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Exempt Action Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation(s)	Primary action: 9VAC5-30 (Ambient Air Quality Standards) Secondary action(s): 9VAC5-20-21 (Documents Incorporated by Reference)
Regulation title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	Amend the list of ambient air quality standards to include the new ozone standard (Rev. A16)
Final agency action date	March 18, 2016

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 October 26, 2015 (80 FR 65292), the U.S. Environmental Protection Agency (EPA) revised the ozone national ambient air quality standard (NAAQS) by adding an 8-hour standard at a level of 0.070 parts per million (ppm). The existing 8-hour standard of 0.075 ppm was not revoked. The new primary standard became effective on December 28, 2015. Chapter 30 contains the ambient air quality standards for the specific criteria pollutant standards set out in 40 CFR Part 50. Therefore, this chapter is the action effectively implementing the EPA requirements, and must now be amended accordingly. In addition, a new Appendix U has been added. Appendix U explains the data handling conventions and computations necessary for determining whether the NAAQS for ozone are met at an ambient air quality monitoring site; this appendix is incorporated by reference in 9VAC5-20-21. These regulations must now be amended accordingly in order to properly implement new source permitting review and various ozone implementation and planning programs.

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
 ppm - parts per million

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 March 18, 2016, the State Air Pollution Control Board took final action to adopt amendments to 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 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 number	Proposed new section number, if	Current requirement	Proposed change and rationale

	applicable		
9VAC5-20-21		Lists documents incorporated by reference.	Add new Appendix U to 40 CFR Part 50. Appendix U explains the data handling conventions and computations necessary for determining whether the NAAQS for ozone are met at an ambient air quality monitoring site and must be adopted by reference in order for the standard to be implemented properly.
	9VAC5-30-57		Add the new 0.070 ppm standard for ozone. Needed in order to properly implement new source permitting review and various ozone implementation and planning programs.

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.

An analysis of the proposal was completed for alternative regulatory methods that will minimize the adverse impact on small businesses without compromising health, safety, environmental and economic welfare.

This regulation meets the minimum requirements of the federal Clean Air Act and the minimum requirements of 40 CFR Part 50, and does 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 new requirements in protecting the health and welfare of the public, and could potentially subject the Commonwealth to federal control over the state permitting program.

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