

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

9 VAC 5 CHAPTER 60.

HAZARDOUS AIR POLLUTANTS.

PART II.

Emission Standards.

ARTICLE 3.

Emission Standards for Hazardous Pollutants from Existing Sources (Rule 6-3).

9 VAC 5-60-150. Applicability and designation of affected facility.

A. Regardless of the provisions of 9 VAC 5-40-10 and, except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each stationary source that emits or may emit any hazardous pollutant and which is not subject to Article 4 (9 VAC 5-60-250 et seq.) of 9 VAC 5 Chapter 60. Implementation of this article shall occur upon notification to the owner by the board through means such as an information request from the board.

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

C. This article shall not apply to the following:

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

1. A stationary source which has a potential to emit a hazardous pollutant with a TLV7 at a level equal to or less than the exemption emission rate calculated using the exemption formulas set forth below for the applicable TLV7. If more than one exemption formula applies to a hazardous pollutant emitted by a source, the potential to emit for that pollutant shall be equal to or less than both applicable exemption formulas in order for the source to be exempted for that pollutant. The exemption formulas apply on an individual basis to each hazardous pollutant for which a TLV7 has been established.

a. For hazardous pollutants with a TLV-C7, the following exemption formula applies, provided the potential to emit does not exceed 22.8 pounds per hour:

Exempt Emission Rate (pounds per hour) =

$$\text{TLV-C7 (mg/m}^3\text{) x 0.033}$$

b. For hazardous pollutants with both a TLV-STEL7 and a TLV-TWA7, the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

Exempt Emission Rate (pounds per hour) =

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

$$\underline{\text{TLV-STEL7 (mg/m}^3\text{) x 0.033}}$$

$$\underline{\text{Exempt Emission Rate (tons per year) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.145}}$$

c. For hazardous pollutants with only a TLV-TWA7, the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\underline{\text{Exempt Emission Rate (pounds per hour) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.066}}$$

$$\underline{\text{Exempt Emission Rate (tons per year) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.145}}$$

2. A stationary source which has a potential to emit a hazardous pollutant without a TLV7 if, upon request, the board determines to exempt that hazardous pollutant from the provisions of this

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

article using available health effects information. The exemption determination shall be made by the board using information submitted by the owner in accordance with 9 VAC 5-60-190.

3. A stationary source subject to an emission standard or other requirement set forth in Article 2 (9 VAC 5-60-10 et seq.) of Part II of 9 VAC 5 Chapter 60. If less than all of the stationary source is regulated by such an emission standard or other requirement, then only that part of the stationary source regulated by the emission standard or other requirement is exempted.

4. A stationary source in a source category which is regulated by an emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act and subject to the source category schedule for standards. If less than all of the stationary source is in a source category which is regulated by such an emission standard or other requirement, then only that part of the stationary source in the source category regulated by the emission standard or other requirement is exempted.

5. A stationary source in a source category for which the U.S. Environmental Protection Agency has made a formal determination that no regulations or other requirements need to be established pursuant to § 112 of the federal Clean Air Act and has published the determination in the Federal Register at 63 FR 7155, February 12, 1998.

6. A boiler, incinerator, or industrial furnace as defined in 9 VAC 20-60-10 and

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

subject to 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.), provided it (i) meets the 99.99% destruction and removal efficiency standard required by 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.), and (ii) has received a permit or has qualified for interim status in accordance with 9 VAC 20-60-10 et seq. The board shall be furnished with an acceptable certification that such boiler, incinerator, or industrial furnace is in compliance with the standards of its permit or interim status and applicable provision of 9 VAC 20-60-10 et seq. Facilities which burn hazardous waste for energy recovery are not exempted from this article.

7. A generator or boiler which burns only natural gas, #2 fuel oil, #4 fuel oil, #6 fuel oil, propane, or kerosene.

D. Provisions of this article do not apply to any consumer product used in the same manner as normal consumer use, provided the use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers. This may include, but not be limited to, personal use items, janitorial cleaning supplies, and facility grounds maintenance products, such as fertilizers, pesticides, and paints for structural components.

E. With regard to the application of pesticides, the provisions of this article shall apply only to the air quality impact from emissions from application inside the premises of the following affected facilities:

1. Industrial and manufacturing operations, including warehouse and storage

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

operations related to the operation of these facilities.

2. Warehouse and storage operations at transportation terminals.

E. No provision of this article shall limit the power of the board to apply the provisions of this article to any affected facility in order to prevent or remedy a condition that may cause or contribute to the endangerment of human health.

