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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-80, Part I (Permit Actions Before the Board) 9VAC5-80, Part II (Permit Procedures), Articles 1 through 11
VAC Chapter title(s)	Permits for Stationary Sources
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This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the ***Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code***.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

BACT- best available control technology

CAA – Clean Air Act

CAAA – Clean Air Act Amendment

CFR- Code of Federal Regulation

EPA - U.S. Environmental Protection Agency

GHG- greenhouse gas

HAPs – Hazardous Air Pollutants

LAER - lowest achievable emission rate

MACT - Maximum Achievable Control Technology

NAAQS – National Ambient Air Quality Standard

NOx - nitrogen oxides

PSD- prevention of significant deterioration

SIP – State Implementation Plan

SO2- sulfur dioxide

VOCs - volatile organic compounds

VTCA- Virginia Transportation Construction Alliance

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency'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.

Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

Federal Requirements

The federal statutory basis for this regulation is contained in Titles I, IV, and V of the federal Clean Air Act (42 USC 7401 et seq., 91 Stat 685).

Section 110(a) of the federal Clean Air Act (CAA) mandates that each state adopt and submit to the U.S. Environmental Protection Agency (EPA) a plan that provides for the implementation, maintenance, and enforcement of each primary and secondary national ambient air quality standard (NAAQS) within each air quality control region in the state. The state implementation plan (SIP) shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the federal CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish a program for the enforcement of the emission limitations and schedules for compliance;

3. Establish programs for the regulation and permitting of the modification and construction of any stationary source within the areas covered by the plan to assure the achievement of the ambient air quality standards, including permit programs as required by Title I, Title IV, and Title V of the federal CAA.; and

4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Under § 112 of the federal CAA, EPA is required to develop and maintain a list of hazardous air pollutants (HAPs), and to develop emission standards for these pollutants. Section 112(b) of the federal CAA consists of an initial list of HAPs established by Congress, which EPA is required to maintain and update as necessary. EPA is then required by § 112(c) to develop a list of source categories of major sources and area sources of the pollutants listed in § 112(b). For these categories, EPA must establish emission standards under § 112(d), according to the schedules in § 112(c) and § 112(e). Section 112(g) requires the state to provide a means of developing emission standards – known as maximum achievable control technology (MACT) – should EPA not meet the requirements of §§ 112(c), 112(d), and 112(e). Section 112(i) (Schedule for Compliance) requires that sources affected by §§ 112(d), 112(f), or 112(h) meet the requirements of 40 CFR Part 63, § 63.5.

Section 112(g) requires major sources to apply MACT. As described in §§ 112(g)(2)(A) and (B), modifying sources must meet the MACT for existing sources, and new sources must meet the MACT for new sources. If no applicable emission limitations have been established, MACT must be determined on a case-by-case basis by states with approved permit programs established under Title V of the federal CAA

(§ 502 et seq.). Section 112(g)(1)(A) of the federal CAA also allows sources to avoid requirements for modifications through the substitution of offsets; § 112(g)(1)(B) requires EPA to publish guidance that identifies the relative hazard to human health resulting from HAP emissions in order to facilitate any offset.

Section 161 of the federal CAA mandates that a state implementation plan (SIP) include emissions limitations and other such measures as may be necessary to prevent significant deterioration of air quality in each region designated pursuant to § 107 of the federal CAA as attainment or unclassifiable.

Part C of Title I of the federal CAA (42 USC 7471) is entitled, "Prevention of Significant Deterioration of Air Quality." As described in section 160, the purpose of Part C is to protect existing clean air resources. Part C requires that the SIP include a prevention of significant deterioration (PSD) program. Section 165 of the federal CAA requires preconstruction review and permitting of major emitting facilities to prevent significant deterioration of the ambient air quality. Public hearings are required as part of the permit approval process.

Section 165 of the federal CAA, "Preconstruction Requirements," is the section of the federal CAA that deals with new source review permit programs. Section 165 requires preconstruction review and permitting of major emitting facilities to prevent significant deterioration of the ambient air quality. Section 165 also specifies what steps are needed to coordinate this permitting process with the Federal Land Managers, who are responsible for maintaining air quality in the cleanest areas of the country: the national parks. Public hearings are required as part of the permit approval process.

Section 166 of the federal CAA requires EPA to regulate certain types of pollutants in PSD areas. Subsection f of Section 166 authorizes EPA to specify maximum allowable increases in particulate matter in terms of very small particulate, that is, PM10. 40 CFR Part 50 specifies the NAAQS for sulfur dioxide (SO2), particulate matter, carbon monoxide, ozone (its precursors are nitrogen oxides (NOx) and volatile organic compounds), nitrogen dioxide, and lead.

Part D of Title I of the federal CAA, "Plan Requirements for Nonattainment Areas," describes how nonattainment areas are established, classified, and required to meet attainment. Subpart 1, Nonattainment Areas in General, consists of §§ 171 through 179 of the federal CAA, and provides the overall framework of what nonattainment plans are to contain, permit requirements, planning procedures, motor vehicle emission standards, and sanctions and consequences of failure to attain. Subpart 2, Additional Provisions for Ozone Nonattainment Areas, consists of §§ 181 through 185 of the federal CAA, and provides more detail on what is required of areas designated as nonattainment for ozone.

