

**Louisville Metro Air Pollution Control District
Comment and Response Document
Formal Comment Period**

**Regulation 5.20 Version 4
*Methodology for Determining Benchmark Ambient Concentration of a Toxic Air
Contaminant*
and
Regulation 5.23 Version 3
*Categories of Toxic Air Contaminants***

Comment Period: The following comments were received during the formal comment period.

Comment: *The District should revise the lists of HAPs in Regulation 5.14 Section 2 and Regulation 5.23 to conform to the HAP list in the Clean Air Act Section 112(b). Since it is a simple change to conform the District's list of HAPs to be identical to the list of HAPs in the Clean Air Act, there is no reason to delay this amendment and the District has previously committed to make this change.*
- GLI

Response: The District has been considering (1) revising Regulation 5.14 with the next periodic update to Regulations 1.15, 5.02, and 7.02, which incorporate other federal laws by reference or (2) repealing Regulation 5.14 in its entirety. This last option, while more complex than simply revising Regulation 5.14, will address inconsistent references to the listed HAPs elsewhere in the District's regulations. For example, Regulation 5.14 is cited in Regulations 1.02 section 1.33, 2.02 section 2.3.21, and 2.03 section 3.1, while section 112(b) of the Clean Air Act is cited in Regulations 2.16 sections 1.15 and 1.40 and Regulation 1.02 section 1.55. If the District proposes repealing Regulation 5.14, it will do so as part of its planned improvements to Part 2 of the District regulations so that conforming changes can be made in Regulations 1.02, 2.02, and 2.03.

Comment: *GLI supports the de-listing of ethyl acrylate as a carcinogen as consistent with the most recent and best available peer-reviewed scientific information. However, the default values established in Regulation 5.20 section 3.3.5 and 4.11 should be deleted. GLI recognizes that the District has not proposed this, but the default values do not have a valid peer-reviewed scientific or technical basis. If a BAC cannot be established based upon the methods established in Section 3 or Section 4, that is presumptively because that TAC has not been perceived as posing a significant health risk by the various agencies listed in Regulation 5.20. Consequently, as described in the general comment to Regulation 5.01, the General Duty Clause should be applied if a BAC cannot be established using the methodologies listed in Regulation 5.20 Sections 3.1 through 3.3.4.6 (for BAC_C) and Sections 4.1 through 4.10 (for BAC_{NC}), and compliance with the General Duty Clause should be determined on a case-by-case basis.*
- GLI

Response: The District is not proposing to revise Regulation 5.20 sections 3.3.5 or 4.11. Regulation 5.20 section 3.3.4.6 provides an alternative to the use of the default

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value where the use of an alternate cancer risk assessment methodology can be demonstrated to the District to be more appropriate based on biological grounds and that is supported by peer reviewed scientific data.

Comment: *GLI supports the amendment changing ethyl acrylate from a Category 1 TAC to a Category 4 TAC as consistent with the most recent and best available peer-reviewed scientific information. Any permit conditions imposed on a source as a result of an environmental acceptability demonstration that considered ethyl acrylate as a Category 1 TAC should be deleted, and the source should be allowed to submit a revised environmental acceptability demonstration and a revised T-BAT or compliance plan, as appropriate.*
- GLI

Response: As provided for in Regulation 5.21 section 6.10, if a BAC established pursuant to Regulation 5.20 for a TAC becomes less stringent, the owner or operator of a source that emits the TAC may request that an emission standard based on the more stringent BAC be revised. If the revised standard complies with all other applicable requirements, the District shall approve the request.

Comment: *Ethyl acrylate is a raw material and the principal monomer used by Zeon Chemicals L.P. (Zeon) to make polyacrylate synthetic rubber, the second largest product line manufactured at the plant on Bells Lane. It is clear from the toxicity documentation referenced in the District's Regulatory Impact Statement that ethyl acrylate is not an inhalation carcinogen. Zeon supports the proposed amendment changing ethyl acrylate from a Category 1 TAC to a Category 4 TAC. Failing to do so will require needless investments in unnecessary emission control and result in unintended environmental impacts, including increased greenhouse gas emissions and fuel consumption.*
-Zeon Chemicals L.P.

Response: The Louisville Metro Air Pollution Control Board (Board) is responsible, pursuant to Regulation 5.20 section 2.3, for determining that a TAC is not a carcinogen for the purpose of determining the BAC_c. In making this determination, the Board must rely upon a determination by one of the sources listed in sections 2.1 or 3.3 that a TAC is not a carcinogen for purposes of determining the BAC_c under the STAR Program. The Board's conclusions regarding carcinogenicity in humans or experimental animals must be based on relevant peer-reviewed scientific evidence, including dose response, route of exposure, chemical structure, metabolism, pharmacokinetics, sensitive sub populations, genetic effects, and other data relating to mechanism of action or factors that may be unique to a given substance, traditional cancer epidemiology studies, data from clinical studies, or data derived from the study of tissues exposed to the TAC. Background information detailing the listing of ethyl acrylate as a carcinogen by the National Toxicology Program (NTP) and the

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International Agency for Research on Cancer (IARC) under section 2.1, and the Michigan Air Quality Division under section 3.3, and its subsequent delisting by NTP and the Michigan Air Quality Division, is provided in the Preliminary Regulatory Impact Assessment prepared by the District for the Board's consideration of the proposed amendments to Regulations 5.20 version 4 and 5.23 version 3.