**New Law Affecting** **Qualified Fumigation Facilities**

The 2011 Virginia General Assembly enacted a law (§ [10.1-1308 of the Code of Virginia)](https://law.lis.virginia.gov/vacode/title10.1/chapter13/section10.1-1308/) to exempt “qualified fumigation facilities” from the requirement to obtain an air permit to construct and operate under [9 VAC 5 Chapter 80-1100, Article 6](https://law.lis.virginia.gov/admincode/title9/agency5/chapter80/section1100/). The law takes effect on July 1, 2011.

**What is a “Qualified Fumigation Facility?”**

1. Conducts commodity fumigation operations with the fumigants methyl bromide or phosphine, compounds designated as hazardous air pollutants (HAP) regulated under §112(b) of the Clean Air Act. A commodity is a tangible good or product for sale or barter.
2. Commodity fumigation operations where potential air emissions are more than the [exemption threshold levels for state toxics](http://deq.virginia.gov/Programs/Air/PermittingCompliance/Permitting/AirToxics.aspx) (see below for methyl bromide and phosphine) but are less than 10 tons per year for any single HAP and are less than 25 tons per year for all HAPs combined.

Methyl Bromide: Hourly: 1.254 pounds per hour Annual: 2.755 tons per year

Phosphine: Hourly: 0.0462 pounds per hour Annual: 0.0609 tons per year

1. In order to qualify for the exemption, the fumigation facility must meet at least one of the following requirements:
2. Maintain a distance of at least 300 feet from either the fence line or property line if not fenced or 300 feet from an area not regularly occupied by the public. DEQ may waive this requirement on a case-by-case basis.
3. Employ a capture and control system for the fumigation operation.
4. Monitor the fence line/property line during fumigation and aeration operations using appropriate monitoring equipment and methods (i.e. NIOSH, widely accepted industry standards) so that fumigant ambient concentrations do not exceed the more stringent of either the Department of Labor and Industry exposure limits or the parts per million standards stipulated in the federally approved pesticide labeling of the fumigant in use.

**Signage Requirements**

Signs notifying the public of fumigation operations must be posted prior to fumigation operations. The signs must be visible and legible at the fence or property line closest to any public right-of way. The signs must remain in place until completion of the aeration process and must conform to the format for placards mandated by the federally approved fumigant label.

**Notification Requirements**

“Qualified Fumigation Facilities” are responsible for completing and submitting information to the Virginia Department of Environmental Quality before and after each fumigation event. A form for the pre-fumigation notification and post-fumigation report is available on the [DEQ Air Forms webpage](http://www.deq.virginia.gov/Programs/Air/Forms.aspx). The Initial Notification portion of the form must be submitted prior to commencing the planned fumigation event. After completion of the fumigation event, the form must be resubmitted with the additional information required in the Post Fumigation section of the form within four business days.

**Contact Information**

Patrick Corbett, Virginia DEQ: (804) 698-4016 or Patrick.Corbett@deq.virginia.gov