Sections 173 and 182 of the federal CAA require states to develop, submit and implement plans to limit emissions in areas designated as nonattainment for national ambient air quality standards so that attainment is achieved according to a schedule determined by the federal CAA. Plans must include preconstruction review and permitting of new and modified major stationary sources, emission standards that meet the lowest achievable emission rates (LAER) in practice for the particular source category with preconstruction offsets in areas not in attainment with a NAAQS and best available control technology (BACT) in areas in attainment with the NAAQS, reasonably available control technology for existing sources in certain areas, contingency measures, and special emission reduction programs as necessary to achieve and maintain reasonable further progress toward attainment.

Section 173(a) of the federal CAA provides that a permit may be issued if the following criteria are met:

1. Offsets have been obtained for the new or expanding sources from existing sources so that total allowable emissions (i) from existing sources in the region, (ii) from new or modified sources which are not major emitting facilities, and (iii) from the proposed new source will be sufficiently less than total emissions from existing sources prior to the application for the permit so as to represent reasonable further progress.

2. The proposed source is required to comply with the lowest achievable emission rate.

3. The owner of the proposed source has demonstrated that all major stationary sources owned or operated by the owner in the State are subject to emission limitations and are in or on a schedule for compliance with all applicable emission limitations or standards.

4. The SIP is being adequately implemented for the nonattainment area in which the proposed source is to be located.

5. An analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

Section 173(b) of the federal CAA prohibits the use of any growth allowance that is part of a SIP revision in effect prior to the adoption of the new Act for areas designated nonattainment after adoption of the new federal CAA.

Section 173(c) of the federal CAA provides that the owner of the proposed new or modified source may obtain offsets only from the nonattainment area in which the proposed source is to be located. However, the permit program may provide that offsets may be obtained from other nonattainment areas whose emissions impact in the area where the proposed source is to be located, provided the other nonattainment area has an equal or higher classification and the offsets are based on actual emissions.

Section 173(d) of the federal CAA provides that states must promptly submit any control technology information relative to the permit program to EPA for entry into the BACT/LAER clearinghouse.

Section 173(e) of the federal CAA provides that the permit program must allow the use of alternative or innovative means to achieve offsets for emission increases due to rocket engine and motor firing and cleaning related to the firing.

Section 182 (a)(2)(C) of the federal CAA sets out the general requirements for new source review programs in all nonattainment areas and mandates a new and modified major stationary source permit program that meets the requirements of §§ 172 and 173 of the federal CAA. Section 172 contains the basic requirement for a permit program, while § 173 contains the specifics which are summarized below.

Section 182(a)(4) of the federal CAA sets out the requirements for marginal areas with respect to offset ratios, providing for a minimum ratio of total emissions reduction of VOCs to total increased emissions of VOCs of 1.1 to 1. Likewise Section 182(b)(5) sets out the offset requirements for moderate nonattainment areas, specifying the ratio to be at least 1.15 to 1. Finally, Section 182(c)(10) sets out the offset requirements for serious nonattainment areas, specifying the ratio to be at least 1.2 to 1.

For nonattainment areas defined as moderate or less, a major stationary source is defined for general application in Section 302 of the federal CAA as "any facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant." For nonattainment areas defined as serious or worse, Section 182(c) of the federal CAA specifically defines a major stationary source as a facility emitting fifty tons per year or more. Section 182(f) of the federal CAA provides that requirements which apply to major stationary sources of VOCs under the Act shall also apply to major stationary sources of NOx.

Sections 182(c)(6) through (c)(8) of the federal CAA contain some additional specifics for serious or worse nonattainment areas concerning the establishment of a de minimis level for expanding existing sources and the allowance of internal offsets as an alternative to the permit requirements. New source permit programs must include provisions to require permits for modifications of all existing sources unless the increase in net emissions from the source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years, including the calendar year in which the increase occurs. The program must also include provisions concerning internal offsets as alternatives to the permit requirements. For sources emitting less than 100 tons per year and applying for a permit to expand, a permit will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner does not choose the option of an internal offset, a permit will be required but the control technology level required will be BACT instead of LAER. For sources emitting 100 tons or more per year and applying for a permit to expand, control technology requirements which constitute LAER will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

The 1990 Clean Air Act Amendments (CAAA) created a major change to the approach taken by the U.S. Congress in previous promulgations of the federal CAA.

Affected sources as defined under the acid rain provisions of Title IV of the federal CAA are one of the primary source categories required to be covered under the provisions of any Title V program.

Section 408 of Title IV of the federal CAA covers the permit and compliance plan requirements for affected sources, which are those stationary sources that have at least one emission unit emitting air pollutants which cause acid rain. Section 408(a) states that the requirements of Title IV are to be implemented by permits issued to affected sources in accordance with Title V, as modified by the requirements of Title IV. Any permit issued to an affected source must prohibit all of the following:

1. Annual emissions of SO2 in excess of the number of allowances to emit SO2 that is held for the source. An allowance is the authorization to emit one ton of SO2 during or after a specified calendar year.

2. Exceedances of applicable emissions rates.

3. The use of any allowance prior to the year for which it was allocated.

4. Contravention of any other provision of the permit. Permits must be issued for a period of five years. No permit can be issued that is inconsistent with the applicable requirements of Titles IV and V of the federal CAA.

