Form: TH- 05

Virginia Regulatory Town Hall

Periodic Review of Existing Regulations
Agency Background Document

Agency Name:	State Air Pollution Control Board
Regulation Title:	Regulations for the Control and Abatement of Air Pollution
Subtitle:	New and Modified Stationary Sources
VAC Number:	9 VAC 5 Chapter 50
Date:	

This information is required pursuant to the Administrative Process Act § 9-6.14:25 and Executive Order Twenty-Five (98) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

Summary

Please provide a brief summary of the regulation and its purpose. There is no need to state each provision, instead give a general description of the regulation.

The regulation establishes standards of performance, consisting of emission limits and control technology requirements, and other requirements which control levels of criteria, designated and welfare-related pollutants being emitted into the ambient air. It also establishes source surveillance requirements which (i) provide the enforcement basis, specify test methods and procedures, and specify procedures for continuous or process parameter monitoring for determining compliance with the standards of performance; and (ii) require the owner to provide certain notifications, records and reports in order that the Department may determine compliance with standards of performance and other applicable requirements. The regulation incorporates the federal new source performance standards (NSPS) by reference.

Scope of Review

Please identify the parts and/or articles of the chapter included in this review and provide a brief reason for excluding the remaining parts and/or articles.

The specific parts and/or articles of 9 VAC 5 Chapter 50 subject to this review are listed below. An agency background document providing an individual review for each of the parts and/or articles listed below is available upon request.

PART II, Standards of Performance

Article 2, Odorous Emissions
Article 6, Standards of Performance for Regulated Medical Waste Incinerators

The remaining parts and/or articles of this chapter are not included in this review because they (i) are subject to an ongoing regulatory action or (ii) were subject to a recently completed regulatory action making them ineligible for review at this time.

Legal Requirements

Please identify the state and/or federal source of the legal requirements that necessitate promulgation of the regulation. The discussion of these requirements should include a description of their scope and the extent to which the requirements are mandatory or discretionary. Full citations for the legal requirements and, if available, web site addresses for locating the text of the cited legal provisions should be provided.

Federal Requirements

Federal Clean Air Act (CAA):
http://www.epa.gov/ttn/oarpg/gener.html
Code of Federal Regulations (CFR):
http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html
Federal Register (FR):
http://www.gpo.gov/su_docs/aces/aces140.html

Clean Air Act Section 110 Planning Requirements

Section 110(a) of the Clean Air Act (CAA) 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 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 CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

(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 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several 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 record-keeping, 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 state implementation plan 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 are in compliance with applicable laws, regulations, and standards, including authority to require record-keeping 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 as follows:

> (1) 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
>
> (2) 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 of the Clean Air Act specifies state implementation plan requirements for nonattainment areas, with Subpart 1 covering nonattainment areas in general and Subpart 2 covering additional provisions for ozone nonattainment areas.

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) the implementation of all reasonably available control measures as expeditiously as practicable and shall provide for the attainment of the national ambient air quality standards;
>
> (2) the requirement of reasonable further progress;
>
> (3) a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;
>
> (4) an identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;
>
> (5) the requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;
>
> (6) the 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) the 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 shall provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Under Part D, Subpart 2, §182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of volatile organic compounds (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. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA has published control technology 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.

Section 182(c) requires stationary sources in serious nonattainment areas to comply with the requirements for sources in both marginal and moderate nonattainment areas.

EPA has issued detailed guidance that sets out its preliminary views on the implementation of the air quality planning requirements applicable to nonattainment areas. This guidance is titled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (or "General Preamble"). See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The General Preamble has been supplemented with further guidance on Title I requirements. See 57 FR 31477 (July 16, 1992) (announcing the availability of draft guidance for lead nonattainment areas and serious PM_{10} nonattainment areas); 57 FR 55621 (Nov. 25, 1992) (guidance on NO_X RACT requirements in ozone nonattainment areas). For this subject, the guidance provides little more than a summary and reiteration of the provisions of the Act.

Delegation of Authority Requirements

Section 111(b) of the Clean Air Act requires that EPA develop standards of performance for new stationary sources (that is, new source performance standards, or NSPSs). States may be delegated the authority to implement and enforce the NSPSs. Section 111(c)(1) states, "Each State may develop and submit to [EPA] a procedure for implementing and enforcing standards of performance for new sources located in such State. If [EPA] finds the State procedure is adequate, [it] shall delegate to such State any authority . . . to implement and enforce such standards."

The Standards of Performance for New Stationary Sources are found in 40 CFR Part 60. NSPSs have been established for over 60 sources. 40 CFR Part 60, subpart A contains provisions regarding notification and recordkeeping, performance tests, availability of information, state authority, compliance with standards and maintenance requirements, circumvention, monitoring requirements, modifications, reconstruction, and general control device requirements, as well as numerous test methods and performance specifications. 40 CFR Part 60 subparts D through CCCC provide the standards of performance and other requirements, specific to each source type covered.

