



Proposed Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) citation	Articles 57 and 58 of 9VAC5-40 (Existing Stationary Sources)
Regulation title	Regulations for the Control and Abatement of Air Pollution
Action title	VOC Emission Standards, Miscellaneous (Rev. D09)
Date this document prepared	September 20, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

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.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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.

Promulgating Entity

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

Specific Federal Requirements

Ground-level ozone is an air pollutant that forms when volatile organic compounds (VOCs) and nitrogen oxides (NO_x) interact with sunlight. The national standard for ozone measured over an 8-hour period was promulgated by the U.S. Environmental Protection Agency (EPA) on July 18, 1997 (62 FR 38856) at a level of 0.08 parts per million (ppm).

Once EPA establishes a national standard for ozone, it must then designate areas that do not attain the standard (nonattainment areas). In turn, states must develop plans (state implementation plans, or SIPs), including regulations, which will enable nonattainment areas to attain and maintain the standard.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the federal Clean Air Act and the associated nonattainment classification under § 181 of the Act or 40 CFR 51.903(a). Virginia's designations are in 40 CFR 81.347. On April 30, 2004 (69 FR 23858), EPA published designations for 0.08 ppm 8-hour ozone nonattainment areas and associated classifications.

On April 30, 2004 (69 FR 23951), EPA promulgated phase 1 of a final rule adding Subpart X to 40 CFR Part 51. Subpart X contains the provisions for the implementation of the 8-hour ozone NAAQS, along with associated planning requirements. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated as such under 40 CFR Part 81. The remainder of the planning requirements (phase 2) were published on November 29, 2005 (70 FR 71612).

In order to implement the control measures needed to attain and maintain ozone air quality standard, Virginia has established VOC and NO_x emissions control areas. These areas were created to provide a legal mechanism for defining geographic areas in which to implement certain control measures in the nonattainment areas. The emissions control areas may or may not coincide with the nonattainment areas, depending on regional planning requirements.

Section 172(c)(1) of the Act provides that SIPs for nonattainment areas must include "reasonably available control measures" (RACT), including "reasonably available control techniques" (RACT), for sources of emissions. Section 182(b)(2) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a control techniques guidelines document (CTG) issued after November 15, 1990 and prior to the area's date of attainment.

Section 183(e) directs EPA to list for regulation those categories of products that account for at least 80 percent of the VOC emissions from commercial products in ozone nonattainment areas. EPA issued such a list on March 23, 1995, and has revised the list periodically. RACT controls for listed source categories

controlled by a CTG are known as CTG RACTs. CTG RACTs have been issued for industrial solvent cleaning operations (October 5, 2006, 71 FR 58745) and miscellaneous industrial adhesive application processes (July 14, 2008, 73 FR 40230). Therefore, states with moderate ozone nonattainment areas must implement these CTG RACTs as part of their attainment SIPs.

General Federal Requirements

Sections 109 (a) and (b) of the federal Clean Air Act require EPA to prescribe primary and secondary air quality standards to protect public health and welfare. These standards are known as the National Ambient Air Quality Standards (NAAQS). Section 109 (c) requires EPA to prescribe such standards simultaneously with the issuance of new air quality criteria for any additional air pollutant. The primary and secondary air quality criteria are authorized for promulgation under § 108.

Once the NAAQS are promulgated pursuant to § 109, § 107(d) sets out a process for designating those areas that are in compliance with the standards (attainment or unclassifiable) and those that are not (nonattainment). Governors make the initial recommendations but EPA makes the final decision. Section 107(d) also sets forth the process for redesignations once the nonattainment areas are in compliance with the applicable NAAQS.

Section 110(a) of the Act mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan (SIP) must include provisions to accomplish, among other tasks, the following:

1. establish enforceable emission limitations and other control measures as necessary to comply with the Act;
2. establish schedules for compliance;
3. prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and
4. require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 50 specifies the NAAQS for sulfur dioxide, particulate matter, carbon monoxide, ozone, 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 must include certain provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, 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 K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans. Section 51.230 under 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. abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
4. prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which 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;
5. obtain information necessary to determine whether air pollution sources comply with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;
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 under Subpart L requires the identification of legal authority: (i) the provisions of law or regulation which the state determines provide the authorities required under this section 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 this subpart are available to the state at the time of submission of the plan.

