

TENTATIVE AGENDA  
STATE AIR POLLUTION CONTROL BOARD MEETING

THURSDAY, MARCH 16, 2017  
HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

			<b>TAB</b>
<b>I.</b>	<b>Review and Approve Agenda</b>		
<b>II.</b>	<b>Minutes</b> (December 5, 2016)		A
<b>III.</b>	<b>Regulations - Final Exempt</b> PM2.5 Implementation (9VAC5-30, 80 & 160, Rev. A17)	Sabasteanski	B
<b>IV.</b>	<b>Regulations – Proposed</b> Title V Program Fees (9VAC5-80, Rev. K16)	Graham	C
<b>V.</b>	<b>Petition for Rulemaking</b> Carbon Dioxide Emissions	Sabasteanski	D
<b>VI.</b>	<b>High Priority Violations Report</b>	Nicholas	E
<b>VII.</b>	<b>Public Forum</b>		
<b>VIII.</b>	<b>Other Business</b> Future Meetings (June 22, September 21 and December 7)		

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

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

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

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft

permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held. In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

**REGULATORY ACTIONS:** Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

**CASE DECISIONS:** Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented at the public hearing or during the public comment period up to 3 minutes to exercise their rights to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

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

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

**PUBLIC FORUM:** The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

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

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

---

**PM<sub>2.5</sub> Implementation (9VAC5-30, 9VAC5-80 and 9VAC5-160, Rev. A17) - Request for Board Action on Exempt Final Regulations:** On August 24, 2016 (81 FR 58010), the U.S. Environmental Protection Agency (EPA) established a final implementation rule for the 2012 national ambient air quality standard (NAAQS) for very fine particulate matter (PM<sub>2.5</sub>). This rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2012 PM<sub>2.5</sub> NAAQS, including how to address the revoked 1997 PM<sub>2.5</sub> NAAQS. The board's ambient air quality regulation must be amended accordingly, as well as the regulation governing permitting in nonattainment areas (Rule 8-9), and the Regulation for General Conformity.

The department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements. Approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

Below is a brief summary of the substantive amendments.

1. The 1997 PM<sub>2.5</sub> ambient air quality standard is revoked. [9VAC5-30-65]
2. The applicability section of Rule 8-9 is amended to indicate that different pollutants are not summed to determine applicability of a major stationary source or major modification. [9VAC5-80-2000]
3. The definition of "regulated NSR pollutant" in Rule 8-9 is amended to specify precursors of PM<sub>2.5</sub>. [9VAC5-80-2010 C]
4. The definition of "significant" in Rule 8-9 is amended to specify precursors of PM<sub>2.5</sub>. [9VAC5-80-2010 C]
5. The applicability section of the Regulation for General Conformity is amended to specify PM<sub>2.5</sub> precursors in the list of emissions applicability rates. [9VAC5-160-30 E]

**Title V Program Fees (9VAC5 Chapter 80, Rev. K16) - Regulation Development Report and Request to Publish Proposal for Public Comment:** Title V of the federal Clean Air Act requires that Title V permit programs be fully funded through Title V program fees. In the Commonwealth, Title V permit programs are funded through permit program emissions fees (Article 2, Chapter 80 of the Regulations for the Control and Abatement of Air Pollution), permit application fees (Article 10, Chapter 80), and annual permit maintenance fees (Article 11, Chapter 80). As the permit programs achieve their goal of reducing emissions, Title V permit program emissions fee revenue has decreased and is projected to decrease to the point that total fee revenue will no longer cover the costs of the Title V permit programs. The purpose of this regulatory action is to (i) increase Title V fees so that they continue to fully fund the Title V permit program, and (ii) to restructure the Title V fee schedule to better reflect the actual costs of the Title V permit program, thereby improving Title V permit program revenue stability.

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.

To solicit comment from the public on the notice of intended regulatory action, on January 9, 2017 the Department published a notice in the Virginia Register of Regulations that provided for receiving comment during a comment period. That comment period closed on February 8, 2017. A summary of comments and analysis of public input is included as part of the agency background document. The public participation report containing the original comments is available upon request.