9 VAC 5-60-160. 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 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Hazardous pollutant" means any air pollutant listed in section 112(b) of the Act, as amended by 40 CFR 63.60, or any other air pollutant which the board determines, through adoption of

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

regulation, to present a significant risk to public health. This term excludes asbestos, fine mineral fibers, radionuclides, and any glycol ether that does not have a TLV7.

"Pesticide" means the same as the definition given in § 3.1-249.27 of the Virginia Pesticide Control Act.

"Potential to emit" means an emission rate based on the maximum capacity of a stationary source to emit a hazardous pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a hazardous 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 or federally enforceable.

"Significant ambient air concentration" means the concentration of a hazardous pollutant in the ambient air that if exceeded may have the potential to injure human health.

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

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

"Threshold limit value (TLV)⁷" means the maximum airborne concentration of a substance to which the ACGIH believes that nearly all workers may be repeatedly exposed day after day without adverse effects and which is published in the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook (see 9 VAC 5-20-21). The TLV⁷ is divided into three categories: TLV-Time-Weighted Average⁷ (TLV-TWA⁷), TLV-Short-Term Exposure Limit⁷(TLV-STEL⁷), and TLV-Ceiling⁷(TLV-C⁷).

"TLV-TWA⁷" means the time-weighted average concentration for a normal eight-hour workday and a 40-hour workweek, to which nearly all workers may be repeatedly exposed, day after day, without adverse effect (as defined in the ACGIH Handbook).

"TLV-STEL⁷" means the concentration to which workers may be exposed continuously for a short period of time without suffering from irritation, chronic or irreversible tissue damage, or narcosis of sufficient degree to increase the likelihood of accidental injury, impair self-rescue or materially reduce work efficiency. The TLV-STEL⁷ supplements the TLV-TWA⁷ where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature.

"TLV-C⁷" means the concentration that should not be exceeded during any part of the working exposure.

9 VAC 5-60-170.

Standard for hazardous pollutants.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

If a stationary source is not exempt under 9 VAC 5-60-150 C, D, or E, then the following standards shall be met:

1. Regardless of any provision of any other regulation of the board, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions of hazardous pollutants in such quantities as to cause, or contribute to, any significant ambient air concentration that may cause, or contribute to, the endangerment of human health.

2. The owner of an affected facility shall employ control strategies as may be directed by the board for the control of hazardous pollutants. The board may consider the potency and toxicity of each regulated hazardous pollutant as well as the technical and economic feasibility of any available control strategies. Possible control strategies may include but are not limited to emission control equipment, process changes, substitution of less toxic or nontoxic materials, or operation and maintenance procedures which lower or eliminate emissions of hazardous pollutants.

9 VAC 5-60-180. Significant ambient air concentration guidelines.

For the purpose of case-by-case consideration between the board and the owner, significant ambient air concentrations are any of the following:

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

1. For pollutants with a TLV-C7, any one-hour concentration of a hazardous pollutant in excess of 1/40 of the TLV-C7.
2. For pollutants with both a TLV-STEL7 and a TLV-TWA7, any one-hour concentration of a hazardous pollutant in excess of 1/40 of the TLV-STEL7 and any annual concentration of a hazardous pollutant in excess of 1/500 of the TLV-TWA7.
3. For pollutants with only a TLV-TWA7, any annual concentration of a hazardous pollutant in excess of 1/500 of the TLV-TWA7 and any one-hour concentration of a hazardous pollutant in excess of 1/20 of the TLV-TWA7.
4. Any concentration resulting from the emissions of a hazardous pollutant from an affected facility which the owner knows, or reasonably should be expected to know, may cause, or contribute to, the endangerment of human health.
5. Any concentration, other than those specified in subdivision 1, 2, 3, or 4 of this section, including those resulting from hazardous pollutants not having a TLV7, which the board determines to cause, to have the potential to cause, or to contribute to, the endangerment of human health. This determination shall be made by considering information by recognized authorities on the specific health

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

effects of such hazardous pollutants.

9 VAC 5-60-190. Submittal of information.

The owner of an affected facility shall upon the request of the board submit such information as may be needed to determine the applicability of, or compliance with, this article. The board may determine the manner and form for the submittal of the information. Such information shall be submitted within 60 days of the request. Reasonable extensions may be granted when deemed appropriate by the board for extensive information gathering, such as emissions testing or review of large and complex facilities, and only if the request is accompanied by a written schedule.

