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Exempt Action: Final Regulation Agency Background Document

Agency name	Department of Environmental Quality for State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	Part VII of 9VAC5-140
VAC Chapter title(s)	Regulation for Emissions Trading
Action title	Amend CO ₂ Budget Trading Program to comport with RGGI Model Rule as required by Chapter 1219, 2020 Acts of Assembly (Revision A20).
Final agency action date	June 25, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

Chapter 1219 of the 2020 Acts of Assembly amends the Air Pollution Control Law to add a new Article 4, the Clean Energy and Community Flood Preparedness Act. Under § 10.1-1330 A, Clean Energy and Community Flood Preparedness, "[T]he provisions of this article shall be incorporated by the Department, without further action by the Board, into the final regulation adopted by the Board on April 19, 2019, and published in the Virginia Register on May 27, 2019. Such incorporation by the Department shall be exempt from the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq.)."

Accordingly, Part VII of 9VAC5-140, Regulation for Emissions Trading, has been amended such that it comports with the full Regional Greenhouse Gas Initiative (RGGI) CO₂ emissions trading program and associated auction as mandated by Chapter 1219.

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). "Mandate" is defined as "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 General Assembly (Chapter 1219, 2020 Acts of Assembly).

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) the name of the agency taking the action; and 3) the title of the regulation.

On June 25, 2020, the Director of the Virginia Department of Environmental Quality (DEQ) incorporated the provisions of Chapter 1219 of the 2020 Acts of Assembly, without further action by the State Air Pollution Control Board, into the final regulation adopted by the board on April 19, 2019, and published in the Virginia Register on May 27, 2019, by amending the Regulation for Emissions Trading, specifically, the CO₂ Budget Trading Program (Part VII of 9VAC5-140). The regulatory action is to be effective on July 1, 2020.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in the Administrative Process Act by the provisions of Chapter 1219 of the 2020 Acts of Assembly

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