



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 5-80 – Regulations for the Control and Abatement of Air Pollution
State Air Pollution Control Board
June 11, 2009

Summary of the Proposed Amendments to Regulation

The main proposed change will eliminate "netting" of emissions increases and decreases when making Minor New Source Review permit applicability determinations. The determination will now be made based only upon emissions increases from only those emissions units that are physically or operationally changed. "debottlenecked" emissions increases will no longer be considered when making Minor New Source Review permit applicability determinations. There are numerous other proposed minor changes that are streamlining in nature.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs.

Estimated Economic Impact

These regulations contain applicability rules and standards for Minor New Source Review (MNSR). MNSR is the review of new and modified sources of certain air emissions from sources that do not qualify for review under Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR). MNSR review looks at the emissions changes resulting from new sources or modifications to existing sources. In general, construction, reconstruction, or modification of existing sources is contingent upon issuance of a permit. In the permit process, the Department of Environmental Quality (DEQ) conducts a preconstruction review in order to determine compliance with applicable control technology and other standards and to assess the impact of the net emissions from the facility on air quality.

The main proposed change is adoption of an approach that only looks at emissions increases from the unit being changed instead of looking at emissions increases and decreases

from the units being changed (the affected units) plus emissions changes to other units upstream or downstream from the affected units, as is currently done. The differences between the two approaches are twofold. First, emissions decreases from emissions units at the source other than the affected units will no longer be used to offset emissions increases from the affected units, when determining whether the source must obtain a Minor NSR permit. Secondly, debottlenecked emissions increases (or decreases) will no longer be considered when determining if the change in emissions is sufficient to meet the requirements for getting a Minor NSR permit. Debottlenecked emissions are collateral emissions increases and decreases from unchanged processes and equipment upstream and/or downstream of the emissions unit being modified. In short, only emissions increases from the affected emissions units will be considered in determining permit applicability in the future.

The remaining proposed changes are streamlining in nature and include; requiring Best Available Control Technology (BACT) determinations for all emissions units that are subject to the minor new source review program; adding definitions and other provisions that will facilitate the clear and consistent identification of the emissions units subject to the permit program; changing the way that replacement emissions units are exempted and changing certain exemption requirements for portable stationary sources; removal of transportable engines from a non-road engine exclusion and resolution of conflicting exemptions for reconstructed emissions units and modified emissions units; modifying the exemption for certain sized fuel burning equipment to include space heaters, to reduce the maximum exemption size for natural gas-fired fuel burning equipment, to aggregate similar types of fuel burning equipment under certain conditions; adding exemptions for vegetative waste recycling/mulching operations, open pit incinerators subject to the open burning rule, certain process testing and remediation projects that remain in existence for less than a year; removing the prohibition against exempting NSPS facilities; providing for processing and issuing informational permit applicability determinations; incorporating the federal requirements for the new PM_{2.5} air quality standard; clarifying the provisions covering permits for sources subject to the federal hazardous air pollutant new source review program; adding provisions to allow terms and conditions of permits to be combined; numerous other clarifications throughout the regulations.

The main economic benefit of the proposed regulations is expected to be lower administrative costs for the affected sources and for DEQ. According to DEQ, determination of

permit applicability under current regulations which requires evaluation of a large number of possible types of emissions increases and decreases under a set of complex guidance criteria, which slows the permit process and requires additional discussion with the owners of the facility. Consideration of debottlenecked emissions is particularly costly for all the parties involved in the process, because the determination of those emissions are usually subject to a long negotiation process that usually results in withdrawal of the permit application.. Thus, the proposed simpler permit applicability determination is expected to reduce administrative compliance costs. Also, sources are likely to find it cheaper to prepare a permit application package because it is a simpler approach and to be more certain of the outcome of the application process. The cost to prepare a permit application varies considerably from \$800 for a small source to \$80,000 for a large source. Similarly, the costs of an amendment to a permit vary from \$160 to \$4,200 depending on the size of the source.

While sources are likely to realize some administrative cost savings, they will also lose some flexibility and potential savings from that flexibility that may have been available to them when they could potentially "net out" of Minor NSR permit review. However, DEQ believes that most of the affected entities support the proposed regulations showing a willingness to adopt a simpler approach. This may be taken as an indication that the expected reduction in administrative costs outweighs the expected costs of losing some flexibility for sources.

Finally, the effect of proposed changes on the statewide emissions and consequently on air quality is not expected to be significant.

Businesses and Entities Affected

The proposed regulations will affect businesses and entities that wish to construct or modify their stationary sources in a way that is subject to MNSR. Approximately 335 permits were issued in 2001, 350 in 2002, 250 in 2003, and 170 in the first half of 2004.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed changes are expected to reduce administrative compliance costs associated with obtaining a permit from DEQ. However, the reduction in compliance costs does not, by

itself, infer a change in employment, since it is not known how the released funds will be used. If consulting businesses lose a significant number of customers as a result of the simpler approach, their demand for professional labor could decrease.

Effects on the Use and Value of Private Property

Any reduction in compliance costs for sources of air emissions can be expected to increase profits to firms owning the sources which could positively affect the asset value of the firms owning the sources.

Small Businesses: Costs and Other Effects

Most of the sources subject to these regulations are probably small businesses. While the proposed changes do not create significant costs, the most important changes have the effect of reducing compliance costs.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No significant adverse effect on small businesses is expected.

Real Estate Development Costs

No significant effect on real estate development costs is expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a

statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.