State Requirements

Code of Virginia:
http://leg1.state.va.us/000/cod/codec.htm
Virginia Administrative Code (VAC):
http://leg1.state.va.us/000/reg/toc.htm

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.

Comparison with Statutory Requirements

No provision of the regulation exceeds the specific minimum requirements of any legally binding state or federal mandate. An explanation as to how this conclusion was reached is set forth below.

With respect to those regulatory provisions that address federal initiatives, the agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the Federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have not changed to a degree that would justify a change to the basic requirements of the regulation.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many of the regulatory provisions in this regulation were first adopted in the early 1970's when no detailed guidance existed. Therefore, the legally binding federal mandate for these provisions is, generally, an overall response to the Clean Air Act's broad-based directive to states to meet the NAAQS.

Notably, the 1977 and 1990 amendments to the Clean Air Act marked a significant change in the detail of federal guidance. These amendments authorized the establishment of nonattainment areas and prescribed specific planning and regulatory requirements for those areas. Once the nonattainment areas were defined, each state was then obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the Act requires that certain specific control measures and other requirements be adopted and included in the SIP. In cases where the specific control measures were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end.

These amendments specifically required EPA to promulgate minimum RACT requirements for sources of volatile organic compounds. These requirements are summarized in Appendix D to EPA's proposed policy statement. See 52 FR 45105 (November 24, 1987). The 1990 amendments to the Clean Air Act required states to adopt regulations incorporating EPA's minimum RACT requirements for sources of volatile organic compounds. Therefore, the legally binding federal mandate for some provisions of this regulation derive from the minimum RACT requirements published pursuant to the 1977 amendments combined with the directive in the 1990 amendments for states to adopt regulations which include these minimum RACT requirements in order to control volatile organic compounds, which are emitted by some of the sources subject to this regulation.

In contrast to some of the section 110 requirements for SIPs, the regulatory provisions covering NSPSs are in response to the specific requirements of section 111(c) of the Clean Air Act and federal regulations.

With respect to those regulatory provisions that address state initiatives, the agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. Although no statute specifically mandates this regulation, it was adopted in order to implement the broad directive set forth in the Virginia Air Pollution Control Law to control

and abate air pollution throughout the Commonwealth. This law still remains in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is consistent with applicable state regulations, statutory provisions, and judicial decisions. Factors and circumstances (statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have not changed to a degree that would justify a change to the basic requirements of the regulation.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. If no public comment was received, please include a statement indicating that fact

No public input was received during the public comment period for this periodic review.

Effectiveness

Please provide a description of the specific and measurable regulatory goals of the regulation. Detail the effectiveness of the regulation in achieving such goals.

The regulation has been effective in achieving its specific and measurable goals, which are as follows:

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

2. To ensure that owners comply with air pollution emission limits and control technology requirements in order to control levels of criteria and designated pollutants being emitted into the ambient air.

3. To prohibit emissions which would contribute to nonattainment of any air quality standard or interference with maintenance of any standard, or adversely impact public health and/or welfare.

4. To enable the Department to carry out source surveillance and compliance activities.

Need

Please provide the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens or is essential for the efficient and economical performance of an important governmental function. Include a discussion of the problems the regulation's provisions are intended to solve.

Clean Air Act Section 110 Planning Requirements

Among the primary goals of the federal Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

The PSD program is designed to protect air quality in areas where the air is cleaner than required by the NAAQS. The program has three classifications for defining the level of allowable degradation: Class I is the most stringent classification, allowing for little additional pollution, while Class III allows the most. All of Virginia is classified at the moderate level, Class II, with the exception of two Class I federal lands.

A SIP is the key to the state's air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the federal Clean Air Act and its requirements.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations and include the following: emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control

measures also include area source control measures which are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation source control measures limit the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

Federal guidance on states' approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards. However, in recent years, the Clean Air Act, along with EPA regulations and policy, has become much more specific, thereby removing much of the states' discretion to craft their own air quality control programs.

Generally, a SIP is revised, as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant--ozone--has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NO_X), and sunlight. When VOC and NO_X emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Congress enacted the 1977 Amendments to the Clean Air Act in order to address unsuccessful SIPs and areas that had not attained the NAAQS (that is, nonattainment areas). Although SIP revisions submitted pursuant to the requirements of the 1977 amendments did achieve some progress in eliminating nonattainment areas, some areas remained.

