

TENTATIVE Next Steps for Advancing RMP Regulation
February 14, 2012

Steps leading up to Board Meeting:

- 1) **February 14th**, RMP Regulatory Action Panel meeting – discuss refinements to the draft proposed regulation.
- 2) **February 22nd**, Circulate updated regulation to RAP for review and comment; request any thoughts regarding economic impact analysis.
- 3) **February 29th**, Comments from RAP due to Department on regulation.
- 4) DCR will prepare proposed Board regulation and confer with Administration.
- 5) **March 15th**, Mail RMP proposed regulations and supporting regulatory materials to Board; copy RAP.
- 6) **March 29th**, Virginia Soil and Water Conservation Board will consider a “**Motion to approve, authorize and direct the filing of proposed regulations**”.

Following affirmative VSWCB action on March 29th, the timeline may then involve:

- 7) **April 1st**, Information on economic impact analysis from RAP members due to Department.
- 8) **April** – Department will complete development of required regulatory forms and analyses and post to the Regulatory Town Hall initiating DPB 45-day review.
- 9) **Mid June**, DPB completes economic analysis.
- 10) DCR responds to analysis and with agreement of Administration submits the proposed regulation to the Virginia Register of Regulations for publication. (Target submittal for **June 27th** noon).
- 11) **July 16th - September 14th**, if above target dates are met, the proposed regulation would be published on July 16th in Volume 28: Issue 23 initiating a 60-day public comment period.
- 12) **Early August**, At least one public hearing will be held.
- 13) **September – October**, DCR will analyze comments received, prepare comment summary/response, develop final regulation, and confer with the Administration.
- 14) **Mid November**, recommended final regulation is mailed to Board with supporting documentation.
- 15) **Early December**, Virginia Soil and Water Conservation Board will consider a “**Motion to approve, authorize and direct the filing of a final regulation**”.
- 16) **January 2013**, DCR will likely file a final exempt action for publication in the Virginia Register of Regulations (Target January 9th submittal, January 28th publication).
- 17) “Such regulation shall become effective 15 days after publication in the Virginia Register of Regulations...” (**February 12th**, Volume 29: Issue 11).

§ 10.1-104.9. Regulations under this article.

Regulations adopted by the Board for the enforcement of this article shall be subject to the requirements set out in §§ [2.2-4007.03](#), [2.2-4007.04](#), [2.2-4007.05](#), and [2.2-4026](#) through [2.2-4030](#) of the Administrative Process Act (§ [2.2-4000](#) et seq.), and shall be published in the Virginia Register of Regulations. The Board shall convene a stakeholder group to assist in development of these regulations, with representation from agricultural and environmental interests as well as Soil and Water Conservation Districts. All other provisions of the Administrative Process Act shall not apply to the adoption of any regulation pursuant to this article. After the close of the 60-day comment period, the Board may adopt a final regulation, with or without changes. Such regulation shall become effective 15 days after publication in the Virginia Register of Regulations, unless the Board has withdrawn or suspended the regulation or a later date has been set by the Board. The Board shall also hold at least one public hearing on the proposed regulation during the 60-day comment period. The notice for such public hearing shall include the date, time, and place of the hearing.

§ 2.2-4007.04. Economic impact analysis.

A. Before delivering any proposed regulation under consideration to the Registrar as required in § [2.2-4007.05](#), the agency shall submit on the Virginia Regulatory Town Hall a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency shall, within 45 days, prepare an economic impact analysis of the proposed regulation, as follows:

1. The economic impact analysis shall 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 by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property, including additional costs related to the development of real estate for commercial or residential purposes; and the projected costs to affected businesses, localities, or entities of implementing or complying with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. A copy of the economic impact analysis shall be provided to the Joint Commission on Administrative Rules;

2. If the regulation may have an adverse effect on small businesses, the economic impact analysis shall also 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. As used in this subdivision, "small business" has the same meaning as provided in subsection A of § [2.2-4007.1](#); and

3. In the event the Department cannot complete an economic impact statement within the 45-day period, it shall advise the agency and the Joint Commission on Administrative Rules as to the reasons for the delay. In no event shall the delay exceed 30 days beyond the original 45-day period.

B. Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in § [2.2-4007.05](#), a copy to the Registrar for publication with the proposed regulation, and an electronic copy to each member of the General Assembly. No regulation shall be promulgated for consideration pursuant to § [2.2-4007.05](#) until the impact analysis has been received by the Registrar. 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 analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ [2.2-4025](#) et seq.) or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.