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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) citation(s)</b>	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
<b>Regulation title(s)</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Update state regulations that incorporate by reference certain federal regulations to reflect the current Code of Federal Regulations (Rev. J16).
<b>Final agency action date</b>	December 5, 2016

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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, 2016. Below is a list of the new standards in the federal regulations that are being incorporated into the regulations by reference.

1. One new (Subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015) NSPS is not being incorporated at this time; this standard is listed with a note that enforcement of the standard rests with EPA. In addition, Subparts T, U, V, W, X, CCCC, and OOOO were amended. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

2. No new National Emissions Standards for Hazardous Air Pollutants (NESHAPs) are being incorporated; however, a number of typographical errors have been corrected under Subpart M. The

date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

3. Three new Maximum Achievable Control Technology Standard (MACTs) are being added: Subpart NN, Wool Fiberglass Manufacturing at Area Sources (40 CFR 63.880 through 40 CFR 63.899); Subpart JJJJJ, Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 40 CFR 63.8515); and Subpart KKKKK, Ceramics Manufacturing (40 CFR 63.8530 through 40 CFR 63.8665). In addition, Subparts AA, BB, CC, and DD were amended. 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 December 5, 2016, 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.
9VAC5-50-410		List of designated standards of performance (NSPSs).	List updated to add new federal standard federal revisions and to indicate those that are not being adopted at this time. Needed to maintain authority to implement the standard, and to properly implement the federal program.
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.
9VAC5-60-70		List of designated emission standards (NESHAPs).	Citations listed under Subpart M corrected. Needed in order to properly implement the program.
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.
9VAC5-60-100		List of designated standards of performance (MACTs).	List updated to add new federal standard federal revisions. Needed to maintain authority to implement the standard, and to properly implement the federal program.

### 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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