



Exempt Action Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation	Primary action: 9VAC5 Chapter 221, Variance for Atlantic Research Corporation Gainesville Facility
Regulation title	Variance for Rocket Motor Test Operations at Atlantic Research Corporation Gainesville Facility
Action title	Repeal of Variance for Atlantic Research Corporation Gainesville Facility (Revision L11)
Final agency action date	March 23, 2012
Document preparation date	February 22, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 A of the Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

On September 30, 2002, the board issued a variance (9VAC5 Chapter 221) to the Atlantic Research Corporation (ARC) rocket test facility. Due to the nature of the testing operations, ARC had no appropriate method by which it could demonstrate compliance with the board's opacity standards. The board therefore granted a variance for the testing facility that enabled ARC to demonstrate compliance through meeting a particulate matter standard as an alternative to the opacity standard. Because the facility was shut down in March 2007, the variance is no longer required. In order for the state regulations to be administratively correct, 9VAC5-221 must now be repealed.

Statement of final agency action

Please 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 March 23, 2012, the State Air Pollution Control Board took final action to repeal a regulation entitled, "Variance for Atlantic Research Corporation Gainesville Facility," 9VAC5 Chapter 221. The regulatory action is to be effective as provided in the Administrative Process Act.

Section 10.1-1307 C 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 grant local variances from regulations and issue orders to that effect. Written assurance from the Office of the Attorney General that (i) the board has statutory authority to promulgate the final order and variance and (ii) the variance qualifies as an exemption under §§ 2.2-4007.07, -4013 E, -4014 D, and -4015 C of the Administrative Process Act is available upon request.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

No changes were made the proposal.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comment was received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

No changes are made to the proposal.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: (1) the establishment of less stringent compliance or reporting requirements; (2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) the consolidation or simplification of compliance or reporting requirements; (4) the establishment of 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 proposed regulation.

An analysis of the proposal was completed for alternative regulatory methods that will minimize the adverse impact on small businesses without compromising health, safety, environmental and economic welfare.

The repeal of 9VAC5 Chapter 221 affects only one facility, Atlantic Research Corporation at Gainesville, which is no longer in operation. The regulation providing the variance for the facility to operate needs to be repealed to ensure that no confusion exists within the board's regulations. Maintaining the board's regulations and ensuring they are current and up to date will provide continued effectiveness of those regulations and will ensure protection of the health and welfare of the public.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

It is not anticipated that the repeal of this variance will have a direct impact on families.

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