



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

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**9 VAC 5-45 – Consumer and Commercial Products**  
**Department of Environmental Quality**  
December 19, 2008

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### **Summary of the Proposed Amendments to Regulation**

In order to comply with Environmental Protection Agency (EPA) and statutory mandates, the Virginia Air Pollution Control Board (board) proposes several regulatory changes including: 1) amending the portable fuel container spillage and consumer products provisions to conform to the strategies recommended by the OTC, 2) prohibiting owners from manufacturing, distributing, selling, and using noncompliant consumer and commercial adhesive and sealant products and architectural and industrial maintenance coating products, and 3) prohibiting the mixing, storage, and application of noncompliant emulsified asphalt coating products, with an exception for coating residential driveways.

### **Result of Analysis**

The benefits likely exceed the costs for one or more proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

### **Estimated Economic Impact**

In 2004, the Environmental Protection Agency (EPA) promulgated the Phase 1 Ozone Implementation Regulation to provide a process for classifying volatile organic compound (VOC) Emissions Control Areas, based on the severity of their ozone problems, and establishing deadlines for state and local governments to reduce ozone levels. The phase 1 regulation established a process for transitioning from implementation of the 1-hour ozone air quality standard to the more protective 8-hour ozone air quality standard.

The Phase 2 Ozone Implementation Regulation was promulgated by the EPA in 2005 to provide the remaining elements of the process to implement the 8-hour ozone air quality standard. The phase 2 EPA regulation outlines emissions control and planning requirements for states to address as they develop their state implementation plans (SIPs) demonstrating how they will reduce ozone pollution to meet the 8-hour ozone standard. Additionally, the regulation requires states to demonstrate that non-attainment areas will attain the 8-hour ozone standard as expeditiously as practicable.

Four areas of Virginia are designated as non-attainment areas under the 8-hr ozone standard: Northern Virginia, Hampton Roads, Richmond, and Western Virginia. These areas have been classified as VOC emissions control areas and must implement the control and contingency measures necessary to attain the 8-hour ozone standard. Fredericksburg has been designated as an attainment area. Accordingly, it is considered to be a “maintenance area” and thus, must maintain original controls as well as implement additional ones as needed to maintain the 8-hour ozone standard.

The federal Ozone Transport Commission (OTC) has identified what are considered the least cost methods of ozone control that will enable states to attain the 8-hour ozone standard within Ozone Transport Regions (OTR). The board proposed consumer and commercial product requirements for these regulations are consistent with these least cost methods recommended by the OTC in order for the Commonwealth to meet the EPA mandated 8-hour ozone standard.

As mentioned above, the board proposed requirements include: 1) amending the portable fuel container spillage and consumer products provisions to conform to the strategies recommended by the OTC, 2) prohibiting owners from manufacturing, distributing, selling, and using noncompliant consumer and commercial adhesive and sealant products and architectural and industrial maintenance coating products, and 3) prohibiting the mixing, storage, and application of noncompliant emulsified asphalt coating products, with an exception for coating residential driveways.

Altogether, the proposed amendments would enable the Department of Environmental Quality (DEQ) to implement control and contingency measures in the Northern Virginia VOC Emissions Control Area to demonstrate that the Northern Virginia non-attainment area will meet its goal of attainment by June 15, 2010. The new and revised regulations would also be

implemented in the Fredericksburg Maintenance Area in order to provide the most cost-effective additional VOC contingency measures for the Fredericksburg Maintenance Area.

The following costs and savings are projected for all regulated entities in the Northern Virginia and Fredericksburg VOC Emissions Control Areas for implementation and compliance and include projected reporting, recordkeeping and other administrative costs: 1) Portable Fuel Containers: insignificant cost to Virginia small businesses or individuals, 2) Consumer Products: up to, but likely somewhat less than \$6,500,000 cost per year for manufacturers, distributors and retailers of consumer products in the region combined, 3) Architectural and Industrial Coatings: \$3,200 savings annually per reporting facility, 4) Adhesives and Sealants: \$1,200,000 per year cost shared between manufacturers, distributors, and contractors, 5) Asphalt Paving: no significant net cost or savings.

The adoption of this regulation will decrease emissions of VOC in the Northern Virginia and Fredericksburg areas by an estimated total of 8.3 tons per day or more.<sup>1</sup> This significant emissions reduction will benefit public health and welfare by reducing ozone. Ozone injures vegetation, has adverse effects on materials (rubber and fabrics), and is a pulmonary irritant that affects respiratory mucous membranes, lung tissues, and respiratory functions. Reducing ozone will thus likely result in healthier citizens and reduce property damage. It will also allow Virginia to avoid federal sanctions that would be imposed for violating the SIP provisions of the Clean Air Act and to uphold its promise to its jurisdictional neighbors (Maryland and Washington, D.C.) to take this action.

## **Businesses and Entities Affected**

The proposed amendments potentially affect 476 manufacturers, distributors and retailers of consumer products, one manufacturer of architectural and industrial coatings, approximately 2500 firms who either produce or use or apply adhesives and sealants, and 78 asphalt paving contractors, most of whom qualify as small businesses.<sup>2</sup>

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<sup>1</sup> Data source: Department of Environmental Quality

<sup>2</sup> Data source: via Department of Environmental Quality, the Virginia Employment Commission database on April 21, 2008.

## **Localities Particularly Affected**

The proposed regulations particularly affect the counties of Arlington, Fairfax, Loudoun, Prince William, Stafford and Spotsylvania and the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park and Fredericksburg.

## **Projected Impact on Employment**

The increased costs for manufacturers, distributors and retailers of consumer products and manufacturers of adhesives and sealants and contractors who use adhesives and sealants will likely reduce profitability for some products. This will consequently have a likely moderate negative impact on employment.

## **Effects on the Use and Value of Private Property**

Manufacturing that produces VOC will be altered in ways that will reduce VOC emission. This will increase costs and consequently moderately reduce the value of some firms.

## **Small Businesses: Costs and Other Effects**

The proposed amendments will increase costs for some small businesses such as manufacturers, distributors and retailers of consumer products and manufacturers of adhesives and sealants and contractors who use adhesives and sealants.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Though the board's proposals add costs for some small businesses, there is not a clear alternative that reduces the adverse impact and still enables the Commonwealth to meet EPA requirements.

## **Real Estate Development Costs**

The proposed amendments may moderately, but probably not significantly, add to real estate development costs via increased costs associated with adhesives, sealants, and consumer products.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact

analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.