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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) citation(s)</b>	Primary action: 9VAC5-30 Secondary action(s): Article 9 of 9VAC5-80; Regulation for General Conformity (9VAC5-160)
<b>Regulation title(s)</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Amend regulations as needed to implement the 2012 PM <sub>2.5</sub> standard (Rev. A17)
<b>Final agency action date</b>	March 16, 2017
<b>Date this document prepared</b>	February 23, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, 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, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

On August 24, 2016 (81 FR 58010), the U.S. Environmental Protection Agency (EPA) established a final implementation rule for the 2012 national ambient air quality standard (NAAQS) for very fine particulate matter (PM<sub>2.5</sub>). This rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2012 PM<sub>2.5</sub> NAAQS, including how to address the revoked 1997 PM<sub>2.5</sub> NAAQS. The board's ambient air quality regulation must be amended accordingly, as well as the regulation governing permitting in nonattainment areas (Rule 8-9), and the Regulation for General Conformity.

### Acronyms and definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

EPA - U.S. Environmental Protection Agency  
 NAAQS - national ambient air quality standard  
 NSR - new source review  
 PM<sub>2.5</sub> - very fine particulate matter

**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 [after board action insert date of board action], the State Air Pollution Control Board took final action to adopt amendments to several regulations: (i) 9VAC5-30 (Ambient Air Quality Standards), (ii) Article 9 (Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region) of 9VAC5-80 (Permits for Stationary Sources), and (iii) 9VAC5-160 (Regulation for General Conformity). 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 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.

**Family impact**

*Please 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.

**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	Proposed new section	Current requirement	Proposed change and rationale
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number	number, if applicable		
9VAC5-30-65	Subsection F	Describes PM <sub>2.5</sub> standard.	Amended to add a new effective date and to remove revoked requirements. Needed in order to meet EPA requirements.
9VAC5-80-2000 A		Applicability of the new source review permitting program for major stationary sources and modifications located in a nonattainment area.	Amended to indicate that different pollutants, including individual precursors, are not summed to determine the applicability of a major stationary source or modification. Needed in order to meet EPA requirements.
9VAC5-80-2010 C, definition of "regulated NSR pollutant"		Subdivision c (2) identifies sulfur dioxide as a precursor to PM <sub>2.5</sub> .	Amended to include other PM <sub>2.5</sub> precursors. Needed in order to meet EPA requirements.
9VAC5-80-2010 C, definition of "significant"		Subdivisions a and b provide an emissions rate for PM <sub>2.5</sub> .	Amended to include other PM <sub>2.5</sub> precursors. Needed in order to meet EPA requirements.
9VAC5-160-30 E 1		Subdivisions E 1 contains applicability emission rates for PM <sub>2.5</sub> .	Amended to include other PM <sub>2.5</sub> precursors. Needed in order to meet EPA requirements.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.*

These regulations meet the minimum requirements of the federal Clean Air Act and the minimum requirements of 40 CFR Parts 50 and 51, and do not differ materially from the pertinent EPA regulations. Any less stringent compliance requirements, any delays in adopting the standards, any different compliance or reporting requirements, any substitution of performance standards, and any exemption of small businesses from these requirements will not meet the minimum federal requirements. Any such changes would compromise the effectiveness of the regulations in protecting the health and welfare of the public, and could potentially subject the Commonwealth to federal control over the state permitting program.