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Exempt Action Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation(s)	Article 5 (9VAC5-50-400 et seq.) of 9VAC5-50
Regulation title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Defer the implementation of federal emission standards for wood heaters to EPA (Revision A15)
Final agency action date	June 19, 2015
Date this document prepared	May 29, 2015

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Chapter 471 of the 2015 Acts of Assembly amends §§ 10.1-1300 and 10.1-1307 of the Code of Virginia to prohibit the State Air Pollution Control Board from adopting regulations that limit emissions from certain smaller wood heaters. The bill also prohibits the board from enforcing any federal regulation limiting emissions from wood heaters that was adopted after May 1, 2014. Subparts AAA and QQQQ of 40 CFR Part 60, which regulate NSPSs for wood heaters, are referenced in Rule 5-5. Although the board has entered into a delegation agreement to adopt NSPSs by reference in order to implement them at the state level, this is at the state's discretion, and the General Assembly has opted to leave implementation of Subparts AAA and QQQQ at the federal level. The board therefore needs to amend Rule 5-5 in order to indicate that the wood heater regulations of 40 CFR Part 60 will be implemented by EPA and not the board.

The department is requesting approval of draft final regulation amendments that meet state regulatory requirements. Approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

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.

EPA - U.S. Environmental Protection Agency
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 June 19, 2015, 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 (9VAC5-50). 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 a of the Administrative Process Act because they are necessary to conform to Virginia statutory law.

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 reference the most current standards.
9VAC5-50-410		List of designated standards of performance (NSPSs).	Indicate that implementation authority for Subparts AAA and QQQQ of 40 CFR Part 60 (wood heaters) is retained by EPA in accordance with state law (Virginia 2015 Acts of Assembly Chapter 471). Needed to meet state legal requirements.

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 regulation; or 5) exemption of small businesses from all or any part of the requirements contained in the regulation for all small businesses would adversely affect the benefits that would be achieved through the implementation of the regulations.

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