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

Part D describes how nonattainment areas are established, classified, and required to meet attainment. Subpart 1 provides the overall framework of what nonattainment plans are to contain, while Subpart 2 provides more detail on what is required of areas designated nonattainment for ozone.

Section 171 defines "reasonable further progress," "nonattainment area," "lowest achievable emission rate," and "modification."

Section 172(a) authorizes EPA to classify nonattainment areas for the purpose of assigning attainment dates. Section 172(b) authorizes EPA to establish schedules for the submission of plans designed to achieve attainment by the specified dates. Section 172(c) specifies the provisions to be included in each attainment plan, as follows:

1. implementation of all reasonably available control measures as expeditiously as practicable and provide for the attainment of the national ambient air quality standards;
2. reasonable further progress;
3. a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;
4. identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;
5. a requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;

6. inclusion of enforceable emission limitations and such other control measures (including economic incentives such as fees, marketable permits, and auctions of emission rights) as well as schedules for compliance;
7. if applicable, the proposal of equivalent modeling, emission inventory, or planning procedures; and
8. inclusion of specific contingency measures to be undertaken if the nonattainment area fails to make reasonable further progress or to attain the national ambient air quality standards by the attainment date.

Section 172(d) requires that attainment plans be revised if EPA finds inadequacies. Section 172(e) authorizes the issuance of requirements for nonattainment areas in the event of a relaxation of any national ambient air quality standard. Such requirements must provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Section 107(d)(3)(D) provides that a state may petition EPA to redesignate a nonattainment area as attainment and EPA may approve the redesignation subject to certain criteria being met. Section 107(d)(3)(E) stipulates one of these criteria, that EPA must fully approve a maintenance plan that meets the requirements of § 175A. According to § 175A(a), the maintenance plan must be part of a SIP submission, and must provide for maintenance of the NAAQS for at least 10 years after the redesignation. The plan must contain any additional measures needed to ensure maintenance. Section 175A(b) further requires that 8 years after redesignation, a maintenance plan for the next 10 years must then be submitted. As stated in § 175A(c), nonattainment requirements continue to apply until the SIP submittal is approved. Finally, § 175A(d) requires that the maintenance plan contain contingency provisions which will be implemented should the area fail to maintain the NAAQS as provided for in the original plan.

Under Part D, Subpart 2, § 181 sets forth the classifications and nonattainment dates for 1-hour ozone nonattainment areas once they are designated as such under § 107(d).

Section 182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of VOCs in marginal nonattainment areas be corrected by May 15, 1991, to meet the minimum requirements in existence prior to the enactment of the 1990 amendments. EPA has published control techniques guidelines (CTGs) for various types of sources, thereby defining the minimum acceptable control measure or RACT for a particular source type.

Section 182(b) requires stationary sources in moderate nonattainment areas to comply with the requirements for sources in marginal nonattainment areas. The additional, more comprehensive control measures in § 182(b)(2)(A) require that each category of VOC sources employ RACT if the source is covered by a CTG document issued between enactment of the 1990 amendments and the attainment date for the nonattainment area. Section 182(b)(2)(B) requires that existing stationary sources emitting VOCs for which a CTG existed prior to adoption of the 1990 amendments also employ RACT.

40 CFR Part 81 specifies the designations of areas made under § 107(d) of the Act and the associated nonattainment classification (if any) under § 181 of the Act or 40 CFR 51.903(a), as applicable. Subpart X to 40 CFR Part 51 contains the provisions for the implementation of the 8-hour ozone NAAQS, along with associated planning requirements. Specifically, 40 CFR 51.903(a) sets forth the classification criteria and nonattainment dates for 8-hour ozone nonattainment areas once they are designated.

State Requirements

These specific amendments are not required by state mandate. Rather, Virginia's Air Pollution Control Law gives the State Air Pollution Control Board the discretionary authority to promulgate regulations "abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth" (§ 10.1-1308 A). The law defines such air 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 or life or property" (§ 10.1-1300).

