



Virginia  
Regulatory  
Town Hall

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## Exempt Action Final Regulation Agency Background Document

<b>Approving authority name</b>	State Air Pollution Control Board
<b>Primary action</b>	9 VAC 5-20-204
<b>Secondary action(s)</b>	None
<b>Regulation title</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Particulate Matter Nonattainment Areas (Rev. D05)
<b>Document preparation date</b>	March 3, 2005

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the of the Administrative Process Act (APA) ([townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://townhall.state.va.us/dpbpages/dpb_apa.htm)), 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 ([leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100)), the *Virginia Register Form, Style, and Procedure Manual* ([legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)), and Executive Orders 21 (02) and 58 (99) ([governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html))

### Summary

*Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.*

A new PM<sub>2.5</sub> nonattainment area has been established in 9 VAC 5-20-204 A 3. The Northern Virginia PM<sub>2.5</sub> Nonattainment Area consists of Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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On March 3, 2005, the State Air Pollution Control Board adopted final amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution", specifically, particulate matter nonattainment areas (9 VAC 5-20-204). The regulation amendments are to be effective on May 4, 2005.

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.

### Additional Information

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

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law.*

*If the exemption claimed falls under § 2.2-4006 A 4 c of the APA please identify the federal law or regulations being relied upon for the final agency action.*

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The text of the regulation is attached.

Section 10.1-1308 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 promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Letters providing written assurance from the Office of the Attorney General that (i) the board has statutory authority to promulgate the final regulation amendments and (ii) the amendments qualify as an exemption under § 2.2-4006 A 4 c of the Administrative Process Act are available upon request.

Sections 109(a) and (b) of the Clean Air Act require EPA to prescribe national air quality standards for each air pollutant for which air quality criteria were issued before the enactment of the 1970 Act. These standards are known as the National Ambient Air Quality Standards (NAAQS). Once the NAAQS are promulgated pursuant to § 109, § 107 sets out a process for designating those areas that are in compliance with the standards (attainment or unclassifiable) and those that are not (nonattainment). 40 CFR Part 50 specifies the national primary and secondary ambient air quality standards for the criteria air pollutants, including particulate matter. 40 CFR Part 81 specifies the designations of areas made under § 107(d) and the associated nonattainment classification (if any) under § 181.

On January 5, 2005 (70 FR 944), EPA approved a list of areas that are nonattainment for very fine particulate matter (PM<sub>2.5</sub>). The new nonattainment areas become effective on April 5, 2005. Section 51.165, Permit

requirements, requires that SIPs meet the requirements of § 172(b)(6) (Permits for new and modified major stationary sources) and § 173 (Permit requirements). Incorporation of the nonattainment area designations and classifications into the state regulations (and thus the SIP) is part of the legally enforceable means by which the state implements the new source review program for nonattainment areas.

### 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 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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