Section 408(b) of the federal CAA requires that compliance plans be submitted with each permit application. Alternative methods of compliance may be authorized by permitting authorities; however, a comprehensive description of the schedule and means by which the unit will rely on one or more of these alternative methods must be provided by the applicant. Any transfers of allowances recorded by EPA will automatically amend all applicable proposed or approved permit applications, compliance plans and permits. EPA may also require a demonstration of attainment of national ambient air quality standards for a source or, from the owner of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance.

Section 408(d) of the federal CAA describes the requirements for Phase II permits, which are permits to be issued by states with EPA-approved Title V programs. The owners of sources subject to Phase II of Title IV must submit their permit applications and compliance plans by January 1, 1996 to the state permitting authority. The states with approved programs must issue the permits no later than December 31, 1997. Permit applications and compliance plans that have been received by January 1, 1996 are binding and are enforceable as a permit for purposes of Titles IV until a permit is issued by the permitting authority.

Section 408(e) of the federal CAA covers new sources or emissions units, which are those that commence commercial operation on or after November 15, 1990. New sources must submit a permit application and compliance plan to the permitting authority no later than 24 months before the later of (i) January 1, 2000, or (ii) the date on which the source commences operation. The permitting authority must issue a permit to a new source if the requirements of Titles IV and V are satisfied.

Section 408(f) of the federal CAA covers stationary sources or emissions units subject to NOx requirements. Applications and compliance plans must be submitted to permitting authorities no later than January 1, 1998. The permitting authority must issue a permit to these sources or emissions units if the requirements of Titles IV and V are satisfied.

Section 408(g) of the federal CAA allows the applicant to submit a revised application and compliance plan at any time after the initial submission. Section 408(h) states that it is unlawful for an owner or designated representative of the owner to fail to submit applications and compliance plans in the time period required by Title IV or to operate any affected source except in compliance with the terms and conditions of a permit and compliance plan issued by EPA or an approved permitting authority. Section 408(h)(3) prohibits shutdown of an electric utility steam generating unit for failure to have an approved permit or compliance plan. However, the unit may be subject to applicable enforcement provisions under § 113 of the federal CAA.

Section 408(i) of the federal CAA requires that no permit can be issued to an affected source until the designated representative has filed a certificate of representation with regard to the requirements of Title IV, including the holding and distribution of allowances. This section also describes the requirements for certification of representation when there are multiple holders of a legal or equitable title to, or leasehold interest in, an affected unit or when a utility or industrial customer purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements.

Title V, in sections 501-507of the federal CAA (42 USC 7401 et seq., 91 Stat 685), requires the states to develop operating permit programs to cover all stationary sources defined as major by the federal CAA. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source. The federal regulations under 40 CFR Part 70 specify the minimum Title V elements that must be included in state operating permit programs.

Section 502 of the federal CAAA requires that states develop permit fee programs to pay for the costs of the state's Title V Permit Program.

Section 502(a) of the federal CAA and 40 CFR 70.3(a) require that the following sources be covered under the provisions of any Title V program:

1. Affected sources as defined under the acid deposition provisions of Title IV of the federal CAA.

2. Major sources, defined as follows:

a. any source of air pollutants with the potential to emit 100 tons per year (tpy) or more of any pollutant;

b. in ozone nonattainment areas designated as serious, any source emitting 50 tpy or more of volatile organic compounds (VOCs) or NOx; for severe or extreme nonattainment areas, sources emitting 25 and 10 tpy or more of VOCs or NOx; and

c. any source with the potential to emit 10 tpy of any hazardous air pollutant or 25 tpy of any combination of hazardous air pollutants regulated under § 112 of the federal CAA.

3. Any other source, including an area source, subject to a hazardous air pollutant standard under § 112.

4. Any source subject to new source performance standards under § 111 of the federal CAA.

5. Any source required to have a preconstruction review permit pursuant to the requirements of the PSD program under Title I, Part C of the federal CAA or the nonattainment area new source review program under Title I, Part D of the federal CAA.

6. Any other stationary source in a category that EPA designates in whole or in part by regulation, after notice and comment.

Section 502(b) of the federal CAA and 40 CFR 70.4(b) and other provisions of 40 CFR Part 70, as noted, set out the minimum elements that must be included in each program, as follows: Section 502(b) of the federal CAA and 40 CFR 70.4(b) and other provisions of 40 CFR Part 70, as noted, set out the minimum elements that must be included in each program, as follows:

1. Requirements for permit applications, including standard application forms, compliance plans and criteria for determining the completeness of applications (40 CFR 70.5).

2. Monitoring and reporting requirements (40 CFR 70.6(a)(3)).

3. A permit fee system (40 CFR 70.9).

4. Provisions for adequate personnel and funding to administer the program.

5. Authority to issue permits and assure that each permitted source complies with applicable requirements under the federal CAA (40 CFR 70.7(a)(1)).

6. Authority to issue permits for a fixed term, not to exceed five years (40 CFR 70.6(a)(2)).

7. Authority to assure that permits incorporate emission limitations in an applicable implementation plan (40 CFR 70.6(a)(1)).

8. Authority to terminate, modify, or revoke and reissue permits for cause and a requirement to reopen permits in certain circumstances (40 CFR 70.7).

9. Authority to enforce permits, permit fees, and the requirement to obtain a permit, including civil penalty authority in a maximum amount of not less than $10,000 per day, and appropriate criminal penalties (40 CFR 70.11).

