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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: 9VAC5-20 Secondary action(s): 9VAC5-30, 9VAC5-151, 9VAC5-160
Regulation title(s)	Regulations for the Control and Abatement of Air Pollution; Regulation for Transportation Conformity; Regulation for General Conformity
Action title	Amend regulations as needed to implement the 2008 ozone standard (Rev. G16)
Final agency action date	September 9, 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 March 6, 2015 (80 FR 12264), the U.S. Environmental Protection Agency (EPA) established a final rule for implementing the 2008 ozone national ambient air quality standards (NAAQS). This rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2008 ozone NAAQS, including how to address the revoked 1997 ozone NAAQS. The board's ambient air quality regulation must be amended accordingly, as well as the list of nonattainment areas to reflect this change. Clarifying text has also been added to the Regulation for Transportation Conformity 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.

NAAQS - national ambient air quality standards
 ppm - parts per million
 SIP - state implementation plan

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 9, 2016, 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, nonattainment areas, and the 8-hour, 0.08 parts per million (ppm) national ambient air quality standard for ozone (9VAC5-20 and 9VAC5-30). The board also amended the Regulation for Transportation Conformity (9VAC5-151) and the Regulation for General Conformity (9VAC5-160). 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. 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
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	applicable		
9VAC5-20-204 C		List of nonattainment areas.	Specifies that the revoked 0.08 ppm 8-hour ozone standard no longer applies to the localities listed in 9VAC5-20-204 A 2. Needed in order to meet EPA requirements and for the overall ozone regulations to operate properly.
9VAC5-30-55 D		Describes ozone implementation requirements that do not apply to the revoked standard.	Updates requirements to add a new effective date and to remove revoked requirements. Needed in order to meet EPA requirements and for the overall ozone regulations to operate properly.
9VAC5-151-20 B		Applicability of transportation conformity to nonattainment and maintenance areas.	Amended to indicate that transportation conformity determinations are not required in areas designated nonattainment or maintenance for a revoked standard. Needed in order to meet EPA requirements and for the overall ozone regulations to operate properly.
9VAC5-160-30 A		Applicability of general conformity to nonattainment and maintenance areas.	Amended to indicate that general conformity determinations are not required in areas designated nonattainment or maintenance for a revoked standard. Needed in order to meet EPA requirements and for the overall ozone regulations to operate properly.

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.