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Exempt Action Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation(s)	Primary: Article 5 (9VAC5-50-400 et seq.), 9VAC5-50 Secondary: Article 1 (9VAC5-60-60 et seq.) and Article 2 (9VAC5-60-90 et seq.), 9VAC5-60
Regulation title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Update state regulations that incorporate by reference certain federal regulations to reflect the current Code of Federal Regulations (Rev. E17).
Final agency action date	November 16, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2017. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CFR - Code of Federal Regulations
 EPA - U.S. Environmental Protection Agency
 MACT - Maximum Achievable Control Technology Standard
 NESHAP - National Emissions Standards for Hazardous Air Pollutants
 NSPS - New Source Performance Standard

Statement of final agency action

Please 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.

On November 16, 2017, the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically federal regulations incorporated by reference (Article 5 of 9VAC5-50 and Articles 1 and 2 of 9VAC5-60). 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 Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent U.S. Environmental Protection Agency (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 Administrative Process Act.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

It is not anticipated that these regulation amendments will have a direct impact on families.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC5-50-400		Incorporation of most current NSPSs listed in 9VAC5-50-410.	Date of most current CFR updated. Needed to enable use of the most current standards.

9VAC5-60-60		Incorporation of most current NESHAPs listed in 9VAC5-60-70.	Date of most current CFR updated. Needed to enable use of the most current standards.
9VAC5-60-90		Incorporation of most current MACTs listed in 9VAC5-60-100.	Date of most current CFR updated. Needed to enable use of the most current standards.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations apply to all facilities, including small businesses. Any 1) establishment of less stringent compliance or reporting standards; 2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or 5) exemption of small businesses from all or any part of the requirements contained in the proposed regulation for all small businesses would adversely affect the benefits that would be achieved through the implementation of the regulations.

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