



## 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: 9VAC5-30 Secondary action(s): 9VAC5-20
<b>Regulation title</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Ambient Air Quality Standard for SO <sub>2</sub> (Rev. H10)
<b>Document preparation date</b>	March 29, 2011

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.*

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 primary standard for sulfur dioxide (SO<sub>2</sub>) was revised to add a new 1-hour annual standard of 75 parts per billion (ppb) and to add testing and monitoring requirements for the new standard.

### 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, 2011, 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 for SO<sub>2</sub> (9VAC5-30-30). 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
Chapter 20, Part I. Administrative.			
20-21 E 1	N/A	Documents incorporated by reference. Contains a list of documents previously incorporated into the regulations.	Adds a new federal reference method for sulfur dioxide, modifies the designation of the existing federal reference method, and adds federal data requirements to support the new 1-hour annual primary ambient air quality standard for sulfur dioxide. Necessary so that the regulatory community can find the procedures that they need to monitor compliance with the new standard.
Chapter 30, Ambient Air Quality Standards			
30-30 A	N/A	Provides a 24-hour primary ambient air quality standard and an annual primary ambient air quality standard for sulfur oxides (measured as sulfur dioxide).	Adds a new 1-hour annual primary ambient air quality standard and provides that the 24-hour ambient air quality standard and the annual primary ambient air quality standard will no longer be effective after a prescribed date. Necessary to better protect the health and welfare of the citizens of the Commonwealth of Virginia.
30-30 C	N/A	Designates federal reference methods for sulfur dioxide for use in monitoring compliance with the ambient air quality standards for sulfur oxides.	Adds a new federal reference method A-1 for sulfur dioxide and re-designates the existing reference method as A-2. Necessary to provide a continuous reference method that is more consistent with the new shorter-duration standard.
30-30 D	N/A	Provides data quality	Adds a reference to the new federal data

		requirements for the annual and 24-hour primary ambient air quality standards for sulfur oxides.	quality requirements for the new 1-hour annual primary ambient air quality standard. Necessary to support the collection of valid air quality monitoring data and to support the designation of areas in Virginia as attainment for the new standard.
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**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.*

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 published in the Federal Register (75 FR 35520, June 22, 2010), and this regulation does not differ materially from the pertinent U.S. Environmental Protection Agency (EPA) regulations. Any less stringent compliance requirements, any delays in adopting the standard, 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 standards in protecting the health and welfare of the public, and could result in the Governor's recommendations for area designations under the new standards being unacceptable to EPA.

**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.