



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 5-210 – Regulations for the Control and Abatement of Air Pollution: Regulation for Dispute Resolution [Revision T97]; Department of Environmental Quality

August 6, 1999

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

This proposal under the Air Pollution Control Board establishes alternative dispute resolution as an option for avoiding formal administrative actions and litigation for deciding disagreements over permitting and promulgation of regulations. The regulation is intended to comply with §10.1-1186.3 of the Code of Virginia.

Estimated Economic Impact

Alternative dispute resolution (ADR) includes a number of techniques designed to allow the parties to a dispute to reach a mutually satisfactory resolution of their disagreement. These techniques are intended to help parties avoid protracted conflicts which often end up in expensive litigation. The potential benefits of ADR include the avoidance of the delay and expenses of litigation but also the potential for siting economically productive facilities that might have been precluded under more adversarial procedures. Parties are encouraged to find

mutually advantageous outcomes. Indeed, the Department of Environmental Quality provided evidence that ADR has been successful in a number of instances around the country at achieving both of these benefits.

ADR is not free. The services of professional in the field of ADR is required. However, we need not estimate these costs to draw the conclusion that, if ADR is used in the context of Air Board permits or regulations, it will result in a net economic gain to Virginia. This conclusion is based on the voluntary nature of the process. The parties to ADR may withdraw at any time. Thus, any resulting agreements must be mutually satisfactory to the parties involved. Under these circumstances, it is highly likely that the ADR will result in a net gain relative to the outcome that would be achieved in its absence.

Unfortunately, it is not possible to make a reliable estimate of the magnitude of the benefits of ADR for permits and regulations under the Air Board. It is not known how much is spent on average in a given year on traditional dispute resolution. Nor can it be known how many disputes will be moved to ADR, how much the average ADR expenses will be, or how many will be successfully resolved this way. That the magnitude of the benefits cannot be estimated does not alter the conclusion that this rule is likely to lead to net economic benefits for Virginia.

Businesses and Entities Affected

Because this proposal will affect anyone in Virginia interested in the promulgation of environmental regulations or in the granting of environmental permits, it potentially affects every citizen, locality, business and interest group in the Commonwealth. Those primarily affected will be businesses, localities and environmental interest groups.

Localities Particularly Affected

This regulation applies throughout the Commonwealth and hence there will be no disproportionate impact on any particular locality.

Projected Impact on Employment

No significant net impact on employment is expected. There may be some small reduction in demand for the services of lawyers in some environmental disputes. However, this

effect cannot be expected to have any significant impact on employment in the legal profession. There may be a small increase in the use of mediation services but probably not enough to cause an increase in permanent employment in the area.

Effects on the Use and Value of Private Property

It is possible that the use of dispute resolution could result in the completion of projects that could not have been completed under traditional dispute resolution methods. This could result in increases in the value of those properties where the proposed projects are located.