To assist in the development of recommendations, the Department formed a stakeholder advisory group consisting of representatives from environmental groups, industry, and Department staff. Information gathered from the federal statutes, regulations and policies, its own analysis, and input from the stakeholder advisory group forms the basis for the Department's recommendation to the Board. Minutes of the advisory group's meetings containing the consensus decisions of group have been forwarded to the Board. Because the stakeholder advisory group reached consensus, a regulatory advisory panel was not convened.

There are no substantive differences between the Department recommendation and that of the stakeholder advisory group. The timing of the changes recommended by the stakeholder advisory group was delayed by a year to conform to the regulatory process.

The full text of the amendments can be found beginning on page 7. Below is a brief summary of the substantive amendments.

1. Definitions of “greenhouse gases” and “regulated pollutant (for fee calculation),” are added and the definition of “actual emissions” is revised so that emissions of greenhouse gases will be excluded from the calculation of permit program emissions fees.

2. A new section is added to Chapter 80, Article 2 providing an equivalent method of calculating permit program emissions fees applicable to future billing years. In this new section, permit program emission fee rates for billing years 2018 and 2019 are specified, reflecting incremental 18.6% and 15% increases in the permit program emission fee rates over those two years, respectively. Also, a new and equivalent method of calculating CPI adjustments is provided for billing years after 2019. That new method of calculating CPI adjustments for permit program emissions fees is the same method that is currently used for annual CPI adjustments for permit application fees and annual permit maintenance fees. Provisions for excess emissions fees are unchanged. Various changes are made to the existing permit program emissions fee calculation section as necessary to conform to and implement this new section.

3. A new section is added to Chapter 80, Article 10 specifying new, increased base permit application fee amounts that will be applicable in future years. Annual CPI adjustments are applied as before except the annual adjustment for 2019 is specified to be 10% more than the permit application fee rates applicable in the previous calendar year. Provision is made for applications filed before the effective date of this amendment and modified on or after that date such that the new permit application fee structure is applicable to that application but any permit application fee amount previously paid for that application is credited toward the new permit application fee amount. Various changes are made to the existing permit application fee calculation section as necessary to conform to and implement this new section.

4. A new section is added to Chapter 80, Article 11 specifying new, increased base permit maintenance fee amounts that will be applicable in future years. Annual CPI adjustments are applied as before except that the fee adjustments for certain permit types are individually specified for billing years 2019 and 2020. A new minimum permit maintenance fee is specified for synthetic minor sources and that fee is also adjusted annually. Various changes are made to the existing permit maintenance fee calculation section as necessary to conform to and implement this new section.

**Carbon Dioxide Emissions - Presentation of Petition for Rulemaking and Plan for Disposition:** On February 9, 2017, the department received a petition from Susan V. Coleman to initiate a rulemaking concerning carbon dioxide (CO<sub>2</sub>) emissions. At the board meeting the department is presenting the rulemaking petition for receipt by the board and outlining the plan for deposition of the request. No decisions are required by the board at this time.

The petitioner is requesting the board to adopt regulations to simultaneously promulgate both an emergency rulemaking and a formal rulemaking to limit and reduce total CO<sub>2</sub> pollution in the Commonwealth by 30% by 2030, from its largest source, electric generating units.

The Administrative Process Act requires that within 14 days of this board meeting, a notice of the petition be sent to the Registrar for publication in the Virginia Register of Regulations and that the notice include a public comment period of at least 21 days, during which written comments will be accepted. At a board meeting following the end of the comment period, the department will present the petition and a summary of comments to the board for it to make a decision on whether to grant the petition request or deny the petition request. The board must make a final decision within 90 days after the end of the comment period. Should there be no board meeting scheduled during this 90 day period, the board's decision must be made at the first available board meeting and forwarded to the Registrar for publication in the Virginia Register of Regulations within 14 days of the board meeting. Staff will make a recommendation to the Board for disposition of the request at the board meeting.