9 VAC 5-60-200. Determination of ambient air concentrations.

A. The owner shall, upon the request of the board, provide an assessment as to whether his facility emits, or may emit, any hazardous pollutant in such quantities as to cause, or contribute to, any concentration exceeding, or which may exceed, any significant ambient air concentration.

B. Ambient air concentrations shall be determined using air quality analysis techniques (modeling) based on emission rates equal to the potential to emit of the stationary source for the applicable averaging time or any other method acceptable to the board.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

9 VAC 5-60-210. Compliance.

A. If the board has reason to believe that the emissions from an affected facility are, or may be, discharged in such quantities so as to cause, or contribute to, any ambient air concentration that (i) is in excess of any significant ambient air concentration specified in 9 VAC 5-60-180 or (ii) has the potential to cause or contribute to substantial and imminent endangerment of human health, the owner shall choose one or more of the following options and comply with the schedules contained in 9 VAC 9-60-210 B.

1. Demonstrate that the emissions from the source do not, and will not, cause, or contribute to, any of the significant ambient air concentrations in 9 VAC 5-60-180 being exceeded.

2. Demonstrate that the applicable significant ambient air concentration in 9 VAC 5-60-180 is inappropriate for the hazardous air pollutant in question by showing that the emissions from the affected facility produce no endangerment of human health.

3. Control the emissions from the affected facility to a level resulting in ambient air concentrations that are below the significant ambient air concentrations or resulting in such other ambient air concentrations acceptable to the board.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

B. The owner shall notify the board of his choice under subsection A of this section within 45 days of notification by the department that his facility exceeds the significant ambient air concentration specified in 9 VAC 5-60-180. Within 45 days of notifying the board of the option under subsection A of this section, the owner shall submit a plan and schedule to the board for approval. If the owner fails to submit either his choice of an option as set out in subsection A or a plan and schedule to implement that option, the board shall require the owner, on a schedule set out by the board, to comply with subdivision A 3. All options shall be completed within a reasonable time: 30 days for 9 VAC 5-60-210 A 1, 60 days for 9 VAC 5-60-210 A 2, and 18 months for VAC 5-60-210 3. None of the times specified in this subsection include time needed for board approval. Reasonable extensions may be granted when deemed appropriate by the board.

C. Failure of the owner to accomplish any of the alternatives set forth in subsection A of this section in a manner acceptable to the board shall constitute a violation of 9 VAC 5-60-170.

9 VAC 5-60-220. Public participation.

If the owner of an affected facility chooses the demonstration under 9 VAC 5-60-210 A 2, the provisions of this section shall apply.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

1. Prior to the decision of the board on the acceptability of the demonstration, the demonstration shall be subject to a public comment period of at least 30 days.

2. The board shall notify the public of the opportunity for public comment on the information available for public inspection under the provisions of subdivision 3 of this section. The notification shall be made by advertisement in one newspaper of general circulation in the affected air quality control region and, if available, one newspaper that circulates in the area where the affected facility is located. A copy of the notice shall be sent to the governing body of the locality where the affected facility is located and to the governing bodies of the localities where ambient air quality impacts from the affected facility exceed the significant ambient air concentration guidelines in 9 VAC 5-60-180. The notice shall include a brief description of the pollutants of concern and their possible health impacts, the demonstration, a statement listing the requirements in subdivisions 4 and 5 of this section, and the name and telephone number of a department staff person from whom detailed information on the demonstration and the pollutants may be obtained.

3. Information relevant to the demonstration, including (i) information produced by the owner showing that the emissions from the affected facility do not endanger human health and (ii) the preliminary review, analysis and tentative determination of the board, shall be available for public inspection during the entire comment period in at least one location in the affected air quality control region.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

4. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the source's demonstration under 9 VAC 5-60-210

A 2. The request shall be submitted within 30 days of the appearance of the notice in the newspaper.

Request for a public hearing shall contain the following information:

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

b. The names and addresses of all persons for whom the requester is acting as a representative;

c. The reason why a hearing is requested; and

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the demonstration in question.

5. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper. Within 30 calendar days following the expiration of the public comment period the board shall grant a public hearing if it finds that

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

one or both of the following apply:

a. There is significant public interest in the demonstration in question.

b. There are substantial, disputed issues relevant to the demonstration in question.

6. The board shall notify by mail the owner making the demonstration and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of the procedures for the public hearing and for the final determination under this section.