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, 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 (for new regulations), the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

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 public health 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 requirements of the proposal which are 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.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community, and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the department is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community, and impacts of the regulation on farm and forest land preservation. Also, the department is seeking information on impacts to small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, recordkeeping and other administrative costs, (2) probable effect of the proposal on affected small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose of the proposal.

The department also seeks comment on the issue of negative declarations submitted to EPA for other CTGs. The Commonwealth of Virginia’s Comprehensive Environmental Data System (CEDS) was used to identify large and mid-sized registered sources located in the affected area. The Virginia Employment Database was used to identify small, mid-sized and large sources in the affected area that are not registered in CEDS. As a result of this survey, the department officially certified that there are no sources located in the Northern Virginia VOC Control Area subject to several CTGs as follows:

CTGs	Date negative declaration submitted to EPA
Flexible Packaging Printing Flat Wood Paneling Coatings	November 25, 2008
Large Appliance Coatings Paper, Film and Foil Coatings Metal Furniture Coatings	December 3, 2008
Fiberglass Boat Manufacturing Materials	May 6, 2009
Automobile and Light-Duty Truck Coating Operations	May 18, 2009

The department seeks comment on these negative declarations.

Anyone wishing to submit written comments may do so at the public hearing or by mail, email, or fax to the staff contact listed below. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site (www.townhall.virginia.gov). Written comments must include the full name, address and telephone number of the commenter and be received by the department on the

date established as the close of the comment period. Commenters submitting faxes are encouraged to provide the signed original by postal mail within one week.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall web site (www.townhall.virginia.gov) and in the Virginia Register of Regulations. Both oral and written comments may be submitted at that time. All testimony, exhibits and documents received are part of the public record.

All comments requested by this document must be submitted to the agency contact: Karen G. Sabasteanski, Policy Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia, 23218 (email karen.sabasteanski@deq.virginia.gov, fax 804-698-4510).

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>There will be a cost to the state associated with the initial need to identify and register the population of affected sources. It is estimated that it would take approximately 1 to 2 temporary full-time staff from 6 months to a year to perform this registration process. At a standard base rate of \$11.00 per hour, this would translate to an initial cost range of \$12,144 to \$48,576 for one regulation. [One person @ 6 months = 180 days total - 42 weekend days = 138 working days; \$11 x 8 hours = \$88/day; 138 x \$88 = \$12,144 for 6 months, x 2 = \$24,288 for 12 months. Two persons @ 12 months = \$48,576.] This cost would be one-time.</p> <p>Once the initial registration process is complete, there may be a limited increase in the number of permits issued by the department. It is anticipated that this number will not be extensive; as discussed below, most sources to which the new regulations will apply will likely be below the minor source permitting threshold, although it is likely that a number of sources that need permits will be identified. This cost would be one-time, exclusive of any needed future permit amendments.</p> <p>The introduction of a number of newly affected sources may necessitate an increase in the number of inspections to be conducted. Again, as discussed below, it is anticipated that most sources will need to register with the department rather than obtain a permit. Such sources will be inspected on an as-needed basis, rather than on a routine necessitated by a permit. This cost would be ongoing.</p> <p>The sources of department funds to carry out this regulation are the general fund and the federal trust (grant money provided by the U.S. Environmental</p>
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	<p>Protection Agency under Section 105 of the federal Clean Air Act or permit fees charged to affected entities under the permit program). The activities are budgeted under the following program (code)/subprogram (code): (i) Environmental and Resource Management (5120000)/Air Quality Stationary Source Permitting (5122000) and Air Quality Stationary Source Compliance Inspections (5122100) and (ii) Environmental Research and Planning (5130000)/Air Quality Research and Planning (5130700). The costs are expected to be ongoing.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities</p>	<p>The projected cost of the regulation on localities is not expected to be beyond that of other affected entities and is addressed below.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations</p>	<p>For Article 57: industries that use organic solvent for cleaning unit operations such as tanks, spray booths, and parts cleaners. Cleaning activities include wiping, flushing, or spraying to remove contaminants such as adhesives, inks, paint, dirt, soil, oil, and grease. Contaminants are removed from parts, products, tools, machinery, equipment, vessels, floors, walls, and other work production related work areas for a variety of reasons including safety, operability, and to avoid product contamination.</p> <p>For Article 58: industrial manufacturing and repair facilities for a wide variety of products and equipment that use adhesives. Adhesives are used to join surfaces in assembly and construction of a large variety of products. Adhesive application is accomplished by applying an adhesive to a substrate, followed by curing or drying the adhesive. The adhesive itself may be in the form of an aerosol applied by spraying, or liquid applied by spraying, rolling, or dipping.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means 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.</p>	<p>Because solvent cleaning and adhesive application processes are so commonplace, potentially numerous sources may be affected. Such sources can range from very large to very small operations, and will therefore likely include small businesses. Because many potentially affected sources have never been regulated before, and may be very small, it is unlikely that they have been required to register with the department and report their emissions; it is therefore impossible to quantify a precise number of potentially affected sources. (Minor source permitting thresholds are 10 and 25 tons per year of VOC; the RACT level of 15 lb/day equates to 2.7 tpy.) We anticipate that most of the potentially affected sources will be below the permitting threshold, and will likely need only to register with the department. It has also been the department's experience that as the identification and registration process proceeds, a number of sources that should have permits will likely be identified.</p>
<p>All projected costs of the new regulations or</p>	<p>For industrial cleaning solvents, it is anticipated that</p>