**HIGH PRIORITY VIOLATIONS (HPV's) FOR THE FIRST QUARTER, 2017**

**NOV's Issued from October through December**

<b>BRRO</b>	Ingevity Virginia Corporation  Covington, Virginia  Registration No. 20329	<b>Discovery Date:</b> 7/8/2016  <b>Alleged Violations:</b>  Failed to meet required control efficiency for on valveless regenerative	<b>NOV:</b> Issued 10/25/2016
-------------	--	---	-------------------------------

		thermal oxidizers during stack test.	
<b>BRRO</b>	<b>Radford Army Ammunitions Plant</b> Radford, Virginia Registration No. 20656	<b>Discovery Date:</b> 11/24/2015 <b>Alleged Violation:</b> Exceeded opacity limits.	<b>NOV:</b> Issued 12/12/2016
<b>BRRO</b>	<b>Wolverine Advanced Materials - Blacksburg</b>  Blacksburg, Virginia Registration No. 20763	<b>Discovery Date:</b> 10/6/2016 <b>Alleged Violations:</b>  Failure to provide temperature records for thermal oxidizers.	<b>NOV:</b> Issued 10/26/2016
<b>BRRO</b>	<b>Wolverine Advanced Materials – Cedar Run</b>  Blacksburg, Virginia Registration No. 21240	<b>Discovery Date:</b> 10/6/2016 <b>Alleged Violations:</b>  Failure to provide temperature records for thermal oxidizers.	<b>NOV:</b> Issued 10/26/2016
<b>SWRO</b>	<b>American Electric Power – Clinch River Plant</b>  Cleveland, Virginia Registration No. 10236	<b>Discovery Date:</b> 6/16/2016 <b>Alleged Violation:</b>  Exceeded particulate matter emissions limits during stack tests.	<b>NOV:</b> Issued 10/12/2016

#### Consent Orders issued from October through December

<b>PRO</b>	<b>Honeywell Resins and Chemicals LLC - Hopewell</b>  Hopewell, Virginia Registration No. 50232	<b>Discovery Date:</b> 5/13/2015 <b>Alleged Violations:</b>  Exceeded PM2.5 and SO2 emissions limits during stack test. Late submittal of test results.	<b>NOV:</b> Issued 12/3/2015  Consent Order issued 11/14/2016, including civil charge of \$26,843 and a corrective action plan with additional monitoring requirements.
<b>TRO</b>	<b>Wheelabrator Portsmouth Inc.</b>  Portsmouth, Virginia Registration No. 61018	<b>Discovery Date:</b> 8/15/2016 <b>Alleged Violation:</b>  Exceeded emissions concentration limit during stack test.	<b>NOV:</b> Issued 8/25/2016  Consent Order issued 11/07/2016, including civil charge of \$7,669.

#### Consent Orders in Development – Previously Reported NOV's

<b>BRRO</b>	<b>Goodyear Tire and Rubber Company</b>  Danville, Virginia	<b>Discovery Date:</b> 9/12/2016 <b>Alleged Violations:</b>	<b>NOV:</b> Issued 9/15/2016
-------------	---	--	------------------------------

	Registration No. 30106	Failed to monitor differential pressure readings on dust collectors and scrubbers for 31 days during reporting period.	
<b>NRO</b>	<b>Trae-Fuels LTD</b> Bumpass, Virginia Registration No. 41057	<b>Discovery Date:</b> 6/9/2015 <b>Alleged Violations:</b> Particulate matter emissions from 2 transfer points on conveyor system; ongoing violations of facility's fugitive dust plan; exceedance of visible emissions limit from Earth Care Dryer exhaust stack; record-keeping; accumulation of dust	<b>NOV:</b> Issued 6/19/2015, 1/28/2016
<b>PRO</b>	<b>Chaparral Virginia Incorporated</b> Petersburg, Virginia Registration No. 51264	<b>Discovery Date:</b> 4/25/2016 <b>Alleged Violation:</b> Failed to provide operational, compliance (including emissions) and maintenance records, substantially interfering with DEQ's ability to determine compliance with TV permit.	<b>NOV:</b> Issued 6/29/2016
<b>TRO</b>	<b>U.S. Navy Naval Air Station Oceana</b>  Portsmouth, Virginia  Registration No. 60294	<b>Discovery Date:</b> 3/2/2016  <b>Alleged Violation:</b>  Failed to document use of ultra-low sulfur diesel fuel and missing maintenance records.	<b>NOV:</b> Issued 8/10/2016

9VAC5 CHAPTER 80  
PERMITS FOR STATIONARY SOURCES

PART II  
Permit Procedures.

ARTICLE 2  
Permit Program Emissions Fees for Stationary Sources

9VAC5-80-320. Definitions.

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

B. As used in this article, all words and terms not defined in subsection C of this section shall have the meanings given them in 9VAC5-80-5 or 9VAC5-10 (General Definitions), unless otherwise required by context.

