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Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation(s)	Articles 57 and 58 of 9VAC5-40 (Existing Stationary Sources)
Regulation title(s)	Regulations for the Control and Abatement of Air Pollution
Action title	VOC Emission Standards, Miscellaneous (Rev. D09)
Date this document prepared	May 29, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The regulations require owners to limit emissions of air pollution from (1) industrial solvent cleaning operations, and (2) miscellaneous industrial adhesive application processes to the level necessary for the protection of public health and welfare, and the attainment and maintenance of the air quality standards. The regulations apply to sources within the Northern Virginia volatile organic compound (VOC) emissions control area, and establish standards, control techniques, and provisions for determining compliance. The regulations also include provisions for visible emissions, fugitive dust, odor, toxic pollutants, compliance, test methods and procedures, monitoring, notification, registration, malfunctions, and permits.

Based on comments received during the public comment period, a number of amendments, primarily exemptions, were made to the proposal in order to make the regulations operate more efficiently.

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 standards
ppm - parts per million
SIP - State Implementation Plan
VOC - volatile organic compound

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 June 19, 2015, 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, VOC Emission Standards, Miscellaneous (9VAC5 Chapter 40, Articles 57 and 58). The regulatory action is to be effective as provided in the Administrative Process Act.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses the statutory authority to promulgate the proposed regulation amendments is available upon request.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the proposed action is to adopt new standards for the control of volatile organic compound (VOC) emissions from 1) industrial solvent cleaning operations, and 2) miscellaneous industrial adhesive application processes within the Northern Virginia VOC Emissions Control Area. This action is being taken to allow Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the 0.08 parts per million (ppm) 8-hour ozone standard. It will contribute to the reduction of ozone air pollution, and thereby improve public health and welfare.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

For each new article:

1. An applicability section is established which specifies the affected source population.
2. Definitions of terms used in the rule are provided.
3. A standard for VOC emissions is established, along with provisions for achieving the standard.
4. Standard provisions are provided for visible emissions; fugitive dust/emissions; odor; toxic pollutants; compliance; a compliance schedule; test methods and procedures; monitoring; notification, records and reporting; registration; facility and control equipment maintenance or malfunction; and permits.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1. Public: The primary advantage to the general public is the reduction of VOC air pollution, which has a negative effect on public health and welfare. Regulated sources may realize cost savings through more effective application procedures and practices. There are no disadvantages to the public.
2. Department: The primary advantages to the department are that the adoption of these regulations will allow Virginia to attain and maintain air quality standards and improve the health and welfare of Virginians. The primary disadvantage to the department is the potential for an increased compliance cost to administer the new regulations.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed regulation amendments are not more restrictive than the applicable legal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The localities particularly affected by this action are located in the Northern Virginia volatile organic compound (VOC) emissions control area: counties of Arlington, Fairfax, Loudoun, Prince William, Stafford; cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
*9VAC5-40-8510 D	Lists activities to which the regulation does not apply.	Add the use of cleaning solvent in a digital printing operation.	This type of printing was not considered when the CTG was originally issued, and the current limits are not appropriate for this type of printing.
*9VAC5-40-8530 C	Standard for volatile organic compounds, including a VOC content limit and a work practices procedure.	Add an alternative work practices procedure for coatings, inks, adhesives and resin manufacturing operations.	The proposed VOC limit will not allow effective cleaning at coatings, inks, adhesives and resin manufacturing operations. Solvents that meet the 50 g/l limit are less effective, more expensive, more evaporative, and more flammable than current solvents used today. As a result, there may be an increase in VOC emissions if the 50 g/l limit were adopted for these operations. The amendment will allow for better control of this type of VOC source.
*9VAC5-40-8530 D	Standard for volatile organic compounds, including a VOC content limit and a work practices procedure.	Add an alternative standard for coatings, inks, adhesives and resin manufacturing operations.	The alternative standard is more appropriate for this type of source and will be consistent with other states.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
EPA	These regulations contain the provision "Facility and control equipment maintenance or malfunction," which incorporates by reference the provisions of 9VAC5-20-180. This regulation contains Virginia's affirmative defense for malfunction (subsection G). EPA cannot approve any State Implementation Plan (SIP) revisions containing 9VAC5-20-180 G as presently written.	Because the final SIP call malfunction rule was signed on May 22, 2015, the department will not have time to modify the malfunction rules in time such that reference to them in the CTG rules is not an issue. Therefore, the affected malfunction provisions of the CTG rules will simply not be submitted as part of the initial SIP revision for those rules. This will enable EPA to approve the remainder of the CTG rules into the SIP in a timely and administratively rational manner. When the final malfunction rule is published and the department is able to amend the malfunction regulations accordingly, the outstanding CTG provisions will be submitted as part of the SIP at the same time. No change has been made to the proposal as a result of this comment.
EPA	These regulations contain the provisions "Standard for odor" and "Standard for toxic pollutants," which incorporate by reference the provisions in 9VAC5-40-130 and 9VAC5-60-200. § 107(a) of the Clean Air Act provides that SIPs are for the attainment and maintenance of national ambient air quality standards (NAAQS). The provisions in 9VAC5-40-130 and 9VAC5-60-200 are not applicable to the NAAQS. Therefore, EPA is concerned with SIP-approving provisions not in accordance with § 107(a), unless Virginia can explain how these are related to attainment and maintenance of the NAAQS.	As has been done in the past with other stationary source regulations for the control of VOC, the state-only odor and toxics provisions will not be submitted as part of the final SIP submittal. The public notice states, "It is planned to submit all provisions of the proposals as revisions to the Commonwealth of Virginia SIP with the exception of provisions related to state programs for odor and toxics." No change has been made to the proposal as a result of this comment.
Specialty Graphic Imaging Association (SGIA)	SGIA recommends that, similar to other state air control districts, that the rule be amended to exempt cleaning activities associated with digital printing. Further, SGIA recommends that the rule be amended to include control requirements for screen printing that allow for either use of solvent technology at 4.2 pounds of VOC per gallon, or the use of a product with a vapor pressure of 8 mm Hg.	We agree that the industrial solvent cleaning CTG is not necessarily the best means for controlling emissions from digital printing, and that alternative controls for screen printing operations are appropriate. We also agree that a more consistent approach with other states is appropriate. This comment is acceptable and the proposal has been modified accordingly.
American Coatings Association	ACA is very concerned about the proposed Industrial Solvent Cleaning VOC limit (50 g/l) since	We agree that an alterative limit that recognizes the use of current, more effective solvents is appropriate. This comment is