10. Authority to assure that no permit will be issued if EPA objects to its issuance in a timely fashion (40 CFR 70.8(c) and (e)).

11. Procedures for expeditiously determining when applications are complete, processing applications, public notice, expeditious review of permit actions, and state court review of the final permit action (40 CFR 70.5 (a)(2) and 70.7 (h)).

12. Authority and procedures to provide that the permitting authority's failure to act on a permit or renewal application within the deadlines specified in the federal CAA shall be treated as a final permit action solely to allow judicial review by the applicant or anyone who also participated in the public comment process to compel action on the application.

13. Authority and procedures to make available to the public any permit application, compliance plan, permit emissions or monitoring report, and compliance report or certification, subject to the confidentiality provisions of § 114(c) of the federal CAA; the contents of the permit itself are not entitled to confidentiality protection.

14. Provisions to allow operational flexibility at the permitted facility.

Section 502 (b)(3) of the federal CAAA sets out the minimum elements that must be included in each state's permit fee program. The owner or operator of all sources subject to the requirements to obtain a permit must pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V, including the cost of the small business technical assistance program. Section 502 (b)(3)(A) of the federal CAAA specifies what is meant by reasonable costs, as follows:

1. Reviewing and acting upon any application for a permit.

2. Implementing and enforcing the terms and conditions of the permit, but not including any court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking systems.

Section 502 (b)(3)(B) of the federal CAAA specifies the requirements for the total amount of fees to be collected by the state permitting authority, as follows:

1. The state must demonstrate that, except as otherwise provided, the program will collect in the aggregate from all sources subject to the program an amount not less than $25 per ton of each regulated pollutant, or such other amount as the EPA administrator may determine adequately reflects the reasonable costs of the permit program.

2. "Regulated pollutant" means (a) a volatile organic compound; (b) each pollutant regulated under Section 111 or 112 of the Act; and (c) each pollutant for which a national primary ambient air quality standard has been promulgated (except carbon monoxide).

3. In determining the amount to be collected, the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that pollutant.

4. The requirements of paragraph 1 above will not apply if the permitting authority can demonstrate that collecting an amount less than $25 per ton of each regulated pollutant will meet the requirements of 502 (b)(3)(A) of the federal CAAA.

5. The fee calculated under paragraph 1 above shall be increased (consistent with the need to cover the reasonable costs authorized by 502 (b)(3)(A) of the federal CAAA in each year beginning after the year of the enactment of the Act by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989.

Section 502 (b)(3)(C) of the federal CAAA specifies the requirements of a federal permit fee program if the EPA administrator finds that the fee provisions of a state program are inadequate or if the Title V operating permit program itself is inadequate and EPA has to administer the fee program itself. This section allows the EPA administrator to collect additional fees to cover the administrator's costs of administrating a federal fee program and specifies that the EPA administrator may collect additional penalties and interest for failure to pay fees.

Section 502 (b)(4) of the federal CAAA specifies that the minimum elements for the permit program include requirements for adequate personnel and funding to administer the program.

Section 503(b) of the federal CAAA and 40 CFR 70.5(c) (8) and (9) require that applicants submit with the permit application a compliance plan describing how the source will comply with all applicable requirements of the federal CAA. The compliance plan must include a schedule of compliance and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months. The permittee must also certify that the facility is in compliance with any applicable requirements of the permit no less frequently than annually. The permittee must also promptly report any deviations from permit requirements to the permitting authority.

Section 503(c) of the federal CAAA and 40 CFR 70.5(a)(1) specify that all sources required to be permitted under a Title V program are required to submit an application within 12 months after the date EPA approves the state's program. The state permitting authority may specify an earlier date for submitting applications. The state permitting authority must establish a phased schedule for acting on permit applications submitted within the first full year after program approval, and must act on at least one-third of the permits each year over a period not to exceed three years after approval of the program. After acting on the initial application, the permitting authority must issue or deny a complete application within 18 months after receiving that application.

Section 503(d) of the federal CAAA and 40 CFR 70.7(b) specify that a source's failure to have an operating permit shall not be a violation of the CAA if the source owner submitted a timely and complete application for a permit and if he submitted other information required or requested to process the application in a timely fashion.

Section 503(e) of the federal CAAA and 40 CFR 70.4(b)(3)(viii) require that a copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. Any information that is required of an applicant to submit and which is entitled to protection from disclosure under § 114 (c) of the federal CAA can be submitted separately.

Section 504 of the federal CAAA and 40 CFR 70.6(a)-(c) specify what is to be included in each operating permit issued under this program. These provisions require each permit to include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every six months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements, including the requirements of any SIP.

Section 504(b) of the federal CAAA indicates that the EPA administrator may prescribe, by rule, procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated by the federal CAA. Continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance.

Section 504(c) of the federal CAAA and 40 CFR 70.6(a)(3) require that each permit issued under the program shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to applicable regulations issued under § 504(b) and to any other requirements specified in federal regulation. Any report required to be submitted by a permit issued to a corporation shall be signed by a responsible corporate official, who shall certify its accuracy.

Section 504(d) of the federal CAAA and 40 CFR 70.6(d) allow the state permitting authority to issue a general permit covering numerous similar sources after notice and opportunity for public hearing. Any general permit shall comply with all program requirements. Any source governed by a general permit regulation must still file an application under this program.