C. Terms defined.

"Actual emissions," for the purposes of this article only, means the actual rate of emissions in tons per year of any regulated air pollutant (for fee calculation) emitted from a source subject to this article over the preceding calendar year. Actual emissions may be calculated according to any method acceptable to the department provided such calculation takes into account the source's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Any regulated pollutant which could be classed in more than one category shall be classed in only one category.

"Affected source" means a source that includes one or more affected units.

"Affected unit" means a unit that is subject to any federal acid rain emissions reduction requirement or acid rain emissions limitation under 40 CFR Parts 72, 73, 75, 77 or 78.

"Area source" means any stationary source that is not a major source. For purposes of this section, the phrase "area source" shall not include motor vehicles or nonroad vehicles.

"Greenhouse gases" means, for the purposes of this article the aggregate group of the following gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

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

"Major source" means:

a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining

whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

- (1) Coal cleaning plants (with thermal dryers);
- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plant;
- (18) Sintering plants;
- (19) Secondary metal production plants;
- (20) Chemical process plants;
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) Taconite ore processing plants;
- (24) Glass fiber processing plants;
- (25) Charcoal production plants;



(26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(27) Any other stationary source category regulated under § 111 or 112 of the federal Clean Air Act for which the administrator has made an affirmative decision under § 302(j) of the federal Clean Air Act.

c. For ozone nonattainment areas, any stationary source with the potential to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under § 182(f) of the federal Clean Air Act (NO<sub>x</sub> requirements for ozone nonattainment areas) do not apply.

d. For attainment areas in ozone transport regions, any stationary source with the potential to emit 50 tons per year or more of volatile organic compounds.

"Permit program costs" means all reasonable (direct and indirect) costs required to develop, administer, and enforce the permit program; and to develop and administer the Small Business Technical and Environmental Compliance Assistance Program established pursuant to the provisions of § 10.1-1323 of the Code of Virginia.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 if the limitation is state and federally enforceable.

"Regulated air pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound.
- b. Any pollutant for which an ambient air quality standard has been promulgated except carbon monoxide.
- c. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act.
- d. Any pollutant subject to a standard promulgated under § 112 (hazardous air pollutants) or other requirements established under § 112 of the federal Clean Air Act, particularly §§ 112(b), 112(d), 112(g)(2), 112(j), and 112(r); except that any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under § 112(r) of the federal Clean Air Act shall be exempt from this article.

"Regulated pollutant (for fee calculation)" means, for the purposes of this article only, any regulated air pollutant except the following:

- a. Carbon monoxide;
- b. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance to a standard promulgated under or established by Title VI of the federal Clean Air Act;
- c. Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the federal Clean Air Act; or
- d. Greenhouse gases.

"Research and development facility" means all the following as applied to any stationary source:

- a. The primary purpose of the source is the conduct of either (i) research and development into new products or processes or into new uses for existing products or processes or (ii) basic research to provide for education or the general advancement of technology or knowledge;
- b. The source is operated under the close supervision of technically trained personnel; and
- c. The source is not engaged in the manufacture of products in any manner inconsistent with clause a (i) or (ii) of this definition.

An analytical laboratory that primarily supports a research and development facility is considered to be part of that facility.

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated 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 persons (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., if they have the same two-digit code) as described in the Standard Industrial Classification Manual (see 9VAC5-20-21). Any research and development facility shall be considered a separate stationary source from the manufacturing or other facility with which it is co-located.

9VAC5-80-340. Annual permit program emissions fee calculation prior to [insert effective date of the regulation].

A. The For annual permit program emissions fees due prior to [insert effective date of the regulation], the annual permit program emissions fee shall not exceed the base year amount of \$31.22 per ton of emissions, as provided in subsection B of Item 365 of the 2012 Appropriation Act adjusted annually by the Consumer Price Index as provided in Title V of the federal Clean Air Act and associated regulations and policies.

