



Economic Impact Analysis Virginia Department of Planning and Budget

4 VAC 50-60 – Virginia Stormwater Management Regulations
Department of Conservation and Recreation
June 1, 2013

Summary of the Proposed Amendments to Regulation

The Virginia Soil and Water Conservation Board (Board) proposes to: 1) add a new part to these regulations (Part XVI) titled “Procedures For Reviewing and Approving Design Specifications and Pollutant Removal Credits for BMPs” (4VAC50-60-1300 et seq.) within the body of the Stormwater Management regulations. This new part incorporates by reference a new technical guidance document called Virginia Technology Assessment Protocol For Evaluating Stormwater Manufactured Treatment Devices. Additionally, the Board proposes to add four new associated forms. Part XVI establishes procedures for the consistent and reliable testing and verification of stormwater Best Management Practice (BMP) performance and provides for a systematic state review and approval process for BMP Design Specifications and Pollutant Removal Credits.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

In order to protect the quality of state waters and to control the discharge of stormwater pollutants from regulated activities, the Virginia Stormwater Management Regulations specify minimum design criteria¹ and statewide standards for stormwater management that must be applied at development sites. Further the regulations specify that compliance with the water quality design criteria shall be determined by utilizing the Virginia Runoff Reduction Method or another equivalent methodology that is approved by the Board. The regulations list 15

¹ The criteria are specified in 4 VAC 50-60-63.

nonproprietary BMPs that are approved for use as necessary to effectively reduce the phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction Method.² The regulations also state that BMPs differing from those listed shall be reviewed and approved by the Director of the Department of Conservation and Recreation in accordance with procedures established by the BMP Clearinghouse Committee and approved by the Board.

The Department of Conservation and Recreation (Department) created the standing Virginia Stormwater BMP Clearinghouse Committee of technical experts and stakeholders to develop as part of their charge, testing protocols for use in determining removals of Total Suspended Solids, Total Phosphorus and Total Nitrogen as are set out in the technical document incorporated by reference through this proposed regulatory action. The Department has also created the Virginia Stormwater BMP Clearinghouse website to post Department Director approved BMPs.

In addition to the 15 non-proprietary BMPs, the Director has authorized 7 proprietary Stormwater Manufactured Treatment Devices (MTDs) for use in Virginia to provide water quality protection during land-disturbing activities and to address post-construction nutrient and sediment reduction requirements. To date, MTD/BMP test programs to evaluate pollutant removal performance have been established in other states, sometimes using fairly simple protocols and often subject to rainfall characteristics very different from those in Virginia. Consequently, it is difficult to have confidence that stormwater treatment devices tested elsewhere would achieve the same levels of performance in Virginia. The proposed regulations establish a scientifically defensible procedure and a reliable standardized process for testing manufactured stormwater management treatment devices to verify their designs and determine the level of pollutant removal they perform for Total Phosphorus (required), Total Suspended Solids (required), and Total Nitrogen (optional). This process will likely result in many more MTDs being approved as BMPs, given the greater confidence that the products will be able to accomplish their purported water quality protecting attributes. This increase in the number of BMPs to choose from should be a benefit to land developers and local and state agencies involved in activities that disturb land. The increased availability of BMP tools will likely result in reduced cost in complying with stormwater management criteria for these entities. Firms that

² The list is in 4 VAC 50-60-65.

manufacture MTDs will also benefit in that there will likely more such products approved for sale.

Businesses and Entities Affected

The proposed amendments affect businesses that manufacture stormwater treatment devices, laboratories that analyze water/sediment samples from testing of products, and land developers and local and state agencies involved in activities that disturb land. The Storm Water Equipment Manufacturers Association (SWEMA) estimates there are a total of 62 companies producing stormwater treatment devices, broken down by approximate size as follows: 24 small (defined by SWEMA as <\$20M annual revenue), 7 medium (\$20M - \$50M annual revenue), 15 large (> \$50M annual revenue), and 16 of unknown size.

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular Virginia localities.

Projected Impact on Employment

Firms that manufacture and sell MTDs will potentially add employees as the proposed amendments will likely increase sales in the Commonwealth.

Effects on the Use and Value of Private Property

The increased available of BMP tools will likely result in reduced cost in complying with stormwater management criteria for some real estate development firms. This may moderately increase such firms' net worth. Firms that manufacture MTDs will be more likely to have their products approved for sale in Virginia and will potentially have their value commensurately increase.

Small Businesses: Costs and Other Effects

The proposed amendments may potentially reduce costs for small real estate development firms.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments will not adversely impact small businesses.

Real Estate Development Costs

The proposed amendments may potentially reduce real estate development costs in that the potential increase in approved BMPs may reduce the costs in complying with stormwater management criteria associated with land development.

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 14 (10). 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.