



Exempt Action Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation	Primary: Article 2 (9VAC5-60-90 et seq.), 9VAC5-60 Secondary: Article 5 (9VAC5-50-400 et seq.), 9VAC5-50; Article 1 (9VAC5-60-60 et seq.), 9VAC5-60
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	Federal Documents Incorporated by Reference (Rev. N11)
Final agency action date	December 2, 2011
Document preparation date	December 9, 2011

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.

The regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2011. Below is a list of the new standards in the federal regulations that are being incorporated into the regulations by reference.

1. One NSPS is being incorporated: Sewage Sludge Incineration Units (Subpart LLLL, 40 CFR 63.4760-4925). The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.
2. No new NESHAPs are being incorporated. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
3. Two MACTs are being incorporated: Aluminum, Copper, and Other Nonferrous Foundries, Area Sources (Subpart ZZZZZZ, 40 CFR 63.11544-11558); and Gold Mine Ore Processing and Production Area Sources (Subpart EEEEEEE, 40 CFR 63.11640-11653). The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

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 December 2, 2011, 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 (9VAC5 Chapter 50, Article 5 and 9VAC5 Chapter 60, Articles 1 and 2). 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 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.

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 enable use of the most current standards.
9VAC5-50-410		List of designated standards of performance (NSPSs).	List updated to include new standard. Needed to maintain authority to implement the new standard.
9VAC5-60-60		Incorporation of most current NESHAPs listed in 9VAC5-60-70.	Date of most current CFR updated. Needed to enable use of the most current standards.
9VAC5-60-90		Incorporation of most current MACTs listed in 9VAC5-60-100.	Date of most current CFR updated. Needed to enable use of the most current standards.
9VAC5-60-100		List of designated emission standards (MACTs).	List updated to include new standards. Needed to maintain authority to implement the new standards.

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.

TEMPLATES\EXEMPT\TH09
REG\DEV\N11-08TF