7. If the board decides to hold a public hearing, the hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required by subdivision 6 of this section. The public hearing shall be held in the affected air quality control region.

8. The procedures for notification to the public and availability of information used for the public comment period and provided in subdivisions 2 and 3 of this section shall also be followed for the public hearing.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

NOTE: In adopting amendments to this rule to be effective (effective date), the board replaced the term "toxic" with the term "hazardous." In the interest of economy and efficiency, the board did not make the corresponding change at each place the term "toxic" occurs throughout the Regulations for the Control and Abatement of Air Pollution. However, it is the intent of the board to make that change in other parts of the regulations as the opportunity presents itself. Until such changes are made the term "toxic" shall be construed to mean "hazardous" throughout the Regulations for the Control and Abatement of Air Pollution.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

9 VAC 5 CHAPTER 60.

HAZARDOUS AIR POLLUTANTS.

PART II.

Emission Standards.

ARTICLE 4.

Emission Standards for Hazardous Pollutants from New and Modified Sources (Rule 6-4).

9 VAC 5-60-250. Applicability and designation of affected facility.

A. Regardless of the provisions of 9 VAC 5-50-10 and, except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each stationary source that emits or may emit any hazardous pollutant and that either (i) is subject to the new source review program or (ii) has a permit containing emission limits and other requirements pursuant to this article.

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

C. This article shall not apply to the following:

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

1. A stationary source which has a potential to emit a hazardous pollutant with a TLV7 at a level equal to or less than the exemption emission rate calculated using the exemption formulas set forth below for the applicable TLV7. If more than one exemption formula applies to a hazardous pollutant emitted by a source, the potential to emit for that pollutant shall be equal to or less than both applicable exemption formulas in order for the source to be exempted for that pollutant. The exemption formulas apply on an individual basis to each hazardous pollutant for which a TLV7 has been established.

a. For hazardous pollutants with a TLV-C7, the following exemption formula applies, provided the potential to emit does not exceed 22.8 pounds per hour:

Exempt Emission Rate (pounds per hour) =

$$\text{TLV-C7 (mg/m}^3\text{) x 0.033}$$

b. For hazardous pollutants with both a TLV-STEL7 and a TLV-TWA7, the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

Exempt Emission Rate (pounds per hour) =

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

$$\underline{\text{TLV-STEL7 (mg/m}^3\text{) x 0.033}}$$

$$\underline{\text{Exempt Emission Rate (tons per year) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.145}}$$

c. For hazardous pollutants with only a TLV-TWA7, the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\underline{\text{Exempt Emission Rate (pounds per hour) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.066}}$$

$$\underline{\text{Exempt Emission Rate (tons per year) =}}$$

$$\underline{\text{TLV-TWA7 (mg/m}^3\text{) x 0.145}}$$

2. A stationary source which has a potential to emit a hazardous pollutant without a TLV7 if, upon request, the board determines to exempt that hazardous pollutant from the provisions of this

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

article using available health effects information. The exemption determination shall be made by the board using information submitted by the owner in accordance with 9 VAC 5-60-290.

3. A stationary source subject to an emission standard or other requirement set forth in Article 2 (9 VAC 5-60-10 et seq.) of Part II of 9 VAC 5 Chapter 60. If less than all of the stationary source is regulated by such an emission standard or other requirement, then only that part of the stationary source regulated by the emission standard or other requirement is exempted.

4. A stationary source in a source category which is regulated by an emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act and subject to the source category schedule for standards. If less than all of the stationary source is in a source category which is regulated by such an emission standard or other requirement, then only that part of the stationary source in the source category regulated by the emission standard or other requirement is exempted.

5. A stationary source in a source category for which the U.S. Environmental Protection Agency has made a formal determination that no regulations or other requirements need to be established pursuant to § 112 of the federal Clean Air Act and has published the determination in the Federal Register at 63 FR 7155, February 12, 1998.

6. A boiler, incinerator, or industrial furnace as defined in 9 VAC 20-60-10 and

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

subject to 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.), provided it (i) meets the 99.99% destruction and removal efficiency standard required by 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.), and (ii) has received a permit or has qualified for interim status in accordance with 9 VAC 20-60-10 et seq. The board shall be furnished with an acceptable certification that such boiler, incinerator, or industrial furnace is in compliance with the standards of its permit or interim status and applicable provision of 9 VAC 20-60-10 et seq. Facilities which burn hazardous waste for energy recovery are not exempted from this article.

