



Virginia
Regulatory
Town Hall

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Exempt Action Final Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9 VAC 5-10
Secondary action(s)	None
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	Definition of Volatile Organic Compound (B05)
Document preparation date	March 3, 2005

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the of the Administrative Process Act (APA) (townhall.state.va.us/dpbpages/dpb_apa.htm), 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 (leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100), the *Virginia Register Form, Style, and Procedure Manual* (legis.state.va.us/codecomm/register/download/styl8_95.rtf), and Executive Orders 21 (02) and 58 (99) (governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)

Summary

Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.

The definition of volatile organic compound (VOC) has been revised to exclude four compounds which have been demonstrated to be less reactive: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate. The definition of VOC has also been revised in order to partially exclude t-butyl acetate: it should be considered to be a VOC for recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs, and should be uniquely identified in emission reports, but it is not a VOC for purposes of VOC emission standards, emission limitations, or content requirements.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On March 3, 2005, the State Air Pollution Control Board adopted final amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution", specifically, the definition of volatile organic compound (9 VAC 5 Chapter 10). The regulation amendments are to be effective on May 4, 2005.

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.

Additional Information

Please indicate that the text of the regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law.

If the exemption claimed falls under § 2.2-4006 A 4 c of the APA please identify the federal law or regulations being relied upon for the final agency action.

The text of the regulation is attached.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Letters providing written assurance from the Office of the Attorney General that (i) the board has statutory authority to promulgate the final regulation amendments and (ii) the amendments qualify as an exemption under § 2.2-4006 A 4 c of the Administrative Process Act are available upon request.

Sections 109 (a) of the Clean Air Act requires EPA to prescribe national ambient air quality standards (NAAQS) to protect public health. Section 110 mandates that each state adopt and submit to EPA a plan (the state implementation plan or SIP) which provides for the implementation, maintenance, and enforcement of the NAAQS. Ozone, one of the pollutants for which there is a NAAQS, is in part created by emissions of VOCs. Therefore, in order to control ozone, VOCs must be addressed in the SIP.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. Subpart F of Part 51, Procedural Requirements, includes § 51.100, which consists of a list of definitions. 40 CFR 51.100 contains a definition of VOC. This definition is revised by EPA in order to add or remove VOCs as necessary. If, for example, it can be demonstrated that a particular VOC is "negligibly reactive" (that is, if

it can be shown that a VOC is not as reactive or makes a significant contribution to ozone formation), then EPA may remove that substance from the definition of VOC.

On November 29, 2004 (69 FR 69290), EPA revised the definition of VOC in 40 CFR 51.100 to exclude a total of four compounds from the definition of VOC. This exclusion is accomplished by adding the substances to a list of substances not considered to be a VOC. These changes to the exemption list became effective on December 29, 2004. At the same time (69 FR 69298), EPA revised the definition of VOC to partially exclude t-butyl acetate from the definition of VOC: it should be considered to be a VOC for recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs, and should be uniquely identified in emission reports, but it is not a VOC for purposes of VOC emission standards, emission limitations, or content requirements.

Family Impact

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. 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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