In 1990 Congress once again enacted comprehensive amendments to the Act to address SIP requirements for nonattainment areas. The new Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of their class. In addition to the general SIP-related sanctions, nonattainment areas have their own unique sanctions. If a particular area fails to attain the

federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Clean Air Act includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

The new Act required EPA, based on the air quality data from each state, to propose geographic boundaries and pollution classification levels for all nonattainment areas to each state's governor. If states disagreed with EPA's proposals, they had the opportunity to propose different boundaries; however, EPA had the authority to make the final decision.

The process provided in the new Act yielded three nonattainment areas for Virginia. The classifications for Virginia's nonattainment areas were marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Since that time, air quality has improved. Although Northern Virginia remains as a nonattainment area, Richmond and Hampton Roads have achieved the one-hour ozone standard and are now considered maintenance areas; that is specific strategies that were implemented must continue, however, no additional new requirements are necessary provided the areas do not measure ozone concentrations in levels high enough to reclassify them into nonattainment.

Once the nonattainment areas were defined, each state was then obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the new Act requires that certain specific control measures and other requirements be adopted and included in the SIP; a list of those that necessitated the adoption of state regulations is provided below. In addition, the state had to demonstrate that it would achieve a VOC emission reduction of 15%. Finally, the SIP had to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3% from 1996 to 1999) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown below were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end.

ALL AREAS

- correct existing VOC regulatory program (controls on certain sources identified in EPA control technology guidelines)

- requirement for annual statements of emissions from industries

- permit program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas)

- procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans

MODERATE AND ABOVE AREAS

- requirement for controls for all major (100 tons per year) VOC sources
- requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II)
- requirement for controls for all major (100 tons per year) NO_X sources
- case by case control technology determinations for all major VOC and NO_X sources not covered by a EPA control technology guideline

SERIOUS AND ABOVE AREAS

- requirement for controls for all major (50 tons per year) VOC sources
- requirement for controls for all major (50 tons per year) NO_X sources
- enhanced monitoring (source emissions) program
- correct existing motor vehicle emissions inspection and maintenance (I&M) program
- enhanced motor vehicle emissions I&M program
- clean fuel fleet vehicle program
- oxygenated fuels program

Delegation of Authority Regulatory Requirements

Adoption of the NSPSs enables Virginia to more efficiently and economically perform a number of important governmental functions.

When EPA delegates a program to the state, it enables the state to be the implementing entity for that state's sources, not the federal government. In addition to the health and welfare benefits associated with the implementation of the federal New Source Performance Standards (NSPSs), the state benefits by being able to directly manage the program.

State management of the program results in a less burdensome approach for meeting the standards for both the state and the regulated entities. The state benefits in that it is able to directly work with the affected sources and have a clearer knowledge and

understanding of the state's sources and how they affect the state's air quality overall. It also enables the state to communicate directly with the sources and to more directly address mutual issues and concerns. Sources benefit from being able to work directly with the state rather than through the federal government in that the state has a more immediate understanding of the sources and can more efficiently and effectively work to address joint issues and concerns. Finally, the general public benefits from this system, as it ensures that overall national standards that directly affect human health and welfare are being implemented efficiently and effectively.

State-Only Regulatory Requirements

Some provisions of this regulation were developed to provide a mechanism to remedy a public welfare problem, rather than a public health problem, related to air pollution from odorous emissions. The odor provisions have seldom been utilized, but they have proven essential to manage the intense odors caused by fish processing, animal rendering, and other odorous activities which are frequently located near residential areas.

The regulation is essential to the efficient operation of government as well as the protection of public welfare in that if the Commonwealth did not take responsibility for the maintenance of these standards, citizens may force local governments to enforce odor standards within each community to ensure maintenance of the quality of life. Not only would this lead to inconsistent requirements being imposed across the state, but it would impose a financial burden upon local governments. While the regulations are not mandated, inaction by the state would result in citizens forcing their local governments to expend scarce resources on odor control.

Alternatives

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives that have been considered and will be considered to meet the need, and the reasoning by which the agency has rejected any of the alternatives considered.

Alternatives have been considered by the Department to meet the need. The Department has determined that retention of the regulation (the first alternative) is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the statutory requirements and need for 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 was chosen because the current regulation provides the least onerous method for 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 or federal mandates. This option was not chosen because it could result in the imposition of requirements that place unreasonable hardships on the regulated community without justifiable benefits.

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

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Department, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the regulation on the institution of the family and family stability including to what extent the regulation 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: 4) increase or decrease disposable family income.

It is not anticipated that the regulation will have a direct impact on families. However, there will be positive indirect impacts in that the regulation 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.

Recommendation

Please state whether the agency is recommending the regulation be retained and the reasons such a recommendation is being made.

The regulation satisfies the provisions of the legally binding state or federal requirements and is effective in meeting its goals; therefore, it is recommended that the regulation be retained without amendment.