

# Proposed Changes to the Virginia Stormwater Management Regulations

Hampton Roads Planning District Commission  
July 15, 2009

Julia B. Hillegass, Senior Planner



# VA Stormwater Management Program

- Proposed Changes
  - Part I: Definitions
  - Part II: Technical Criteria
    - Water Quality
    - Water Quantity
  - Part III: Local Programs
  - Part XIII: Fees
- Impacts to Local Governments
- Regional Concerns

# Part I: Definitions

- Most clean-up, clarify meanings and have been thoroughly vetted through the TAC process
- Of Concern:
  - “Adequate channel” means a watercourse or wetland that will convey the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks, or overbank sections of the same.

# Part II: Technical Criteria

Criteria—based on Tributary Standards goals

- New development design standard of .28 lbs./ac/yr for phosphorus load
  - Allowable load down from .45 lbs/ac/yr
- Redevelopment must achieve 20% reduction below pre-development load
  - Current standard is 10%
- Utilized new Runoff Reduction Method

# Part III: Local Programs

- Contains requirements for locally-administered or DCR administered programs
  - Only for “qualifying local programs” which include:
    - SW Management Plan Review
    - Permit issuance
    - Inspections
    - Enforcement
    - Hearings
    - Exceptions
    - Long Term BMP maintenance by owners
    - Reporting & recordkeeping

# Part XIII: Fees

- State Code requires program to be fully funded by permit fees
- Administer at local level if receive program delegation---28% to State
- DCR based fees on size and type of project and the associated workloads
- Changes to locality annual maintenance fees

# Staff Comments

## **ISSUE:**

Proposed regulations encourage sprawl and create a financial disincentive for redevelopment

## **RECOMMENDATION:**

- Retain 10% reduction requirement for phosphorus
- Allow waivers for Urban Development Areas
- Expand options to include smart growth BMPs
- Guidance on Comprehensive Watershed Mgt. Plans
- Allow pro-rata fees

# Staff Comments

## **Issue:**

The Department of Planning and Budget's Economic Analysis points out high costs to implement the proposed regulations. The costs will ultimately impact all segments of the population. It is unknown whether the implementation of the regulations will provide significant improvements in water quality.

## **Requested Revision:**

DCR should consider the concerns expressed in the Economic Analysis and resolve the concerns prior to finalizing the proposed regulations.

# Costs of Proposed Regulations

Development Type	Size	Stormwater Costs		Percent Increase in cost/acre	Cost/lb Removed		Percent Change in Cost/lb
		Current	Proposed		Current	Proposed	
Commercial	15.6	\$500,000	\$570,000	14%	\$30,845	\$27,643	-10%
Office Complex	11.1	\$180,000	\$240,000	33%	\$15,789	\$16,667	6%
Residential: 1/2 acre lots	14.9	\$144,000	\$198,500	38%	\$114,286	\$28,479	-75%
Residential: 1/5 acre lots	55	\$745,000	\$1,495,000	101%	\$28,435	\$32,930	16%
Redevelopment: Office/Retail	1.65	\$11,250	\$28,750	156%	\$19,737	\$35,938	82%

# Staff Comments

## **ISSUE:**

Master Plan developments already approved

## **RECOMMENDATION:**

- Add a grandfathering provision to provide guidance on dealing with these developments that may be under construction for the next 10 years.

# Staff Comments

## **ISSUE:**

Local flexibility in limiting specific BMPs

## **RECOMMENDATION:**

Allow BMP use limitations through existing local ordinances

# Staff Comments

## **ISSUE:**

Proposed regulations governing local programs are too prescriptive

## **RECOMMENDATION:**

Programs reviewed and approved based on a minimum criteria, but program details left to local discretion

# Other Staff Comments

- BMP Applicability for the Coastal Plain
- Supporting technical guidance has not yet been completed or field tested.
- Definition of “adequate channel” in relation to isolated wetlands
- Including BMP Pollutant Removal Efficiencies in the regulations

# Take Home Points

- More stringent standards for development and redevelopment
- Increased local burden in running construction general permit program
- Potential revenue stream from administering program
- Targeted to water quality goals, with phosphorus as keystone pollutant
- Bacterial impairments more prevalent in Hampton Roads

# DCR Timeline

- 60 Day Public Comment Period—ends Aug 21<sup>st</sup>
- Development of final regulations based on comments
- September/October: Final Regulations to SWCB
- EPA Approval of state program
- Development of new construction general permit to implement Part II
- July 1, 2010: Earliest Effective Date of Regulations (HB 1991)
- October 2011 – May 2012: Local adoption and DCR approval of qualifying local programs (All by April 2013)

# Requested Action

- Endorse the attached listing of concerns and recommendations regarding the proposed Stormwater Management Regulations.
- Authorize HRPDC staff to submit comments to DCR on the aforementioned items

## Questions?