

Response to Economic Impact Analysis

The Department of Conservation and Recreation (DCR) has reviewed the economic impact analysis (EIA) of the Virginia Soil and Water Conservation Board's proposed amendments to Part XIII of the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60) prepared by the Department of Planning and Budget (DPB) and generally concurs with the fee assessment while offering the following specific observations and or qualifications.

First, DCR notes that this action is closely tied to the proposed Part I, II, and III stormwater regulatory action as the fees generated are necessary to fund the local stormwater management programs established through that concurrent regulatory action. The fees that are in effect under the current VSMP regulations were transferred over with the stormwater program from the Department of Environmental Quality in 2005 and are essentially only minimal processing fees. The existing fees are proposed to be amended in this regulatory action as they are insufficient for the operation of a local program and for necessary program oversight. The proposed fees have been established using estimates of the time determined to be necessary for different sized projects, for a local stormwater management program to conduct plan review, inspections [including stormwater pollution prevention plan (SWPPP) review and re-inspections], enforcement, provide technical assistance, and issue permit coverage, and for DCR to provide oversight of the Commonwealth's stormwater management program. The public will benefit from an enhanced statewide stormwater management program that will be properly funded and administered at the local level. This will result in improved compliance with the VSMP regulations and thus improved water quality. The regulated community will also benefit from properly funded and staffed local stormwater management programs, as local administration will improve efficiency and service over today's scenario of Erosion and Sediment Control being administered by the locality and Stormwater Management being administered by the Department. DCR also notes that a wealth of additional information regarding the proposed fees in this regulatory action, including how they are calculated, is presented in the detailed Agency Statement document (TH-02 form) accompanying this regulatory action.

Second, the EIA specifies that “[b]ased on information supplied by DCR and their own investigation, Stephenson and Beamer¹ project a future average of 5,600 permits per year. Looking at a lower bound estimate of 3,000 permits, best estimated average of 5,600 permits, and an upper bound of 7,000 permits, Stephenson and Beamer estimate that the total annual permit fees collected would be approximately \$9 million, \$18 million, and \$22 million, respectively.” DCR spent considerable time in its analyses in the Agency Statement refining the estimate of the number of permits that are expected to be issued when the regulations are implemented and the revenue that would need to be generated to cover program costs. DCR, after taking the data from several sources under consideration and the significantly slowing economy, and recognizing that an over-estimate of the permits to be expected in the future could lead to severe revenue shortfalls and an inability of both localities and the Department to cover program administration costs (if proposed permit fees were further lowered), selected 5,000 permits as a reasonable estimate of the number of expected permits annually going forward (unless there is further erosion of the economy). This calculation is fundamental to both local and state staffing calculations as well as the right-sizing of the proposed fees to cover costs. DCR estimates that the revenue from the proposed fees will be approximately \$14.7 million to be used by localities to administer 103 local stormwater management programs and by DCR to administer 74 local stormwater management programs (consolidation of 222 localities) as well as to conduct construction program oversight and MS4 program management. The estimated fee revenue generated compares closely with the \$14.9 million estimate in combined program administration costs.

¹ Stephenson, K. and B. Beamer. December 31, 2008, “Economic Impact Analysis of Revisions to the Virginia Stormwater Regulation,” Appendix B in the Agency Background Document associated with this proposed action.

Finally, DCR emphasizes that the proposed fees are necessary, as the sole funding source, to support work to minimize the cumulative impacts of stormwater on humans and the environment and to moderate the associated hydrologic impacts. If not properly managed, stormwater can have significant economic impacts and the stream restoration costs for fixing the problems after the fact are very costly. Without the fees generated through this regulatory action, local programs could not be properly administered. Per the Code, the fees need to be set at level sufficient to cover expenses associated with all portions of the administration of the Commonwealth's stormwater management permit program.