1. The annual permit program emissions fee shall be increased (consistent with the need to cover reasonable costs) each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

2. The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

B. The For annual permit program emissions fees due prior to [insert effective date of the regulation], the annual permit program emissions fee described in subsection A of this section and the amount billed to the owner as provided in subsection A of 9VAC5-80-350 for a given year shall be calculated in accordance with the following formulae:

$$\begin{aligned} B &= (A)(F) \\ F &= X(1 + \Delta\text{CPI}) \\ \Delta\text{CPI} &= \frac{\text{CPI} - 122.15}{122.15} \end{aligned}$$

where:

B = the amount billed to the owner during the year after the year in which the actual emissions occurred, expressed in dollars

A = actual emissions covered by permit fees, expressed in tons

F = the maximum adjusted fee per ton for the calendar year in which the actual emissions occurred, expressed in dollars per ton

X = 31.22, expressed in dollars per ton

$\Delta$ CPI = the difference between the CPI and 122.15 (the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31, 1989)

CPI = the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31 of the year in which the emissions actually occurred, expressed as a percentage

C. The actual emissions covered by the permit program emissions fees for the preceding year shall be calculated by the owner and submitted to the department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the department.

D. If the assessment of the annual permit program emissions fee calculated in accordance with subsections A, B, and C of this section results in a total amount of fee revenue in excess of the amount necessary to fund the permit program costs, a lesser annual permit program emissions fee may instead be calculated and assessed according to the formula specified in subsection E of this section. Any adjustments made to the annual permit program emissions fee shall be within the constraints of 40 CFR 70.9.

E. The lesser annual permit program emissions fee shall be calculated according to the following formula: the lesser annual permit program emissions fee is equal to the estimated permit program costs divided by the estimated actual emissions. The estimated permit program costs and estimated actual emissions shall be determined from the data specified in subdivisions 1 and 2 of this subsection, incorporating any anticipated adjustments to the data.

1. The current permit program costs shall be determined from the most recent available annual expenditure record of the amount spent by the department on permit program costs.

2. The current actual emissions shall be determined from the most recent available annual emissions inventory of the actual emissions for each regulated pollutant subject to fees from all sources subject to the annual permit program emissions fee.

9VAC5-80-342. Annual permit program emissions fee calculation on and after [insert effective date of the regulation].

A. On and after [insert effective date of the regulation], the amount of the annual permit program emissions fee shall be calculated as follows:

1. The amount of the annual permit program emissions fee (consistent with the need to cover reasonable costs) for each applicable source shall be the annual permit program emission fee rate (in dollars per ton of emissions) for the billing calendar year multiplied by the total actual emissions for the previous calendar year (in tons per year of emissions).

2. The annual permit program emissions fee rate shall be calculated as follows:

a. For permit program emission fees billed in calendar year 2018 (applied to 2017 emissions), the annual permit program emissions fee rate shall be \$73.01 per ton of emissions.

b. For permit program emission fees billed in calendar year 2019 (applied to 2018 emissions), the annual permit program emissions fee rate shall be \$83.96 per ton of emissions.

c. For permit program emissions fees billed after calendar year 2019, the annual permit program emissions fee rate shall be adjusted annually by the change in the Consumer Price Index (CPI) as specified in subdivision 3 of this subsection.

3. The annual adjustment of the permit program emissions fees shall be based upon the annual permit program emissions fee rate for the preceding calendar year and the change in the CPI value published by the U.S. Department of Labor for all-urban consumers over the 12-month period ending on August 31 of the calendar year preceding the calendar year in which the annual permit program emissions fee is assessed and billed.

a. The CPI for all-urban consumers that is published by the U.S. Department of Labor may be obtained online from the Bureau of Labor Statistics' website at <http://data.bls.gov/cgi-bin/surveymost?cu>.

b. No CPI adjustment shall be made for annual permit program emissions fees assessed and billed in calendar years 2018 and 2019

B. The actual emissions covered by the permit program emissions fees for the preceding year shall be calculated by the owner and submitted to the department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the department.

C. If the assessment of the annual permit program emissions fee calculated in accordance with subsections A and B of this section results in a total amount of fee revenue in excess of the amount necessary to fund the permit program costs, a lesser annual permit program emissions fee may instead be calculated and assessed according to the formula specified in subsection D of this section. Any adjustments made to the annual permit program emissions fee shall be within the constraints of 40 CFR 70.9.

D. The lesser annual permit program emissions fee shall be calculated according to the following formula: the lesser annual permit program emissions fee is equal to the estimated permit program costs divided by the estimated actual emissions. The estimated permit program costs and estimated actual emissions shall be determined from the data specified in subdivisions 1 and 2 of this subsection, incorporating any anticipated adjustments to the data.