Section 504(e) of the federal CAAA and 40 CFR 70.6(e) allow the state permitting authority to issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of the federal CAA at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under the federal CAA. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location.

Section 504(f) of the federal CAAA and 40 CFR 70.6(f) provide a permit shield for permittees. This section specifies that compliance with a permit issued in accordance with Title V shall be deemed in compliance with § 502, or with the program. Unless otherwise provided by the EPA administrator and by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of the federal CAA that relate to the permittee, if the permit includes the applicable requirements of those provisions, or if the permitting authority makes a determination relating to the permittee that such other provisions are not applicable and the permit includes the determination or a concise summary.

Section 505(a) of the federal CAAA and 40 CFR 70.8(a) require the state permitting authority to send EPA a copy of each permit application and each permit proposed to be issued. For each permit application or proposed permit sent to EPA § 505(a) and 40 CFR 70.8(b) also require the permitting authority to notify all states whose air quality may be affected and that are contiguous to the state in which the emission originates, or that are within 50 miles of the source. This notice must provide an opportunity for these affected states to submit written recommendations respecting the issuance of the permit and its terms and conditions. § 505(b) and 40 CFR 70.8(c) provide for EPA objections to any permit which contains provisions that are not in compliance with the requirements of the federal CAA or with the applicable implementation plan. This section also provides that any person may petition the EPA administrator within 60 days after the expiration of the 45-day review period, if no objections were submitted by the EPA administrator. Furthermore, the state permitting authority may not issue the permit if the EPA administrator objects to its issuance unless the permit is revised to meet the objection. If the state permitting authority fails to revise and resubmit the permit, EPA must issue or deny the permit in accordance with the requirements of Title V. Under § 505(d) and 40 CFR 70.8(a)(2), the permit program submitted by the state may not have to meet these requirements for sources other than major sources covered by the program. Section 505(e) and 40 CFR 70.7(g) allow the EPA administrator to terminate, modify, or revoke and reissue an operating permit issued under a state's program.

Section 507 (f) of the federal CAAA specifies that the state may reduce any fee required under Title V to take into account the financial resources of small business stationary sources.

40 CFR Part 50 specifies the NAAQS: SO2, particulate matter, carbon monoxide, ozone (its precursors are nitrogen oxides and volatile organic compounds), nitrogen dioxide, and lead.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart F (Procedural Requirements) of 40 CFR Part 51 defines terms, requires public notice of comment periods and public hearings, and specifies requirements for plan submissions, revisions, and approvals.

Section 51.102 under Subpart F specifies that states must provide to the public notice, an opportunity for public comment, and either a public hearing or the opportunity to request a public hearing prior to the adoption of such plans, revisions to the plans, or compliance schedules by which sources are required to be in compliance with such plans.

Subpart G (Control Strategy) of 40 CFR Part 51 specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart I (Review of New Sources and Modifications) of 40 CFR Part 51 requires plans to provide legally enforceable procedures, requirements for public availability of information, definitions and permit requirements, emission limitations, public participation requirements, and specific requirements for PSD permits.

Section 51.160 of Subpart I specifies that the plan must stipulate legally enforceable procedures that enable the permitting agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in either a violation of any part of a control strategy or interference with attainment or maintenance of a national standard and, if such violation or interference would occur, the means by which the construction or modification can be prevented. The procedures must identify types and sizes of facilities, buildings, structures or installations which will be subject to review and discuss the basis for determining which facilities will be subject to review. The procedures must provide that owners of facilities, buildings, structures or installations must submit information on the nature and amounts of emissions and on the location, construction and operation of the facility. The procedures must ensure that owners comply with applicable control strategies after permit approval. The procedures must discuss air quality data and modeling requirements on which applications must be based.

Section 51.161 under Subpart I specifies that plans must include procedures for ensuring the public availability of information submitted by source owners and operators, the agency's analysis of the impact of the new or modified source construction or modification on ambient air quality, and the agency's proposal for approval or disapproval of the permit.

Section 51.162 of Subpart I specifies that the responsible agency must be identified in the plan.

Section 51.163 of Subpart I specifies that the plan must include administrative procedures to be followed in determining whether the construction or modification of a facility, building, structure or installation will violate applicable control strategies or interfere with the attainment or maintenance of a national standard.

Section 51.165 of Subpart I enumerates permit requirements for nonattainment areas. This section describes what permitting requirements are to be contained in the SIP. Specific definitions of key terms such as "potential to emit," major stationary source," "major modification," "allowable emissions," and "lowest achievable emission rate," are found in § 51.165(a)(1). In § 51.166(a)(2), the SIP must include a preconstruction review program to satisfy the requirements of §§ 172(b)(6) and 173 of the federal CAA, and must apply to any new source or modification locating in a nonattainment area. Section 51.165(a)(3) describes how emissions and emission reductions are to be measured and included in the SIP; § 51.165(a)(4) lists a number of exemptions. Section 51.165(a)(5) stipulates that sources must meet the SIP as well as other state and federal requirements. Section 51.165(b) of 40 CFR Part 51 requires that sources meet the requirements of § 110(a)(2)(d)(i) of the federal CAA. This section also provides significance levels of pollutants that may not be exceeded by any source or modification.

Subpart K (Source Surveillance) of 40 CFR Part 51 specifies procedures for emissions reports and record-keeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) of 40 CFR Part 51 specifies identification of legal authority to implement plans.