(ACA)	<p>this that will not allow effective cleaning at coatings, inks, adhesives and resin manufacturing operations. Solvents that meet the 50 g/l limit are less effective, more expensive, more evaporative, and more flammable than current solvents used today. As a result, there will likely be an increase in VOC emissions if the 50 g/l limit were adopted for these operations. ACA recommends Virginia either exempt coatings, ink, adhesives and resin manufacturing operations from the proposed regulations (as Maryland, Delaware, and Texas have done) or adopt similar language that Wisconsin, Illinois, Ohio, Indiana, North Carolina, and Missouri have adopted, which provides several specific options for cleaning at coatings, ink, adhesives and resin manufacturing operations.</p>	<p>acceptable and the proposal has been modified accordingly.</p>
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All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Article 57			
	9VAC5-40-8510		Applicability and designation of affected facility established. Will enable potentially affected sources to determine if the regulation applies to a particular source.
	9VAC5-40-8520		Definitions added. Will enable the provisions of the rule to be clearly understood, and to ensure proper implementation.
	9VAC5-40-8530		Standard for VOCs added. Will enable affected sources to know what VOC emission limits they must meet, and how those emissions will be controlled.
	9VAC5-40-8540		Standard for visible emissions added. Will enable affected sources to know what visible emission limits they must meet.
	9VAC5-40-8550		Standard for fugitive dust/emissions added. Will enable affected sources to know what fugitive dust/emissions limits they must

		meet.
	9VAC5-40-8560	Standard for odor added. Will enable affected sources to know what odor limits they must meet.
	9VAC5-40-8570	Standard for toxic pollutants added. Will enable affected sources to know what toxic pollutant limits they must meet.
	9VAC5-40-8580	Compliance provisions added. Will enable affected sources to know what compliance requirements they must meet.
	9VAC5-40-8590	Compliance schedule added. Will enable affected sources to know when the requirements of the rule must be met.
	9VAC5-40-8600	Test methods and procedures added. Will enable affected sources to know what test methods and procedures must be followed.
	9VAC5-40-8610	Monitoring provisions added. Will enable affected sources to know what monitoring requirements must be met.
	9VAC5-40-8620	Notification, records and reporting provisions added. Will enable affected sources to know what notification, records and reporting requirements must be met.
	9VAC5-40-8630	Registration provisions added. Will enable affected sources to know what registration requirements must be met.
	9VAC5-40-8640	Facility and control equipment maintenance or malfunction provisions added. Will enable affected sources to know what facility and control equipment maintenance or malfunction requirements must be met.
	9VAC5-40-8650	Requirements for permits added. Alerts sources that additional permitting requirements located in other parts of the regulations must be met.
Article 58		
	9VAC5-40-8660	Applicability and designation of affected facility established. Will enable potentially affected sources to determine if the regulation applies to a particular source.
	9VAC5-40-8670	Definitions added. Will enable the provisions of the rule to be clearly understood, and to ensure proper implementation.
	9VAC5-40-8680	Standard for VOCs added. Will enable affected sources to know what VOC emission limits they must meet, and how those emissions will be controlled.
	9VAC5-40-8690	Standard for visible emissions added. Will enable affected sources to know what visible emission limits they must meet.
	9VAC5-40-8700	Standard for fugitive dust/emissions added. Will enable affected sources to know what fugitive dust/emissions limits they must

		meet.
	9VAC5-40-8710	Standard for odor added. Will enable affected sources to know what odor limits they must meet.
	9VAC5-40-8720	Standard for toxic pollutants added. Will enable affected sources to know what toxic pollutant limits they must meet.
	9VAC5-40-8730	Compliance provisions added. Will enable affected sources to know what compliance requirements they must meet.
	9VAC5-40-8740	Compliance schedule added. Will enable affected sources to know when the requirements of the rule must be met.
	9VAC5-40-8750	Test methods and procedures added. Will enable affected sources to know what test methods and procedures must be followed.
	9VAC5-40-8760	Monitoring provisions added. Will enable affected sources to know what monitoring requirements must be met.
	9VAC5-40-8770	Notification, records and reporting provisions added. Will enable affected sources to know what notification, records and reporting requirements must be met.
	9VAC5-40-8780	Registration provisions added. Will enable affected sources to know what registration requirements must be met.
	9VAC5-40-8790	Facility and control equipment maintenance or malfunction provisions added. Will enable affected sources to know what facility and control equipment maintenance or malfunction requirements must be met.
	9VAC5-40-8800	Requirements for permits added. Alerts sources that additional permitting requirements located in other parts of the regulations must be met.

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 the proposal will have a direct impact on families.

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.

The regulations apply to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; or (5) exemption of small businesses from all or any part of the requirements contained in the proposed regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

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