

Department of Environmental Quality (DEQ)
Response to Virginia Department of Planning and Budget
Economic Impact Analysis dated April 17, 2017 (revised April 30, 2017)
Town Hall Action/Stage 4724/7867 (Title V Program Fees, Revision K16)

The Department has no comment on the economic impact analysis (EIA) except with regards to the section on Localities Particularly Affected.

The information provided in the EIA on localities particularly affected is based on requirements of the Administrative Process Act. Pursuant to § 2.2-4007.04 of the Code of Virginia, the Department of Planning and Budget (DPB) prepared an EIA of the proposed regulation according to specific requirements in § 2.2-4007.04 A. In § 2.2-4007.04 B, the Code of Virginia states "For purposes of this section, the term 'locality, business, or entity particularly affected' means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities." The wording of this definition and other EIA requirements in subsection A imply that the localities intended for this analysis are local public entities such as cities, counties, townships and districts, not areas.

Within that context, and with DEQ assistance, the EIA correctly identified 26 local public entities that owned facilities subject to Title V program fees. Those local public entities will be affected by increases in Title V program fees, while local public entities not owning such facilities will not be affected.

However, pursuant to § 10.1-1307.01 of the Code of Virginia, there is no locality particularly affected by the proposed amendments. Under the State Air Pollution Control Board's authority, the Code of Virginia requires that before promulgating any regulation under consideration, if the Board finds that there are localities particularly affected by the regulation, the Board is required to publish notice in the localities particularly affected. For the purposes of this section, the term "locality particularly affected" is defined to be any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities. Within this context there is no locality particularly affected by this revision. This revision applies only to fees and does not impact emissions or air quality, so there is no locality which bears any material air quality impact which would not be experienced by other localities as a result of this action. In terms of other material impacts, particularly cost, the regulation applies equally in all such localities, and any entity that constructs or owns a facility subject to Title V program fees will pay fees at the same rate that an equivalent facility located in another locality will pay. No locality is identified in the regulation in which facilities located in that area are required to pay fees at a higher or lower rate than equivalent facilities in any other locality.