Section 51.230 of Subpart L specifies that each SIP must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

4. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;

5. Prevent construction, modification, or operation of a facility that directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 of Subpart L requires the identification of legal authority, including (i) the provisions of law or regulation which the state determines provide the authorities required under section 40 CFR 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and (ii) the plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) of 40 CFR Part 51 specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

As an alternative to traditional administrative means (regulations, orders, and new source permits), EPA has recognized the use of state operating permits for the purpose of making Clean Air Act requirements federally enforceable. This has been done through the promulgation of a final rule (54 FR 27274, June 28, 1989) which addresses the approval of state operating permit programs into SIPs. The final rule also specifies the criteria that must be met by a state operating permit program in order to be approved into a SIP.

National Emission Standards for Hazardous Air Pollutants for Source Categories are found in 40 CFR Part 63. Thus far, final MACT standards have been issued for over 30 source types. The requirements of § 112 are also implemented in 40 CFR §§ 63.40 through 63.44 (Requirements for Control Technology). The regulation was structured to encompass permitting for all potential major sources of HAPs in addition to those affected by § 112(g). Thus a major source for the purposes of this regulation may be a § 112(g) source, a § 112(i) source, or a 40 CFR Part 61 source. Although there is no federal mandate for inclusion of § 112(i) and 40 CFR Part 61 sources in Article 7 of this regulation, the Commonwealth has requested and received delegation of authority from EPA to enforce these provisions through this permitting program.

The federal regulatory basis for the Title V Fee Program is 40 CFR Part 70, which provides for the establishment of comprehensive state Title V air quality permitting systems, and defines minimum elements that the permit programs shall contain. Other than requiring that all sources subject to the regulation have a permit that assures compliance with all applicable standards and requirements and requiring the collection of fees to support the program, the program does not impose substantive new requirements.

Section 70.7 under 40 CFR Part 70 requires that all permit proceedings except for minor permit modifications shall have procedures for public notice including an opportunity for public comment and a public hearing.

Section 70.9 (a) of 40 CFR Part 70 specifies that the state program require that the owners or operators of part 70 sources pay annual fees that are sufficient to cover the permit program costs and that any fee required by this section will be used solely for Title V permit program costs.

Section 70.9 (b)(1) of 40 CFR Part 70 specifies that the state establish a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs. These costs shall include, but are not limited to:

1. Preparing generally applicable regulations or guidance regarding the Title V permit program or its implementation or enforcement;

2. Reviewing and acting on any permit application including the development of an applicable requirement;

3. General administrative costs of running the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

4. Implementing and enforcing the terms of any Title V permit;

5. Emissions and ambient monitoring;

6. Modeling, analyses, or demonstrations;

7. Preparing inventories and tracking emissions; and

8. Providing direct and indirect support to sources under the Small Business Stationary Source Technical and Environmental Compliance Assistance Programs in determining and meeting their obligations under the Title V permit program.

Section 70.9 (b)(2) of 40 CFR Part 70 provides a fee schedule that EPA will presume meets the requirements of 40 CFR § 70.9 (b)(1), which includes collecting not less than $25 per year per ton of actual emissions of each regulated pollutant adjusted annually for increases in the Consumer Price Index as of August 31 of the most recent calendar year. The presumptive fee includes a greenhouse gas (GHG) adjustment based upon the hourly burden for GHG permit activities. This section also provides certain exclusions from the actual emissions calculation that the state may use, including a 4,000 ton per year cap on actual emissions of regulated pollutants used in the calculation, the actual emissions used in the minimum fee calculation, and actual emissions from insignificant activities not required in the Title V permit application pursuant to 40 CFR § 70.5 (c).

Section 70.9 (b)(3) of 40 CFR Part 70 specifies that the state's fee schedule may include emissions fees, application fees, service-based fees, other types of fees, or any combination thereof to meet the fee schedule requirement to cover Title V permit program costs. It further specifies that nothing in 40 CFR § 70.9 shall require the permitting authority to calculate fees on any particular basis or in the same manner for all sources, provided that the permitting authority collects a total amount of fees sufficient to meet the program support requirements of § 70.9 (b)(1).

Section 70.9 (b)(5) of 40 CFR Part 70 specifies that the state shall provide an accounting that its fee schedule results in the collection and retention of revenues sufficient to cover the permit program costs if (i) the state sets a fee schedule that would result in collections less than the presumptive fee schedule, or (ii) EPA has serious questions as to whether the state's fee schedule is sufficient to cover the program costs.

Sections 70.9 (c) and (d) of 40 CFR Part 70 further require the state to provide a demonstration that the collection of fees is sufficient to meet all of the Title V program requirements and that the fees are used solely to cover the costs of meeting those program requirements.

40 CFR Part 72 provides for the establishment of an operating permit program for affected sources pursuant to the acid rain provisions of Title IV of the federal Clean Air Act. The requirements of this part supplement and modify the requirements of 40 CFR Part 70 as they apply to affected sources under the Acid Rain Program.

The federal regulations required to be developed under § 408 of Title IV, 40 CFR Part 72 and EPA guidance on Part 72, stipulate specific requirements for affected sources that are different from the requirements of 40 CFR Part 70. The differences include, but are not limited to, the following:

1. Only a designated representative or alternative designated representative of the source owner is authorized to make permit applications and other submissions under the Title IV requirements and must file a certificate of representation with EPA before they can assume these responsibilities (40 CFR 72, Subpart B).

