



Exempt Action Final Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	Part I of 9VAC5-80 (Permits for Stationary Sources), 9VAC5-80-5 et seq.
Secondary action(s)	None
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	Permit Actions Before the Board (Rev. F09)
Date this document prepared	September 14, 2009

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 36 (06) 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.

General public participation requirements for permit applications are found in Part I of 9VAC5 Chapter 80 (Permits for Stationary Sources). It allows for either the director or a majority of board members to request a meeting of the board regarding direct consideration of a permit by the board in order to review the decision and determine whether or not to grant board consideration, or to delegate the permit to the director. If such a meeting is held electronically, the board must have at least one forum open to the public, and individual board members may participate from any location regardless of whether it is open to the public. Chapter 627, 2009 Acts of the Assembly, has revised the provision requiring at least one forum to be open to the public and allowing individual board members to participate from any location in order to make it consistent with § 2.2-3708 of the Virginia Freedom of Information Act.

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 3, 2009, 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, Permit Actions Before the Board (Part I of 9VAC5 Chapter 80, Permits for Stationary Sources). 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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC5-80-25 D		Board meetings held to consider board consideration of a permit shall have at least one forum open to the public and individual board members may participate from any location regardless of whether it is open to the public.	Meeting shall be held in compliance with VA Code § 2.2-3708 of the Virginia Freedom of Information Act, except that a quorum of the board is not required to be physically assembled at one primary location. Discussions of the board held via electronic communication means are specifically limited to board consideration of the permit. Needed for consistency with VA Code § 2.2-3708 as required by Chapter 627, 2009 Acts of the Assembly.
9VAC5-80-25 E		Director's response to requestors and applicants.	Correction of a typographical error.
9VAC5-80-35 D		Board meetings held to consider board consideration of a permit shall have at least one forum open to the public and individual board members may participate from any location regardless of whether it is open to the public.	Meeting shall be held in compliance with VA Code § 2.2-3708 of the Virginia Freedom of Information Act, except that a quorum of the board is not required to be physically assembled at one primary location. Discussions of the board held via electronic communication means are specifically limited to board consideration of the permit. Needed for consistency with VA Code § 2.2-3708 as required by Chapter 627, 2009 Acts of the Assembly.
9VAC5-80-35 E		Director's response to requestors and applicants.	Correction of a typographical error.
9VAC5-80-35 J		Public hearings may be held before less than a quorum of the board.	Public hearings may be held before one or more members of the board. Needed for consistency with VA Code § 2.2-3708 as

			required by Chapter 627, 2009 Acts of the Assembly.
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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.

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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