~9VAC5-40-3680. Registration. (Repealed.)~~

~~The provisions of 9VAC5-20-160 (Registration) apply.~~

~~9VAC5-40-3690. Facility and control equipment maintenance or malfunction. (Repealed.)~~

~~The provisions of 9VAC5-20-180 (Facility and Control Equipment Maintenance or Malfunction) apply.~~

~~9VAC5-40-3700. Permits. (Repealed.)~~

~~A permit may be required prior to beginning any of the activities specified below and the provisions of 9VAC5 Chapter 50 (9VAC5-50-10 et seq.) and 9VAC5 Chapter 80 (9VAC5-80-10 et seq.) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.~~

REGULATION FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9VAC5-40)

- ~~1. Construction of a facility.~~
- ~~2. Reconstruction (replacement of more than half) of a facility.~~
- ~~3. Modification (any physical change to equipment) of a facility.~~
- ~~4. Relocation of a facility.~~
- ~~5. Reactivation (restart up) of a facility.~~

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