2. The state permitting authority must allow EPA to intervene in any appeal of an acid rain permit (40 CFR Part 72, § 72.72(5)(iv)).

3. The period by which the acid rain portion of an operating permit can be appealed administratively is 90 days. Judicial appeal of an acid rain portion of a permit cannot occur after 90 days (40 CFR Part 72, § 72.72(5)(ii)).

4. An application is binding and enforceable as a permit until the permit is issued (40 CFR Part 72, § 72.72(b)(1)(i)(B)).

5. The acid rain portion of an operating permit must be covered by a permit shield (40 CFR Part 72, § 72.51).

6. The acid rain rules allow for four different types of permit revisions. Two of these are the same as those provided for in 40 CFR Part 70: permit modifications and administrative amendments. The other two are unique to the acid rain program: fast-track modifications and automatic amendments (40 CFR Part 72, Subpart H).

7. In general, permits are issued using Part 70 procedures. However, there are some exceptions. For instance, within 10 days of determining whether an acid rain application is complete, the permitting authority must notify EPA of that determination. The permitting authority must also notify EPA of any state or judicial appeal within 30 days of the filing of the appeal (40 CFR Part 72, §§ 72.72(b)(1)(i)(C) and 72.72(b)(5)(iii)).

Subpart G (Acid Rain Phase II Implementation) of 40 CFR 72 sets forth the criteria with which the acid rain operating permit program must comply to issue Phase II Acid Rain permits consistent with the provisions of part 70 (Title 5) permit program.

Section 72.72 under subpart G requires that notice of the issuance of a draft Acid Rain permit be provided to the public including the opportunity for public comment and opportunity to request a public hearing.

State Requirements

Code of Virginia § 10.1-1300 defines pollution as "the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people of life or property." Excess emissions of regulated air pollutants from permitted new and modified sources are harmful to human health and can significantly interfere with the people's enjoyment of life and property.

Code of Virginia § 10.1-1307 A provides that the board may, among other activities, develop a comprehensive program for the study, abatement, and control of all sources of air pollution in the Commonwealth.

Code of Virginia § 10.1-1308 provides that the board shall have the power to promulgate regulations abating, controlling, and prohibiting air pollution throughout or in any part of the Commonwealth in accordance with the provisions of the Administrative Process Act.

Code of Virginia § 10.1-1322 A provides the department with the authority to issue, amend, revoke or terminate permits to control air pollutant emissions pursuant to regulations adopted by the board.

Section 10.1-1322 B authorizes the State Air Pollution Control Board to provide for the collection of annual permit program emissions fees from air pollution sources, based upon actual emissions of each regulated pollutant not to exceed 4000 tons per year of each pollutant for each source. The annual permit program emissions fees are not to exceed a base year amount of $25 per ton using 1990 as the base

year, and are to be adjusted annually by the Consumer Price Index. Permit program fees for air pollution sources who receive state operating permits in lieu of Title V operating permits shall be paid in the first year and thereafter shall be paid biennially. The statute directs that the fees approximate the direct and indirect costs of administering and enforcing the permit program as required by the Clean Air Act. This section also authorizes the board to collect permit application fee amounts not to exceed $30,000 from applicants for a permit for a new major stationary source.

Item 378, paragraph B of Chapter 1289 of the 2020 Acts of Assembly continued language initially included in item 365, paragraph B of Chapter 3 of the 2012 (Special Session 1) Acts of Assembly authorizing the board to adjust permit program emissions fees collected pursuant to § 10.1-1322 of the Code of Virginia and to establish permit application fees and permit maintenance fees sufficient to ensure that the revenues collected from all fees cover the direct and indirect costs of the program, consistent with the requirements of Title V of the Clean Air Act. It further specified that (i) permit application fees collected not be credited toward the amount of annual emissions fees owed pursuant to § 10.1-1322, (ii) that all fees be adjusted annually by the Consumer Price Index, (iii) that regulations initially implementing these provisions be exempt from Chapter 40 of Title 2.2, Code of Virginia (the Administrative Process Act), and (iv) that any further amendments to the fee schedule beyond those initially implementing these provisions would not be exempt from provisions of the Administrative Process Act.

Section 10.1-1322.1 of the Virginia Air Pollution Control Law specifies that all moneys collected pursuant to §§ 10.1-1322 and 10.1-1322.2 be paid into the state treasury and credited to a special non-reverting fund known as the Air Pollution Permit Program Fund. Any moneys remaining in this fund are not to revert to the general fund but are to remain in the Fund. Utilization of the fees collected pursuant to this section is to be limited to the agency's direct and indirect costs of processing permits.

Code of Virginia § 10.1-1322.4 provides an exemption (unless required by the federal government law or regulation) from permit requirements for the use of an alternative fuel or raw material, if the owner demonstrates to the board that, as a result of trial burns at the facility or other facilities or other sufficient data, the emissions resulting from the use of the alternative fuel or raw material supply are decreased. The Code further provides (to the extent allowed by federal law or regulation) that no demonstration shall be required for the use of processed animal fat, processed fish oil, processed vegetable oil, distillate oil, or any mixture thereof in place of the same quantity of residual oil to fire industrial boilers.

