



Virginia Department of Planning and Budget **Economic Impact Analysis**

9 VAC 5-40 Existing Stationary Sources
9 VAC 5-45 Consumer and Commercial Products
9 VAC 5-50 New and Modified Stationary Sources
9 VAC 5-60 Hazardous Air Pollutant Sources
9 VAC 5-80 Permits for Stationary Sources
9 VAC 5-510 Nonmetallic Mineral Processing General Permit
9 VAC 5-530 Electric Generator Voluntary Demand Response General Permit
9 VAC 5-540 Emergency Generator General Permit
Air Pollution Control Board
Town Hall Action/Stage: 6390/10206
January 12, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2022 periodic review, the Air Pollution Control Board (Board) is proposing to amend eight regulations to allow for the electronic submission of documents.²

Background

During the 2022 periodic review of Chapter 40, the Board received a comment suggesting that the agency should allow for the electronic submission of documents.³ The Board already accepts electronic submissions as allowed by both federal and state policies. The U.S.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2127>.

³ See page 10 and 11 of the Periodic Review Report of Findings:
https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\Review\2127\PReview_DEQ_2127_v1.pdf.

Environmental Protection Agency issued a policy allowing for the electronic submission of documents in April of 2018 and the Department of Environmental Quality (DEQ) subsequently published its own policy outlining the use of electronic submissions.⁴ The Board proposes to update the language, not only in Chapter 40, but also in Chapters 45, 50, 60, 80, 510, 530, and 540, to align these regulations with both the EPA and DEQ electronic submission policies. Accordingly, most of the proposed amendments involve adding “or submitted electronically” to the existing text. The Board also proposes to make several minor corrections for internal consistency.

Estimated Benefits and Costs

The proposed changes would benefit any entity operating under an air quality permit by allowing them to submit required notices or reports electronically rather than mailing paper copies. DEQ reports that there are approximately 3200 air quality permits and that most permittees need to submit written notifications at one time or another. DEQ has confirmed that these notices and reports are already being received electronically; thus, these benefits already accrue. The proposed changes would not create any new costs.

Businesses and Other Entities Affected

As mentioned previously, the proposed regulation would primarily benefit the approximately 3,200 entities with air quality permits, since they are subject to the reporting requirements contained in one or more of these chapters. These entities include large energy companies as well as smaller manufacturing or industrial entities, many of which would be considered small businesses.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities

⁴ See DEQ’s E-Signature Guidance at https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\440\GDoc_DEQ_7146_v1.pdf.

⁵ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

combined. Since the proposed regulation does not increase net costs or reduce net revenues for any entity, an adverse impact is not indicated.

Small Businesses⁶ Affected:⁷

The proposed amendments would not create any new costs for small businesses. The proposed changes marginally benefit small businesses with air quality permits who are subject to reporting requirements under these chapters by allowing them to submit notices or reports electronically, rather than via mail. As mentioned previously, since these changes have already been implemented in practice, any affected small businesses already benefit from these changes.

Localities⁸ Affected⁹

The proposed changes would not disproportionately affect any particular localities and would not affect costs for local governments.

Projected Impact on Employment

The proposed regulation would not affect employment.

Effects on the Use and Value of Private Property

To the extent that switching to electronic submissions lowers a permitted business' reporting costs, the proposed amendments would increase the value of those businesses. As mentioned previously, the proposed amendments have already been implemented in practice; thus, any affected businesses already benefit from the savings and higher valuations. Real estate development costs are not affected.

⁶ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁷ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁸ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁹ Code of Virginia § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.