



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) citation</b>	Primary action: 9VAC5-20-204 Secondary action: 9VAC5-30-55
<b>Regulation title</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Ozone Classification and Implementation (Revision F12)
<b>Document preparation date</b>	September 17, 2012

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 Northern Virginia ozone nonattainment area was originally classified as moderate for the 1997 8-hour (0.08 parts per million) ozone standard. The 8-hour ozone standard was revised to 0.075 parts per million in 2008, and on May 21, 2012, the U.S. Environmental Protection Agency (EPA) accordingly established air quality designations for this standard (77 FR 30088). As part of this designation process, Northern Virginia has been classified as marginal for the 2008 standard. In addition, on May 21, 2012, EPA provided for the revocation of the 1997 standard for transportation conformity purposes (77 FR 30160). The list of nonattainment areas in 9VAC5-20-204 and the 1997 standards for ozone specified in 9VAC5-30-55 must now be amended in order to reflect these new federal requirements.

### 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 14, 2012, 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, 9VAC5-20-204 (Nonattainment Areas) of 9VAC5-20 (General Provisions), and 9VAC5-30-55 (Ozone, 8-hour, 0.08 ppm) of 9VAC5-30 (Ambient Air Quality Standards). 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.

**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.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
9VAC5-20-204		Northern Virginia 8-hour ozone nonattainment area is classified as "moderate" for the 1997 ozone standard	Northern Virginia 8-hour ozone nonattainment area is classified as "marginal" for the 2008 ozone standard. Needed in order to accurately reflect the new federal classification and thus properly implement new source review, transportation conformity, and other nonattainment area requirements.
9VAC5-30-55		1997 8-hour standard for ozone.	Subsection D added to indicate that the standard will no longer apply to an area for transportation conformity purposes one year after the effective date of the designation of the area. Needed in order to accurately reflect the new federal requirement and thus properly implement transportation conformity requirements.

**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.*

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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.*

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It is not anticipated that these regulation amendments will have a direct impact on families.

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