



Economic Impact Analysis Virginia Department of Planning and Budget

2 VAC 5-320 – Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act

Department of Agriculture and Consumer Services

June 14, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Virginia Department of Agriculture and Consumer Services (VDACS) proposes to: 1) remove three plant species from the endangered list, 2) add two different plant species to the endangered list, 3) add eight plant species to the threatened list, 4) add three insect species to the endangered list, and 5) add three insect species to the threatened list.

Estimated Economic Impact

Pursuant to Section 3.1-1025 of the Code of Virginia, VDACS maintains lists of endangered and threatened plant and insect species in Virginia, and under certain circumstances requires developers of public and private lands to take specified actions to avoid the destruction of the listed endangered and threatened plant and insect species. Any major construction projects conducted on public lands or on private lands for the purpose of sale (subdivisions, retail or industrial buildings, etc.) are subject to review by VDACS to determine whether the proposed

construction would take place on land that is within an area that is known to have species on the endangered or threatened lists in the vicinity. According to the agency, less than one percent of the over 1,000 proposed construction projects presented to VDACS annually are deemed to be on land that is within an area that is known to have species on the endangered or threatened lists in the vicinity. For these projects, the developer must hire a qualified individual¹ to conduct a survey for the endangered and threatened species on the site of the proposed construction. These surveys typically cost several hundred dollars.² Less than one percent of these surveys detect protected plants or insects that require the developer to incorporate mitigating practices into their project.³

According to VDACS, the following are examples of circumstances where mitigating practices are necessary and implemented. A locality or the Virginia Department of Transportation (VDOT) is in the early planning stages concerning the construction of a new road. Several routes are considered. It is determined by the process described above that one of the routes would harm an endangered or threatened species. The locality or VDOT chooses a different route for the road. Or if no viable route avoids the endangered or threatened species, then an accommodation such as an overpass may be built to minimize the harm. Another example would be that of a private developer where it is determined by the process described above that construction of homes for a subdivision would harm an endangered or threatened species. In such a circumstance VDACS would likely strike an agreement with the developer so that part of the land would be preserved, while the rest could be developed.⁴

VDACS' proposal to add sixteen new species and subtract three current species from the lists of endangered and threatened species would likely increase the frequency that developers must hire surveyors to determine the presence of endangered or threatened species, and the frequency endangered or threatened species are found on the site proposed for development. But, according to the agency, the frequencies will remain very low. Nevertheless, for those additional developers who must hire surveyors due to the species added to the lists, the proposed list additions will cost several hundred dollars and potentially significantly more if the survey

¹ The United States Fish and Wildlife Service (USFWS) and the Virginia Department of Conservation and Recreation, Division of Natural Heritage maintain a list of qualified individuals.

² Source: VDACS

³ Ibid

⁴ Ibid

shows endangered or threatened species on the site to be developed. For example, the private developer would lose the potential profits garnered from developing the land that he must leave undeveloped due to his agreement with VDACS. The benefits of adding species to the lists involve the value placed on the preservation of endangered or threatened species, and the species' contributions to their ecosystems. As designed, the program does seem to reduce the likelihood that endangered or threatened species will be driven to extinction or at least may slow that trend. Currently, neither the species to be added to the lists or the species proposed for deletion are known to be commercially valuable.⁵ Whether the costs incurred by public and private developers, and potentially passed on to taxpayers and consumers through potentially higher taxes, reduced services, or higher housing or commercial rental costs, exceed the benefits associated with reducing the negative pressures on endangered or threatened species populations depends upon how much value is placed on the preservation of endangered or threatened species. Since little or no data exists concerning the magnitude of the expected costs or benefits, it is not possible to draw any reliable conclusion about the net economic impact of this change.

Businesses and Entities Affected

Due to the proposed changes, 15 to 20 additional individuals will be listed as qualified to survey for at least one species on the endangered and threatened species lists. Property owners containing populations of species proposed for addition to the lists, property owners containing populations of species proposed for deletion to the lists, developers, and some building contractors will be affected as well.

Localities Particularly Affected

The proposed changes to the endangered and threatened species lists will affect at least one or two sites in all regions of the Commonwealth.

Projected Impact on Employment

Individuals qualified to survey for endangered and threatened plant and insect species may receive a small additional amount of work due to the proposed changes. Even with the net additions to the lists, occurrences where mitigating actions are required appear to still be very

⁵ Ibid

infrequent. Thus, beyond the surveyors, employment should not be significantly affected by the proposed changes.

Effects on the Use and Value of Private Property

Individuals qualified to survey for endangered and threatened plant and insect species will likely earn some additional revenue. Developers that will need to employ these surveyors will see their costs rise commensurately. In the rare occasions where developers must take mitigating actions, the commercial net value of their property will be negatively affected.