1. The current permit program costs shall be determined from the most recent available annual expenditure record of the amount spent by the department on permit program costs.

2. The current actual emissions shall be determined from the most recent available annual emissions inventory of the actual emissions for each regulated pollutant subject to fees from all sources subject to the annual permit program emissions fee.

## Article 10

### Permit Application Fees for Stationary Sources

#### 9VAC5-80-2270. General.

A. Any person submitting a permit application subject to this article shall pay a permit application fee in the amount determined in accordance with 9VAC5-80-2280 or 9VAC5-80-2282, as appropriate.

B. Permit application fees collected pursuant to this article for sources subject to Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or subject to Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation) shall not be used for any purpose other than as provided in Title V of the federal Clean Air Act and associated regulations and policies.

9VAC5-80-2280. Permit application fee calculation prior to [insert effective date of the regulation or January 1, 2018, whichever is later].

Each permit application subject to this article that is received by the appropriate regional office prior to [insert effective date of the regulation or January 1, 2018, whichever is later]. shall be subject to a permit application fee. The amount of the application fee shall be calculated as follows:

1. The amount of the permit application fee shall be the largest applicable base permit application fee amount from Table 8-10A, adjusted annually by the change in the Consumer Price Index (CPI) as specified in subdivision 2 of this subsection.

TABLE 8-10A  
BASE PERMIT APPLICATION FEES FOR STATIONARY SOURCES

Application for:	Base Permit Application Fee Amount
Sources subject to Title V permitting requirements:	
Major NSR permit	\$30,000
Major NSR permit amendment (except administrative)	\$7,000
State major permit	\$15,000
Minor NSR permit (that is not also a state major permit)	\$1,500
Minor NSR permit amendment (except administrative)	\$750
Title V permit	\$20,000
Title V permit renewal	\$10,000
Title V permit modification (except administrative)	\$3,500
State operating permit	\$7,000
State operating permit amendment (except administrative)	\$3,500
Title V General Permit	\$500
Sources subject to the requirements of a synthetic minor permit:	
Minor NSR permit	\$500
Minor NSR permit amendment (except administrative)	\$250
State operating permit	\$1,500
State operating permit amendment (except administrative)	\$800

2. The annual adjustment of the permit application fees shall be based upon the annually adjusted permit application fee amounts for the preceding calendar year and the change in the CPI value published by the U.S. Department of Labor for all-urban consumers over the 12-month period ending on August 30 31 of the calendar year preceding the calendar year in which the application is first received by the appropriate regional office of the department.

a. The CPI for all-urban consumers published by the U.S. Department of Labor may be obtained online from the Bureau of Labor Statistics' website at <http://data.bls.gov/cgi-bin/surveymost?cu>.

b. There is no CPI adjustment for applications received prior to January 1, 2013.

3. The amount of the annually CPI-adjusted permit application fee shall be rounded down to the nearest whole dollar.

4. Applications that are received prior to [insert effective date of the regulation or January 1, 2018, whichever is later] and that are amended on or after [insert effective date of the regulation or January 1, 2018, whichever is later], are subject to the permit application fee calculated pursuant to the provisions 9VAC5-80-2282 B.

9VAC5-80-2282. Permit application fee calculation on and after [insert effective date of the regulation or January 1, 2018, whichever is later].

A. Each permit application subject to this article that is received by the appropriate regional office on or after [insert effective date of the regulation or January 1, 2018, whichever is later] shall be subject to a permit application fee. The amount of the application fee shall be calculated as follows:

1. The amount of the permit application fee shall be the largest applicable base permit application fee amount from Table 8-10B, adjusted annually on January 1 of each calendar year after 2018 as specified in subdivisions 2 and 3 of this subsection.

