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Exempt Action: Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-40
VAC Chapter title(s)	Existing Stationary Sources
Action title	Implementation of the 2015 Ozone National Ambient Air Quality Standard (NAAQS) in Case-by-Case RACT Determinations (Rev. C26)
Final agency action date	August 18, 2026
Date this document prepared	July 13, 2026

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.

This action codifies requirements for reasonably available control technology (RACT) determinations mandated by the Clean Air Act in the Ozone Transport Region (OTR) when new ozone national ambient air quality standards (NAAQS) are promulgated. On October 26, 2015 (80 FR 65292), the U.S. Environmental Protection Agency (EPA) strengthened the primary and secondary O₃ NAAQS to 0.070 ppm in comparison to the previous 2008 standard of 0.075 ppm by adding § 50.19 and Appendix U to 40 CFR Part 50. The Northern Virginia Ozone Moderate Nonattainment Area and Stafford County, which correspond to the Northern Virginia Volatile Organic Compound (VOC) and Nitrogen Oxides (NO_x) Emissions Control Areas, and which are part of the OTR, must meet the RACT requirements of 40 CFR 51.1316 established by EPA on December 6, 2018 (83 FR 62998). This section of the EPA rule specifies dates by when RACT must be implemented in the OTR. The state regulations must be consistent with the federal regulations in order for the state to implement RACT.

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" means "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."

The mandate for this regulatory action is a directive from the federal government: the implementation of the 2015 O₃ NAAQS has been codified in 40 CFR Part 51 as provided by § 109; 110; 171; 172; 176A; and 181 through 185B of the federal Clean Air 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) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On August 18, 2026, the State Air Pollution Control Board took final action to adopt amendments to the Regulations for the Control and Abatement of Air Pollution, specifically, Emission Standards for Stationary Sources Subject to Case-by-Case RACT Determinations (9VAC5-40, Article 51). The regulatory action is to be effective as provided in the Administrative Process Act.

The regulation amendments are 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 c of the Code of Virginia because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent EPA regulations.

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 Code of Virginia.

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