



Exempt Action Final Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9VAC5-30, Ambient Air Quality Standards
Secondary action(s)	9VAC5-20-21, Documents Incorporated by Reference
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	Ambient Air Quality Standards (Rev. A10)
Date this document prepared	June 15, 2010

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.

Chapter 30 contains the national ambient air quality standards (NAAQS) for the specific criteria pollutants set out in 40 CFR Part 50. Incorporation of the NAAQS into the state regulations is necessary to provide a legally enforceable means by which the state prepares attainment and maintenance plans, and determines whether a new source will affect the NAAQS. The standard for nitrogen dioxide (NO₂) was revised to (i) specify that NO₂ is the indicator for nitrogen oxides (NO_x), (ii) limit the 53 parts per billion standard to the annual primary standard, (iii) add a new primary 1-hour standard, (iv) specify reference methods, and (v) specify how the different standards are attained.

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 June 4, 2010, 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, Ambient Air

Quality Standards (9VAC5-30). 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
	9 VAC 5-20-21 E 1 a (1) (s)		A new Appendix S was added to 40 CFR Part 50, and a corresponding reference has been added to the federal documents incorporated by reference list. Needed in order for the state to implement the standard.
9 VAC 5-30-70		(i) A primary and secondary standard for NO ₂ of 0.053 ppm is established, (ii) how levels are to be measured, and (iii) how to determine attainment of the standard.	Revised in order to (i) specify that NO ₂ is the indicator for NO _x , (ii) limit the 53 ppb standard to the annual primary standard and change unit of measurement, (iii) add the new primary 1-hour standard, (iv) specify reference methods used to measure the standard, and (v) specify how the different standards are attained.

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 (i) establishment of less stringent compliance or reporting standards; (ii) establishment of less stringent schedules or deadlines for compliance or reporting requirements; (iii) consolidation or simplification of compliance or reporting requirements; (iv) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or (v) 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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