**TABLE 8-10B  
BASE PERMIT APPLICATION FEES FOR STATIONARY SOURCES**

<u>Application for:</u>	<u>Base Permit Application Fee Amount</u>
<u>Sources subject to Title V permitting requirements:</u>	
<u>Major NSR permit</u>	<u>\$63,000</u>
<u>Major NSR permit amendment (except administrative)</u>	<u>\$10,000</u>
<u>State major permit</u>	<u>\$25,000</u>
<u>Minor NSR permit (that is not also a state major permit)</u>	<u>\$5,000</u>
<u>Minor NSR permit amendment (except administrative)</u>	<u>\$2,500</u>
<u>Title V permit</u>	<u>\$35,000</u>
<u>Title V permit renewal</u>	<u>\$15,000</u>
<u>Title V permit modification (except administrative)</u>	<u>\$4,000</u>
<u>State operating permit</u>	<u>\$10,000</u>
<u>State operating permit amendment (except administrative)</u>	<u>\$4,000</u>
<u>Title V General Permit</u>	<u>\$531</u>
<u>Sources subject to the requirements of a synthetic minor permit:</u>	
<u>Minor NSR permit</u>	<u>\$3,000</u>
<u>Minor NSR permit amendment (except administrative)</u>	<u>\$1,000</u>
<u>State operating permit</u>	<u>\$5,000</u>
<u>State operating permit amendment (except administrative)</u>	<u>\$2,500</u>

2. Except as provided in subdivision 3 of this subsection, the annual adjustment of the permit application fees shall be based upon the permit application fee amounts for the preceding calendar year and the change in the CPI value published by the U.S. Department of Labor for all-urban consumers over the 12-month period ending on August 31 of the calendar year preceding the calendar year in which the application is received by the appropriate regional office of the department.

a. The CPI for all-urban consumers published by the U.S. Department of Labor may be obtained online from the Bureau of Labor Statistics' website at <http://data.bls.gov/cgi-bin/surveymost?cu>.

b. There is no CPI adjustment of fees for applications received during calendar year 2019.

3. Instead of a CPI adjustment, each permit application fee amount for applications received in calendar year 2019 shall be increased to 10% more than the base permit application fee amount provided in Table 8-10 B.

4. The amount of the permit application fee that is calculated as provided in subdivisions 1, 2 and 3 of this subsection shall be rounded down to the nearest whole dollar.

B. The provisions of this section also apply to permit applications received by the appropriate regional office prior to [insert the effective date of the regulation] and amended on or after [insert the effective date of the regulation]. Those amended applications are subject to the permit application fee due as if the application was received on or after [insert the effective date of the regulation], less any prior permit application fee amount paid for that application.

## Article 11

### Annual Permit Maintenance Fees for Stationary Sources

#### 9VAC5-80-2310. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to any stationary source that has begun normal operation and:

1. The stationary source is subject to the provisions of a permit issued pursuant to Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or pursuant to Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation);

2. The stationary source is subject to the permit requirements of Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation), and is operating under an application shield under the provisions of 9VAC5-80-80 F or 9VAC5-80-430 F; or

3. The stationary source would be subject to the permit requirements of Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or Part II (9VAC5-85-40 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation) in the absence of a permit issued under Article 5 (9VAC5-80-800 et seq.) or Article 6 (9VAC5-80-1100 et seq.) of this part or Part IV (9VAC5-85-60 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation).

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

C. The provisions of this article shall not apply to the following:

1. Any any stationary source that began normal operation during the calendar year for which the annual permit maintenance fee is assessed.

2. Any synthetic minor source that is not a synthetic minor 80% source and is not otherwise subject to the permit requirements of Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation).

D. The department shall make any final determinations required by this article, including, but not limited to:

1. The applicability of this article;

2. The amount of permit maintenance fees owed; and

3. The applicability of terms to a particular stationary source or permit.

#### 9VAC5-80-2330. General.

A. The owner of any stationary source subject to this article shall pay an annual permit maintenance fee in the amount determined in accordance with 9VAC5-80-2340 or 9VAC5-80-2342, as appropriate.

B. Annual permit maintenance fees collected pursuant to this article for sources subject to Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or subject to Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation) shall not be used for any purpose other than as provided in Title V of the federal Clean Air Act and associated regulations and policies.

9VAC5-80-2340. Annual permit maintenance fee calculation prior to [insert effective date of the regulation].

A. Each Prior to [insert effective date of the regulation] each stationary source subject to this article shall be assessed an annual permit maintenance fee.

B. The amount of the permit maintenance fee shall be calculated as follows:

1. The amount of the annual permit maintenance fee shall be the largest applicable base permit maintenance fee amount from Table 8-11A, adjusted annually by the change in the Consumer Price Index (CPI) as specified in subdivision 2 of this subsection.

