



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC5-20
<b>Regulation title</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Outer Continental Shelf Sources (Rev. D10)
<b>Final agency action date</b>	September 10, 2010
<b>Date this document prepared</b>	September 10, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 A of the Administrative Process Act (APA), the agency 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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Chapter 689, 2010 Acts of the Assembly amended the Code of Virginia by adding a new § 10.1-1307.03, Requirements applicable to Outer Continental Shelf sources. The new code provisions require that the board, by January 1, 2011, adopt any regulations necessary to implement and enforce the requirements of § 328 of the federal Clean Air Act relating to requirements to control air pollution from Outer Continental Shelf (OCS) sources located offshore of the Commonwealth. The regulations may not differ materially from the regulations promulgated by the U.S. Environmental Protection Agency (EPA) in implementing § 328 of the Clean Air Act (that is, 40 CFR Part 55). The regulations of the board must be therefore be revised such that the federal OCS program of 40 CFR Part 55 is adopted. This will enable EPA to delegate implementation and enforcement of 40 CFR Part 55 to the Commonwealth, and, in turn, enable the Commonwealth to requires limitations on emissions as needed in order to attain and maintain the ambient air quality standards, and to meet prevention of significant deterioration (PSD) requirements.

### 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 September 10, 2010, 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, Outer Continental Shelf Sources (9VAC5-20-21). 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.

**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.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
9VAC5-20-21 B		Specific version of the provisions adopted by reference	Update to reference the most current CFRs. Needed in order for the most current CFR rules to apply.
9VAC5-20-21E 1 a	9VAC5-20-21E 1 a (3)	List of CFRs adopted by reference into the Regulations for the Control and Abatement of Air Pollution.	Add reference to 40 CFR Part 55. Needed in order for the board to implement the outer continental shelf program in accordance with state law.
9VAC5-20-21 E a		List of adopted CFRs.	Renumbered and reorganized. Needed for accuracy and convenience.

**Regulatory flexibility analysis**

*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 directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

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