Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes ☐ Not Needed ☒

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).

Virginia Department of Planning and Budget
# Economic Impact Analysis

**2 VAC 5-425 Vapor Pressure Requirements for Gasoline Ethanol Blends**
**Department of Agriculture and Consumer Services**
**Town Hall Action/Stage: 4533/7679**
November 17, 2016

## Summary of the Proposed Amendments to Regulation

The proposed regulation will permanently extend a one-pound per square inch exception to the ethanol blended gasoline vapor pressure standards currently in effect under an emergency regulation.

## Result of Analysis

The benefits likely exceed the costs for all proposed changes.

## Estimated Economic Impact

The vapor pressure in ethanol blended gasoline must conform to certain standards for proper engine operation. It must be high enough to ensure ease of engine starting; but it must be low enough to avoid an engine vapor lock or excessive evaporative emissions. Ethanol in gasoline affects the vapor pressure. A 10% ethanol content in gasoline increases the vapor pressure by about one pound per square inch.[1] Beginning in 1992, the Environmental Protection Agency (EPA) started to permit a one-pound exception to the vapor pressure standards to encourage consumption of ethanol blended gasoline. Similarly the National Institute of Standards and Technology (NIST), whose standards determine Virginia's standards, adopted a one-pound

[1] Source: EPA

exception in 1994.[2] However, that exception to the vapor pressure was originally set to be discontinued by NIST as of May 1, 2016, but later was kept until May 1, 2017. In anticipation of the May 1, 2016 sunset date, an emergency regulation[3] was adopted continuing the exception in order to ensure that gasoline can legally continue to flow into and through Virginia in the Colonial pipeline. As with many other states, Virginia relies on the Colonial pipeline, which originates in Texas and ends in New Jersey for transportation of gasoline from the refineries. The proposed regulation will adopt the American Society for Testing and Materials (ASTM) standards (upon which NIST standards are based) directly and provide a permanent one-pound exception to the ASTM standards.

According to Virginia Department of Agriculture and Consumer Services (VDACS), all of the other states where the pipeline passes through have either granted a waiver or adopted a regulation with the exception. Without the one-pound exception, Virginia gasoline suppliers may not be able to use the Colonial pipeline and may have to resort to other costlier modes of gasoline transportation. Any such additional costs would then likely be at least partially passed on to consumers. In addition, the one-pound exception had been allowed since 1994 without any known problems.[4] The main impact of the proposed regulation is avoidance of costlier modes of gasoline transportation without a discernible impact on proper engine operation. Therefore, the proposed regulation should produce a net economic benefit. However, it should be noted that no significant economic change is expected upon promulgation of this regulation as it will continue the status quo.

## Businesses and Entities Affected

VDACS estimates that there are approximately 155 motor fuel distributors or dealers in Virginia. About 40 to 60 percent of them are estimated to be small businesses. In addition, avoidance of higher transportation costs would benefit the ethanol blended gasoline consumers.

## Localities Particularly Affected

The proposed changes apply statewide.

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[2] Virginia's vapor pressure tolerances for gasoline ethanol blends are set in § 59.1-153 of the Motor Fuels and Lubricating Oils Law which incorporates the National Institute of Standards and Technology Handbook 130, which utilizes the ASTM standards. See http://law.lis.virginia.gov/vacode/title59.1/chapter12/section59.1-153/ for Virginia Code § 59.1-153.

[3] http://townhall.virginia.gov/l/ViewStage.cfm?stageid=7500

[4] Source: VDACS

## Projected Impact on Employment

No impact on employment is expected upon promulgation of the proposed regulation.

## Effects on the Use and Value of Private Property

No impact on the use and value of private property is expected.

## Real Estate Development Costs

No impact on real estate development costs is expected.

## Small Businesses:

### Definition

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

### Costs and Other Effects

About 40 to 60 percent of the motor fuel distributors or dealers are estimated to be small businesses.[5] The proposed regulation does not impose costs on any entities, but it will benefit distributors or dealers by allowing them to legally use the Colonial pipeline for transportation of gasoline.

### Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

## Adverse Impacts:

### Businesses:

The proposed amendments do not have an adverse impact on non-small businesses.

### Localities:

The proposed amendments will not adversely affect localities.

### Other Entities:

The proposed amendments will not adversely affect other entities.

[5] Source: VDACS

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5)the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

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

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