TABLE 8-11A  
BASE PERMIT MAINTENANCE FEES FOR STATIONARY SOURCES

Stationary Source Type	Base Permit Maintenance Fee Amount
Title V Complex Major Source	\$10,000
Title V Major Source	\$3,500
Title V Source By Rule	\$1,500
Synthetic Minor 80% Source	\$1,000

2. The annual adjustment of the permit maintenance fees shall be based upon the annual permit maintenance fee amount for the preceding calendar year and the change in the CPI value published by the U.S. Department of Labor for all-urban consumers over the 12-month period ending on August 30 31 of the calendar year preceding the calendar year in which the permit maintenance fee is assessed.

a. The CPI for all-urban consumers published by the U.S. Department of Labor may be obtained online from the Bureau of Labor Statistics' website at <http://data.bls.gov/cgi-bin/surveymost?cu>.

b. No CPI adjustment shall be made for annual permit maintenance fees assessed in calendar year 2012.

3. The amount of the annual permit maintenance fee shall be rounded down to the nearest whole dollar.

C. The provisions of this section shall not apply to any synthetic minor source that is not a synthetic minor 80% source and is not otherwise subject to the permit requirements of Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of this part or Part II (9VAC5-85-20 et seq.) of 9VAC5-85 (Permits for Stationary Sources of Pollutants Subject to Regulation).

9VAC5-80-2342. Annual permit maintenance fee calculation on and after [insert effective date of the regulation].

A. On and after [insert effective date of the regulation] each stationary source subject to this article shall be assessed a permit maintenance fee on an annual basis.

B. The amount of the annual permit maintenance fee shall be calculated as follows:

1. The amount of the annual permit maintenance fee shall be the largest applicable base permit maintenance fee amount from Table 8-11B, adjusted annually as specified in subdivisions 2 and 3 of this subsection.

TABLE 8-11B  
BASE PERMIT MAINTENANCE FEES FOR STATIONARY SOURCES

<u>Stationary Source Type</u>	<u>Base Permit Maintenance Fee Amount</u>
-------------------------------	---



Title V Complex Major Source	\$ 21,263
Title V Major Source	\$ 7,442
Title V Source By Rule	\$ 2,392
Synthetic Minor 80% Source (SM-80 Source)	\$ 1,594
Synthetic Minor Source (other than SM-80 Source)	\$ 500

2. Except as provided in subdivision 3 of this subsection, the annual adjustment of the permit maintenance fees shall be based upon the annual permit maintenance fee amount for the preceding calendar year and the change in the CPI value published by the U.S. Department of Labor for all-urban consumers over the 12-month period ending on August 31 of the calendar year preceding the calendar year in which the permit maintenance fee is assessed and billed.

a. The CPI for all-urban consumers published by the U.S. Department of Labor may be obtained online from the Bureau of Labor Statistics' website at <http://data.bls.gov/cgi-bin/surveymost?cu>.

b. No annual CPI adjustment shall be made to permit maintenance fees for source types in years for which the adjusted permit maintenance fees for those source types are specified in subdivision 3 of this subsection.

3. Other adjustments to annual permit maintenance fees shall be made as follows.

a. Adjusted permit maintenance fees that are assessed and billed in calendar year 2019 shall be as specified in Table 8-11C.

TABLE 8-11C  
ADJUSTED PERMIT MAINTENANCE FEES BILLED IN CALENDAR YEAR 2019

Stationary Source Type	Permit Maintenance Fee Amount
Title V Complex Major Source	\$ 23,389
Title V Major Source	\$ 8,186
Title V Source By Rule	\$ 2,790
Synthetic Minor 80% Source	\$ 1,860
Synthetic Minor Source (other than SM-80 Source)	\$ 550

b. Adjusted annual permit maintenance fees for Title V Sources by Rule and SM-80 Sources that are assessed and billed in calendar year 2020 shall be as specified in Table 8-11 D. Annual permit maintenance fees for other stationary source types that are assessed and billed in calendar year 2020 shall be adjusted as specified in subdivision 2 of this subsection.

TABLE 8-11D  
ADJUSTED PERMIT MAINTENANCE FEES BILLED IN CALENDAR YEAR 2020

Stationary Source Type	Permit Maintenance Fee Amount
Title V Source By Rule	\$ 3,189
Synthetic Minor 80% Source	\$ 2,126

4. The amount of the annual permit maintenance fee shall be rounded down to the nearest whole dollar.