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November 17, 2009

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To Whom It May Concern:

Please accept these comments on behalf of the Virginia Chamber of Commerce in response to the action of the Soil and Water Conservation Board on October 5, 2009, to adopt new stormwater regulations and then suspend the regulations so that stakeholders would have an opportunity to comment on the many changes that were made to the regulations just prior to their adoption.

We want to restate our appreciation to the Department staff for the spirit in which the changes were offered. We recognize that they were offered in an effort to ameliorate concerns that were raised about the original proposal. But, however well-intentioned those changes are, they do not address the serious flaws that plague the proposed new regulations.

While the changes made might help move this proposal in the right direction, they do not go nearly far enough. The “compromise” offered by DCR does not take the steps needed to address the real problems with the regulation and only slightly lessens the burdens on the economy.

The 0.28 lbs/acre/yr standard is still what underpins this entire scheme. None of the concerns raised about the science on which this proposed standard is based have been addressed. Likewise, the 0.45 lbs/acre/yr standard for areas outside the Bay watershed is not based on sound science, but rather the selection of a number that represents what has been a practice but not a standard with the force of law.

In sum, these proposed requirements, while better than the original proposal, will still promote sprawl, increase the cost of doing business in Virginia and threaten our economic competitiveness.

But, the proposal is not the only thing that has changed. Since October 5, the Environmental Protection Agency (EPA) has revised the water quality model for the Chesapeake Bay and has raised Virginia’s overall phosphorus allocation by over 1 million pounds per year from the data used by the Board to establish the proposed standard. In addition, the EPA increased the total

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non-point source allocation by over 1.3 million pounds per year. With the revised non-point source allocation of 5.88 million pounds per year, Virginia would be just a scant 30,000 pounds per year over its allocation based on EPA 2008 performance data. This suggests that current practices are working and would perhaps be sufficient to bring Virginia under its allocation.

In light of the EPA's actions, we believe that the proper course of action is to suspend this current action and reconstitute the Technical Advisory Committee (TAC), giving the new TAC the latitude to first examine the need for any changes at all, and if changes are needed, to address technical issues that were raised but not sufficiently addressed in the formulation of this proposal.

Thank you for your consideration of our position on this issue.

Sincerely,



Tyler Craddock
Director of Government Affairs