7. A generator or boiler which burns only natural gas, #2 fuel oil, #4 fuel oil, #6 fuel oil, propane, or kerosene.

D. Provisions of this article do not apply to any consumer product used in the same manner as normal consumer use, provided the use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers. This may include, but not be limited to, personal use items, janitorial cleaning supplies, and facility grounds maintenance products, such as fertilizers, pesticides, and paints for structural components.

E. With regard to the application of pesticides, the provisions of this article shall apply only to the air quality impact from emissions from application inside the premises of the following affected facilities:

1. Industrial and manufacturing operations, including warehouse and storage

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

operations related to the operation of these facilities.

2. Warehouse and storage operations at transportation terminals.

E. No provision of this article shall limit the power of the board to apply the provisions of this article to any affected facility in order to prevent or remedy a condition that may cause or contribute to the endangerment of human health.

9 VAC 5-60-260. 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 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each toxic pollutant which the board,

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Hazardous pollutant" means any air pollutant listed in section 112(b) of the Act, as amended by 40 CFR 63.60, or any other air pollutant which the board determines, through adoption of regulation, to present a significant risk to public health. This term excludes asbestos, fine mineral fibers, radionuclides, and any glycol ether that does not have a TLV7.

"Pesticide" means the same as the definition given in § 3.1-249.27 of the Virginia Pesticide Control Act.

"Potential to emit" means an emission rate based on the maximum capacity of a stationary

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

source to emit a hazardous pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a hazardous 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 or federally enforceable.

"Significant ambient air concentration" means the concentration of a hazardous pollutant in the ambient air that if exceeded may have the potential to injure human health.

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

"Threshold limit value (TLV7)" means the maximum airborne concentration of a substance to which the ACGIH believes that nearly all workers may be repeatedly exposed day after day without adverse effects and which is published in the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook (see 9 VAC 5-20-21). The TLV7 is divided into three categories: TLV-Time-Weighted Average7 (TLV-TWA7), TLV-Short-Term Exposure Limit7 (TLV-STEL7), and TLV-Ceiling7 (TLV-C7).

"TLV-TWA7" means the time-weighted average concentration for a normal eight-hour

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

workday and a 40-hour workweek, to which nearly all workers may be repeatedly exposed, day after day, without adverse effect (as defined in the ACGIH Handbook).

"TLV-STEL7" means the concentration to which workers may be exposed continuously for a short period of time without suffering from irritation, chronic or irreversible tissue damage, or narcosis of sufficient degree to increase the likelihood of accidental injury, impair self-rescue or materially reduce work efficiency. The TLV-STEL7 supplements the TLV-TWA7 where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature.

"TLV-C7" means the concentration that should not be exceeded during any part of the working exposure.

9 VAC 5-60-270. Standard for hazardous pollutants.

If a stationary source is not exempt under 9 VAC 5-60-250 C, D, or E, then the following standards shall be met:

1. Regardless of any provision of any other regulation of the board, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions of hazardous pollutants in such quantities as to cause, or contribute to, any significant ambient

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

air concentration that may cause, or contribute to, the endangerment of human health.

2. The owner of new or modified sources shall employ best available control technology as may be approved by the board for the control of hazardous pollutants.

9 VAC 5-60-280. Significant ambient air concentration guidelines.

For the purpose of case-by-case consideration between the board and the owner, significant ambient air concentrations are any of the following:

1. For pollutants with a TLV-C7, any one-hour concentration of a hazardous pollutant in excess of 1/40 of the TLV-C7.

2. For pollutants with both a TLV-STEL7 and a TLV-TWA7, any one-hour concentration of a hazardous pollutant in excess of 1/40 of the TLV-STEL7 and any annual concentration of a hazardous pollutant in excess of 1/500 of the TLV-TWA7.

3. For pollutants with only a TLV-TWA7, any annual concentration of a hazardous pollutant in excess of 1/500 of the TLV-TWA7 and any one-hour concentration of a hazardous pollutant in excess of 1/20 of the TLV-TWA7.

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

4. Any concentration resulting from the emissions of a hazardous pollutant from an affected facility which the owner knows, or reasonably should be expected to know, may cause, or contribute to, the endangerment of human health.

5. Any concentration, other than those specified in subdivision 1, 2, 3, or 4 of this section, including those resulting from hazardous pollutants not having a TLV7, which the board determines to cause, to have the potential to cause, or to contribute to, the endangerment of human health. This determination will be made by considering information by recognized authorities on the specific health effects of such hazardous pollutants.

