

Public Notice – Environmental Regulation

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act. The Commonwealth intends to submit the regulations to the EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Regulations affected: The regulation of the board affected by this action is the Regulation for Emissions Trading, specifically, the NO_x Annual Trading Program, the NO_x Ozone Season Trading Program, and the SO₂ Annual Trading Program (Parts II, III, and IV of 9VAC5-140), Revision D16. These regulations comprise the Clean Air Interstate Rule (CAIR) Program.

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: November 28 to December 28, 2016.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed below. In order to be considered, the request must include the full name, address and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent EPA regulations. Since the amendments are exempt from administrative procedures for the adoption of regulations, DEQ is accepting comment only on the issue cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: CAIR was an emissions trading program intended to control nitrogen oxides (NO_x) and sulfur dioxide (SO₂) which contribute to harmful levels of fine particle matter and ozone in downwind states. On August 8, 2011 (76 FR 48208), EPA replaced CAIR with the Cross-State Air Pollution Rule (CSAPR). CSAPR Phase 1 implementation was scheduled for 2015, with Phase 2 beginning in 2017. CSAPR is being implemented in Virginia under the associated federal implementation plan (FIP) and no further regulatory action is needed at the state level for this purpose. Chapter 291 of the 2011 Acts of Assembly requires that §§ 10.1-1327 and 10.1-1328, and any

regulations implementing CAIR, be repealed when facilities in the Commonwealth become subject to the requirements of a FIP adopted by EPA in response to the remand of CAIR. Because CAIR has been replaced by CSAPR, and Virginia is subject to the CSAPR FIP, Virginia may now, as required by Chapter 291, repeal its CAIR regulations.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the SIP.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All materials received are part of the public record.

To review regulation documents: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans web site (<http://www.deq.virginia.gov/Programs/Air/PublicNotices/airplansandprograms.aspx>). The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 am and 4:30 pm of each business day until the close of the public comment period at the following DEQ locations: 1) Main Street Office, 8th Floor, 629 E Main St, Richmond VA, 804-698-4070, 2) Southwest Regional Office, 355 Deadmore St, Abingdon VA, 540-676-4800, 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Rd, Roanoke VA, 540-562-6700, 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Rd, Lynchburg VA, 804-582-5120, 5) Valley Regional Office, 4411 Early Rd, Harrisonburg VA, 540-574-7800, 6) Piedmont Regional Office, 4949-A Cox Rd, Glen Allen VA, 804-527-5020, 7) Northern Regional Office, 13901 Crown Court, Woodbridge VA, 703-583-3800, and 8) Tidewater Regional Office, 5636 Southern Blvd, Virginia Beach VA, 757-518-2000.

Contact for public comments, document requests and additional information: Karen G. Sabasteanski, Policy Analyst, Office of Regulatory Affairs, Department of Environmental Quality, PO Box 1105, Richmond VA 23218 (phone 804-698-4426, fax 804-698-4510, email karen.sabasteanski@deq.virginia.gov).

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