<p>changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>sources will realize a cost savings. VOC emissions control will be accomplished through a combination of work practices and product substitutions rather than expensive add-on equipment. This change in practices will mean that less product will evaporate and be wasted; therefore, less product will need to be purchased to replace that lost through evaporation. In the absence of control of industrial cleaning solvents, the general public assumes a cost related to emissions of VOCs, which have significant negative effects on human health and welfare.</p> <p>For miscellaneous adhesives, implementation of work practices and substance substitutions will likely realize a cost saving, as the reduced evaporation of product will result in the need to purchase less product to replace that lost through evaporation. Installation of control equipment, if necessary, may result in a relatively minor cost of \$265 per ton. (In comparison, costs of VOC controls for other source types can range from \$1,000 to over \$6,000 per ton.) In the absence of control of miscellaneous adhesives, the general public assumes a cost related to emissions of VOCs, which have significant negative effects on human health and welfare.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The adoption of these regulations will decrease emissions of VOC, which will in turn benefit public health and welfare. It will also enable Virginia to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act. As discussed above, it is also anticipated that many sources will likely realize cost savings through more effective application procedures and practices.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

As provided in the public participation procedures of the State Air Pollution Control Board, the department included, in the Notice of Intended Regulatory Action, a description of the department's alternatives and a request for comments on other alternatives and the costs and benefits of the department's alternatives or any other alternatives that the commenters provided.

Following the above, alternatives to the proposal were considered by the department. The department determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the proposal. The alternatives considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to allow

Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the 0.08 ppm 8-hour ozone standard and as necessary to attain and maintain compliance with the standard within maintenance areas, thus protecting public health and welfare.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it would be contrary to the requirements of the Clean Air Act.

3. Take no action to amend the regulations and continue to operate under the existing regulatory program. This option is not being selected because it would allow the current emissions levels to be maintained and possibly increase, to the detriment of public health and welfare. It would also subject the state to a federal plan to attain and maintain the air quality standards. EPA is also, by law, required to impose sanctions in cases where there is no approved SIP or the SIP is not being implemented, including loss of federal funds for highways, and more restrictive requirements for new industry.

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.

Public comment

Please summarize all public comment received during the comment period following the publication of the NOIRA, and provide the agency response.

No public input was received during the public comment period for this intended regulatory action.

Family impact

Please assess the impact of the proposed 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. However, there will be positive indirect impacts in that the proposal will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Intent and likely impact of proposed requirements
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.

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.

- CFR - Code of Federal Regulations
- CTG - control techniques guideline
- EPA - U.S. Environmental Protection Agency
- NAAQS - National Ambient Air Quality Standard
- NO_x - nitrogen oxides
- RACM - reasonably available control measure
- RACT - reasonably available control technique
- SIP - state implementation plan
- VOC - volatile organic compound

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