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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC5-80-1105 of Article 6 (9VAC5-80-1000 et seq.) of 9VAC5-80
<b>VAC Chapter title(s)</b>	9VAC5-80, Permits for Stationary Sources
<b>Action title</b>	Amend existing regulation to modify the exemption for agricultural use incinerators (Rev. A25)
<b>Final agency action date</b>	April 17, 2025
<b>Date this document prepared</b>	March 24, 2025

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Chapter 365 of the 2025 Acts of Assembly (SB 1495) requires the State Air Pollution Control Board to amend 9VAC5-80-1105 of the Virginia Administrative Code relating to permit exemptions for poultry or swine incinerators to include bovine incinerators. It further requires that an emergency exists and the act is in force from its passage.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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Chapter 365 of the 2025 Acts of Assembly (SB1495) requires the State Air Pollution Control Board to amend 9VAC5-80-1105 of the Virginia Administrative Code relating to permit exemptions for poultry or swine incinerators to include bovine incinerators. It further requires that an emergency exists and the act is in force upon signature by the Governor. This regulation amendment is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 a of the Administrative Process Act because it is necessary to conform to changes in Virginia statutory law where no agency discretion is involved. These amendments must be submitted to the Virginia Register for publication within 90 days of the effective date of the Act.

**Statement of Final Agency Action**

*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.*

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On April 17, 2025, the State Air Pollution Control Board took final action to amend 9VAC5-80-1105 of Article 6 of 9VAC5-80 (Permits for Stationary Sources) relating to permit exemptions for poultry or swine incinerators to include bovine incinerators. The regulatory action is to be effective as provided in the Administrative Process Act.

In adopting these amendments, the board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.