9 VAC 5-60-290. Submittal of information.

The owner of an affected facility shall upon the request of the board submit such information as may be needed to determine the applicability of, or compliance with, this article. The board may determine the schedule, manner and form for the submittal of the information.

9 VAC 5-60-300. Determination of ambient air concentrations.

A. The owner shall, upon the request of the board, provide an assessment as to whether his

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

facility emits, or may emit, any hazardous pollutant in such quantities as to cause, or contribute to, any concentration exceeding, or which may exceed, any significant ambient air concentration.

B. Ambient air concentrations shall be determined using air quality analysis techniques (modeling) based on emission rates equal to the facility's potential to emit for the applicable averaging time or any other method acceptable to the board.

9 VAC 5-60-310. Compliance.

If the board has reason to believe that the emissions from an affected facility are, or may be, discharged in such quantities so as to cause, or contribute to, any ambient air concentration that (i) is in excess of any significant ambient air concentration specified in 9 VAC 5-60-280 or (ii) has the potential to cause or contribute to substantial and imminent endangerment of human health, a permit shall not be issued until the owner complies with one or more of the following:

1. Demonstrate that the emissions from the facility do not, and will not, cause, or contribute to, any of the significant ambient air concentrations in 9 VAC 5-60-280 being exceeded;

2. Demonstrate that the applicable significant ambient air concentration in 9 VAC 5-60-280 is inappropriate for the hazardous air pollutant in question by showing that the emissions from the

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

affected facility produce no endangerment of human health; or

3. Control the emissions from the affected facility to a level resulting in ambient air concentrations that are below the significant ambient air concentrations or resulting in such other ambient air concentrations acceptable to the board.

9 VAC 5-60-320. Public participation.

If the owner of an affected facility chooses the demonstration under 9 VAC 5-60-310 subdivision 2, the provisions of this section shall apply.

1. Prior to the decision of the board on the acceptability of the demonstration, the demonstration shall be subject to a public comment period of at least 30 days.

2. The board shall notify the public of the opportunity for public comment on the information available for public inspection under the provisions of subdivision 3 of this section. The notification shall be made by advertisement in one newspaper of general circulation in the affected air quality control region and, if available, one newspaper that circulates in the area where the affected facility is located. A copy of the notice shall be sent to the governing body of the locality where the affected facility is located and to the governing bodies of the localities where ambient air quality impacts from the affected

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

facility exceed the significant ambient air concentration guidelines in 9 VAC 5-60-280. The notice shall include a brief description of the pollutants of concern and their possible health impacts, the demonstration, a statement listing the requirements in subdivisions 4 and 5 of this section, and the name and telephone number of a department staff person from whom detailed information on the demonstration and the pollutants may be obtained.

3. Information relevant to the demonstration, including (i) information produced by the owner showing that the emissions from the affected facility do not endanger human health and (ii) the preliminary review, analysis and tentative determination of the board, shall be available for public inspection during the entire comment period in at least one location in the affected air quality control region.

4. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the source's demonstration under 9 VAC 5-60-310 subdivision 2. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

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

b. The names and addresses of all persons for whom the requester is acting as a representative;

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

c. The reason why a hearing is requested; and

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the demonstration in question.

5. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper. Within 30 calendar days following the expiration of the public comment period the board shall grant a public hearing if it finds that one or both of the following apply:

a. There is significant public interest in the demonstration in question.

b. There are substantial, disputed issues relevant to the demonstration in question.

6. The board shall notify by mail the owner making the demonstration and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall

STATE AIR POLLUTION CONTROL BOARD

REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION (9 VAC 5 CHAPTER 60)

contain a description of the procedures for the public hearing and for the final determination under this section.

7. If the board determines to hold a public hearing, the hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required by subdivision 6 of this section. The public hearing shall be held in the affected air quality control region.

8. The procedures for notification to the public and availability of information used for the public comment period and provided in subdivisions 2 and 3 of this section shall also be followed for the public hearing.

NOTE: In adopting amendments to this article to be effective (effective date), the board replaced the term "toxic" with the term "hazardous." In the interest of economy and efficiency, the board did not make the corresponding change at each place the term "toxic" occurs throughout the Regulations for the Control and Abatement of Air Pollution. However, it is the intent of the board to make that change in other parts of the regulations as the opportunity presents itself. Until such changes are made the term "toxic" shall be construed to mean "hazardous" in the Regulations for the Control and Abatement of Air Pollution.