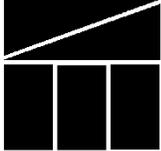


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

9 VAC 5-10 General Definitions
Department of Environmental Quality
Town Hall Action/Stage: 4585 / 7597
August 1, 2016

Summary of the Proposed Amendments to Regulation

The State Air Pollution Control Board (Board) proposes to revise the definition of volatile organic compound (VOC) to remove the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of t-butyl acetate (also known as tertiary butyl acetate or TBAC) as a VOC.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The general definitions of 9 VAC 5-10 impose no regulatory requirements in and of themselves, but provide support for other Board regulations. On February 25, 2016 (81 FR 9339), the U.S. Environmental Protection Agency (EPA) revised the definition of volatile organic compound (VOC) to remove the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of t-butyl acetate (also known as tertiary butyl acetate or TBAC) as a VOC. The state definition must now be revised accordingly.

TBAC is a solvent. The manufacturer of TBAC (LyondellBasell¹) states that TBAC can be used alone or in solvent blends in applications including coatings, inks, adhesives, industrial cleaners and degreasers, and can be used to clean dirt, grease, soot, paint debris, and burned-on carbon from vehicles and equipment before painting operations.

There are 3 facilities located in Virginia known to use this substance: Axalta Coating Systems (Front Royal²), Huber Engineered Woods (Crystal Hill³), and O'Sullivan Films (Winchester). None of these companies are a small business.⁴ There may be other facilities that may someday eventually wish to use this substance; however, the Department of Environmental Quality (Department) has not identified any specific facilities that plan to do so.

The three facilities in the state using this substance may recognize some cost savings associated with the removal of the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements. A facility that is not currently using this substance but at some point does choose to do so may realize a cost savings. Removing the requirements may be an incentive for some facilities to switch their current solvent use to TBAC.

The general public health and welfare will likely benefit because the revision may encourage the use of the affected substance in place of products containing more reactive and thereby more polluting substances. Due to its low photochemical reactivity, this substance is considered to be negligibly reactive in the formation of ground level ozone. Therefore, this substance does not have a negative effect on human health or the environment.

Removing the above-mentioned requirements for this substance will make it easier and less expensive for industry to use it. Companies that use this substance in place of more reactive substances may also benefit by reducing their VOC emissions and concomitant reductions in permitting and other regulatory requirements. Also the amendment will allow the Department to focus VOC reduction strategies on substances that have a negative impact on human health and the environment.

¹ See <https://www.lyondellbasell.com/>

² Warren County

³ Halifax County

⁴ Source: Department of Environmental Quality

Businesses and Entities Affected

The proposed revision of the VOC definition concerning TBAC directly affects its manufacturer LyondellBasell and the three Virginia-located firms/facilities known to use it: Axalta Coating Systems (Front Royal), Huber Engineered Woods (Crystal Hill), and O'Sullivan Films (Winchester).⁵

Localities Particularly Affected

The three known facilities that currently use TBAC and are thus affected by the proposed amendment are located in Halifax County, Warren County, and the City of Winchester.

Projected Impact on Employment

The proposed amendment is unlikely to directly affect employment in the Commonwealth. The demand for TBAC would likely increase, but the solvent is not produced in Virginia.

Effects on the Use and Value of Private Property

The proposed amendment may encourage some Virginia firms to switch to using TBAC as a solvent.

Real Estate Development Costs

The proposed amendment is unlikely to significantly affect real estate development costs.

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

The proposed amendment may reduce costs for some small businesses that use solvents if they choose to use TBAC.

Alternative Method that Minimizes Adverse Impact

The proposed amendment does not adversely affect small businesses.

⁵ Ibid

Adverse Impacts:**Businesses:**

The proposed amendment does not adversely affect businesses.

Localities:

The proposed amendment does not adversely affect localities.

Other Entities:

The proposed amendment does not adversely affect other entities.

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.

lsg