Code of Virginia § 10.1-1322.01 provides procedures for public hearings and requests for public hearings concerning proposed permit actions before the board. It provides that the board take final action on permits brought before the board and allows for additional opportunity for public comment and board review of permitting actions.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

Alternatives to the proposal have been considered by the Department. The Department has determined that the retention of the regulation (the first alternative) is appropriate, as it is the least burdensome and least intrusive alternative that fully meets statutory requirements and the purpose of the regulation. The alternatives considered by the Department, along with the reasoning by which the Department has rejected any of the alternatives considered, are discussed below.

1. Retain the regulation without amendment. This option is being selected because the current regulation provides the least onerous means of complying with the minimum requirements of the legal mandates.

2. Make alternative regulatory changes to those required by the provisions of the legally binding state and federal mandates, and associated regulations and policies. This option was not selected because it does not meet federal mandates, which could result in the imposition of requirements that place unreasonable hardships on the regulated community without justifiable benefits to public health and welfare.

3. Repeal the regulation or amend it to satisfy the provisions of legally binding state and federal mandates. This option was not selected because the regulation is effective in meeting its goals and already satisfies those mandates.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed for purposes of this periodic review.

Commenter	Comment	Agency response
Rob Lanham, Virginia Transportation Construction Alliance	It is the position of the Aggregate Producer Members of the Virginia Transportation Construction Alliance (VTCA) that the Permits for Stationary Sources (9VAC5-80) be retained in its current form. If the result of the periodic review is to amend or repeal the regulation VTCA and our Aggregate Producer Members request to be included as part of any stakeholder involvement and/or advisory committees. VTCA requested to be made aware of any comments received relative to this review.	The agency agrees that the regulation should be retained as is at this time. The Department is not currently seeking volunteers for stakeholder groups or advisory committees related to this regulation at this time. The Department announces all solicitations for volunteers for stakeholder groups by posting information to the Virginia Regulatory Town Hall website. The Department encourages individuals interested in volunteering to serve on stakeholder groups to register with the Virginia Regulatory Town Hall website to be notified of any future opportunities to volunteer to serve on stakeholder groups. VTCA was the only entity that submitted comments during the periodic review.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation enhances the Department's ability to ensure compliance with all applicable federal requirements under the CAA and specific requirements under the state code through the issuance and enforcement of federal and state operating permits to construct and operate a new or modified facility. The regulation has been effective in achieving its specific and measurable goals, which are as follows:

1. To protect public health and/or welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

2. To enhance the department's ability to ensure compliance with all applicable federal requirements under the Clean Air Act and specific requirements under the state code through the issuance and enforcement of federal (Title V) operating permits.

3. To identify and clarify for the Department and source owner exactly which air quality program requirements are applicable to the permitted source through the issuance and enforcement of federal (Title V) operating permits.

4. To provide an administrative mechanism to impose source-specific regulatory requirements with the flexibility to address the individual needs of sources through the issuance and enforcement of state operating permits.

5. To provide a mechanism to administer certain air quality control program requirements without the need for federal oversight through the issuance and enforcement of state operating permits.

6. To prevent the construction, modification, or operation of facilities that will prevent or interfere with the attainment or maintenance of any ambient air quality standard through the issuance and enforcement of new source review permits.

7. To ensure that new facilities or expansions to existing facilities will be designed, built, and equipped to operate without causing or exacerbating a violation of any ambient air quality standard through the issuance and enforcement or new source review permits.

8. To ensure that new facilities or expansions to existing facilities will be designed, built, and equipped to comply with case-by-case control technology determinations and other requirements through the issuance and enforcement of new source review permits.

9. To prevent the construction, modification, or operation of major facilities that will not use MACT to limit emissions of HAPs through the issuance and enforcement of new source review permits.

10. To ensure that there is no significant deterioration of air quality throughout the Commonwealth through the issuance and enforcement of new source review permits for new major facilities or major expansions locating in PSD areas.

11. To ensure that emission increases from new major facilities or major expansions to existing facilities are offset by emission reductions from existing facilities by an equal or greater amount through the issuance and enforcement of new source review permits for new major facilities or major expansions locating in nonattainment areas.

12. Where possible, to provide an alternative to more stringent new source review requirements applicable to major stationary sources locating in PSD areas and nonattainment areas through federally enforceable permit emission limits; and

13. To fully fund the Title V permit program through Title V permit program fees as required by state and federal law.

This regulation has been effective in protecting public health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

The Department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected. It is written to permit only one reasonable interpretation, is written to adequately identify the affected entity, and, insofar as possible, is written in non-technical language.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

This regulation satisfies the provisions of the law and legally binding state and federal requirements, and is effective in meeting its goals; therefore, the regulation is being retained without amendment.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps,

duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulation continues to be needed. It provides the necessary requirements for conformity to ensure that federal projects have the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality.

No comments were received that indicate a need to repeal or revise the regulation.

The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible.

This regulation does not overlap, duplicate, or conflict with any state law or other state regulation.

Part I, and Part II, Articles 4, 5, and 6 were last reviewed in May 2018. Part II, Article 3 was last reviewed in January 2013. Part II, Article 8 was last reviewed in January 2001. Part II, Article 1 was last amended in November 2016, Part II, Articles 2, 10, and 11 were last amended in January 2018. Part II, Article 7 was last amended in December 2008.

Over time, it generally becomes less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions.

The department, through examination of the regulation and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on families.