



Exempt Action Proposed Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9 VAC 5-240
Secondary action(s)	None
Regulation title	Variance for Open Burning
Action title	Open Burning (Rev. EV)
Document preparation date	December 20, 2006

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4007 M, § 2.2-4013 E, § 2.2-4014 D, and § 2.2-4015 C 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 21 (02) 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 variance provides relief from the seasonal restrictions in 9 VAC 5-40-5630 A 8 and 10 for the following localities in the Hampton Roads Volatile Organic Compound Emissions Control Area: County of Gloucester and the County of Isle of Wight. The variance would no longer be in effect after December 31, 2008.

The seasonal restrictions apply to the open burning of waste for the:

- Disposal of clean burning construction waste, debris waste, and demolition waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations.
- Disposal of clean burning construction waste, debris waste, and demolition waste on the site of local landfills.

Legal Authority

Please identify the section number and provide a brief statement relating the content of the statutory authority to the specific regulation proposed. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 10.1-1307 C 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 grant local variances from regulations and issue orders to that effect. Written assurance from the Office of the Attorney General that (i) the Board has statutory authority to promulgate the proposed variance and (ii) the variance qualifies as an exemption under § 2.2-4007 M, § 2.2-4013 E, § 2.2-4014 D, and § 2.2-4015 C of the Administrative Process Act is available upon request.

Comparison with Federal Requirements

Please describe the provisions of the proposed regulation which are more restrictive than applicable federal requirements together with the reason why the more restrictive provisions are needed.

No provisions of the proposed variance are more restrictive than applicable federal requirements.

Localities Particularly Affected

Please provide the identity of any localities particularly affected by the proposed regulation.

The localities particularly affected are County of Gloucester and the County of Isle of Wight.

Additional Information

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

The text of the proposed variance is attached.

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 this variance will have a direct impact on families. However, there will be positive indirect impacts in that the variance 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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