



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 5-80 – Regulations for the Control and Abatement of Air Pollution
Department of Environmental Quality
March 5, 2009

Summary of the Proposed Amendments to Regulation

The State Air Pollution Control Board (Board) proposes to revise the current new source review (NSR) permit requirements to combine the terms and conditions of the various elements of the NSR program into a single permit. The proposed changes would add a new section to set out the procedure for combining permits. The proposed changes would also exempt alternative fuels or raw materials from the permit requirements to conform with new provisions in the Code and to ensure that there are no conflicts with federal law or regulation. The Department of Environmental Quality (DEQ) worked with the U.S. Environmental Protection Agency (EPA) to develop these provisions.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Virginia's NSR program consists of several regulations: two for major NSR (prevention of significant deterioration or nonattainment), one for minor NSR, and one for major sources of hazardous air pollutants (HAPs). It is possible that an individual source could simultaneously need permits for the purposes of major NSR, minor NSR, and HAPs. In the interest of efficiency, provisions allowing permits to be combined were created to allow owners to have a single application for these permits, and to allow the agency to issue a single permit.

According to DEQ the ability to combine multiple permit elements into a single NSR permit was accepted by EPA when initially established as an element of the NSR program. Recently, during the public comment period on a state regulatory action developed in response to

an EPA major NSR reform initiative, EPA objected to these provisions and indicated that the regulations would not be approved into the State Implementation Plan (SIP) if combining permits was allowed. Although DEQ did not concur with the basis for EPA's objections, these provisions were removed from the major NSR rules in order to ensure approvability of the SIP.

The inability to combine permits creates significant negative effects. First, if major and minor NSR permits cannot be combined, virtually every major NSR change will result in two permits. Generating two different sets of permit terms and conditions results in a significant workload increase. DEQ estimates that it takes 1000 hours of staff time to review, negotiate, write and issue a prevention of significant deterioration major NSR permit, 667 hours of staff time to review, negotiate, write and issue a nonattainment major NSR permit, and 175 hours of staff time to review, negotiate, write and issue a minor NSR permit. On the other hand combining a prevention of significant deterioration major NSR permit with a minor NSR permit, for example, would only require approximately 1000 hours, saving 175 hours of staff time. Regulated entities also must use significantly more staff time with separate permits.

Second, keeping major NSR and minor NSR terms and conditions separated into two different permits does not preserve any terms and conditions as purely major NSR or minor NSR terms or conditions, prompting confusion. Third, the opportunity for public review and comment is reduced. Fourth, compliance issues result from confusion about where the applicable terms and conditions for a pollutant reside when there is more than one effective permit.

In developing this proposal, DEQ consulted EPA to determine how combining permits could be restored while addressing their concerns. The Board with DEQ assistance developed language acceptable to EPA. Combining permits as proposed by the Board is now considered to be SIP-approvable by EPA.

The proposal to allow the combination of multiple permit elements into a single NSR permit will be beneficial to the public in that there will be more effective and efficient issuance of NSR permits, which will contribute to the protection of health and welfare. The general public will also benefit from a clearer understanding of the permitting process, as well as a more transparent process. The regulated community will enjoy the same benefits in addition to the benefits of avoiding the time, dollars and confusion associated with unnecessary permitting. DEQ will benefit by avoiding unnecessary and duplicative permitting efforts that consume

significant amounts of staff time, and will be better able to direct limited resources in a more effective and efficient manner. Compliance and enforcement activities will also benefit from focus on a single, comprehensive permit rather than many competing permits. There are no known cost increases due to the proposal. Therefore the proposal will produce net benefits.

Businesses and Entities Affected

The proposed amendments affect any owner who constructs a new major stationary source of air pollutants or makes a major modification to any major stationary source, as well as DEQ.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

Significantly reducing the amount of staff time required to handle permitting will reduce costs for firms, allowing them to be moderately more profitable. This may result in a small gain in employment in the long run.

Effects on the Use and Value of Private Property

The proposal to allow the combination of multiple permit elements into a single NSR permit will reduce costs for firms that must obtain such permits. This will commensurately increase the value of such firms.

Small Businesses: Costs and Other Effects

The proposal to allow the combination of multiple permit elements into a single NSR permit will reduce costs for small businesses that must obtain such permits. This will commensurately increase the value of such small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not produce adverse impact for small businesses.

Real Estate Development Costs

The proposed amendments can potentially moderately reduce real estate development costs in some cases.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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 2.2-4007.04 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.