

**Virginia Department of Conservation and Recreation
Public Hearing on Proposed Amendments to Parts I, II, III, and XIII of the Virginia
Stormwater Management Program Permit Regulations
(4 VAC 50-60-10 et seq.)**

**July 9, 2009 – 7:00 p.m.
Hampton City Council Chambers, Hampton, Virginia**

Meeting Officer: Christine Watlington
Policy and Budget Analyst
Department of Conservation and Recreation

Opening:

Ms. Watlington: Good evening, I would like to call this public hearing on the Virginia Soil and Water Conservation Board's proposed amendments to Parts I, II, III and XIII of the Virginia Stormwater Management Program Permit Regulations to order. I am Christine Watlington, Policy and Budget Analyst for the Department of Conservation and Recreation. I will be serving as the meeting officer this evening. I welcome you to this hearing.

I would like to thank the City of Hampton for allowing us to use this facility.

Introduce DCR Staff assisting with the meeting.

With me this evening I have Ved Malhotra, DCR's Division of Soil and Water Conservation; David Dowling, DCR's Policy, Planning and Budget Director, Ryan Brown, our Policy and Planning Assistant Director, who will serve as our technical presenter, Joseph Maroon, DCR Director and Michael Fletcher, DCR Board and Constituent Services Liaison. This meeting will be recorded.

I hope that all of you have registered on our attendance list. If not, please do so. Those wishing to speak should note that on the attendance list. Please also make sure that your contact information, including your name and address, is legible and complete as we will be utilizing it to keep you informed on the status of the regulatory actions.

Purpose of the public hearing:

The purpose of this hearing is to receive input from interested citizens on the Board's two proposed regulatory actions during the 60-day public comment period, which closes on August 21st. 2009. The first regulatory action proposes amendments to Parts I, II, and III of the Virginia Stormwater Management Program Permit Regulations related to stormwater definitions, water quality and quantity technical criteria, and local program criteria. The second action proposes amendments to Part XIII of those regulations related to stormwater fees.

The Department used the participatory approach to develop the proposals. Following the publication of the Notices of Intended Regulatory Action regarding these regulations and the public comment period on the NOIRAs, the Department formed a Technical Advisory Committee to assist in the development of the proposed regulations. The TAC included representatives from localities, consulting firms, environmental organizations, state agencies, colleges and universities, planning district commissions, soil and water conservation districts, and federal agencies. The TAC met 17 times over the course of a two and a half year period. Following the completion of the TAC's work, the Soil and Water Conservation Board proposed these regulations at its meeting held on September 25, 2008. Copies of the proposed regulations are located on the table near the attendance list.

Although we have already been considering regulatory solutions to issues with the proposed regulations that we are aware of, it is the Board's approved version that we were required to publish and seek comments on. However, during the regulatory overview, we will share with you a few areas that we already recognize will need further consideration. We do want to note that all public comments received will be carefully considered by the Department and the Board in developing final regulations. The Board's recent regulatory actions demonstrate a history of being responsive.

This concludes my introductory remarks. I would like to introduce Ryan Brown, DCR's Policy and Planning Assistant Director, who will provide information regarding what the proposed regulations do.

Mr. Brown: Thank you Ms. Watlington.

Although we know that many of you here this evening are very familiar with these regulatory actions and the proposed regulations, for those who are not, we thought it would be useful to take about 20 minutes to review how these regulatory processes have been conducted to date and what the key portions of the proposed regulations are. This presentation will present information in summary fashion; obviously, you should consult the hard copies of the regulations for specifics. I believe that a copy of this powerpoint is available on the information table with the other materials associated with this hearing.

To give some history, before 2004, stormwater management requirements in the Commonwealth varied depending on where a project was located in the state. Four different citizen boards (Soil and Water Conservation Board, Board of Conservation and Recreation, Chesapeake Bay Local Assistance Board, and State Water Control Board) and three different state agencies (DCR, Chesapeake Bay Local Assistance Department, and Department of Environmental Quality) all had various stormwater management requirements. This led to inconsistent requirements and uncertainty for the regulated community. During the 2004 General Assembly, this inconsistency and uncertainty was sought to be addressed by House Bill 1177, which created the Virginia Stormwater Management Program, or VSMP, and effectively consolidated stormwater management responsibilities for municipal separate storm sewer systems and construction activities into DCR and the Virginia Soil and Water Conservation Board. Also key to House Bill 1177 was the concept that responsibilities for permitting of construction stormwater be eventually passed down to localities, similar to the way that Erosion and Sediment Control has been administered historically.

Following the enactment of House Bill 1177, the existing stormwater regulations utilized by the Department of Environmental Quality were transferred to the Virginia Soil and Water Conservation Board in order to allow for the administration of the federal Clean Water Act stormwater permitting program. These regulations are essentially what is on the books today, and are what are utilized in Virginia's stormwater management program at the current time. In order to fully implement House Bill 1177's requirements and to meet Virginia's water quality goals, however, these regulations need to be amended.

The first area that needs to be addressed in the VSMP regulations concerns local administration of stormwater management programs. Allowing construction stormwater management to be implemented on a local level was a key assumption of House Bill 1177, which requires local programs to be adopted by localities located within the area impacted by the Chesapeake Bay Preservation Act, as well as MS4 localities. Other localities may adopt local programs on a voluntary basis or DCR will administer a program in their locality. These changes require amendments to Part III of the VSMP regulations. Complimentary to these amendments are changes to Part XIII of the regulations, which contain the fees that apply to the VSMP program. By law, these fees need to be established at a level that is sufficient to support a stormwater program.

The quality of Virginia's waters, as well, need to be protected from pollutant discharges from regulated construction activities. Enhancing these stormwater regulations is a key part of Virginia's overall approach to improving water quality statewide and restoring the Chesapeake Bay, which includes pollution reductions from sewage treatment plants and farmland runoff. Regulated construction activities generally include those one acre or greater statewide, as well as those 2500 square feet or larger in areas subject to the Chesapeake Bay Preservation Act. Addressing post-development runoff from these sites is a key component of Virginia's water quality goals for rivers, streams, lakes, and the Chesapeake Bay. In fact, EPA's Chesapeake Bay Program has estimated that 32% of phosphorus loads to the Bay can be attributed to urban and suburban runoff sources, of which stormwater runoff from developing lands is a part. While gains are being made in addressing other sources, including agricultural sources, sewage treatment plants, industrial sources, and atmospheric deposition, the loadings for developed lands continue to increase. Water quality criteria are contained in Part II of the VSMP regulations.

The graphic from the EPA's Chesapeake Bay Program illustrates the share of nitrogen, sediment, and phosphorus pollution coming from urban sources to the Chesapeake Bay.

The quantity of water leaving developed lands similarly continues to be of concern. The current standards contained in the VSMP regulations and in the Virginia Erosion and Sediment Control Regulations still result in significant flooding and channel erosion, and residents continue to report flooding impacts created by upstream development. It is believed that the current criteria needs revisions to address these concerns, as well as to allow long term consistency of the VSMP regulations and the Erosion and Sediment Control Regulations for the regulated community (although amendments to the Erosion and Sediment Control Regulations will require a separate regulatory action in the future). As with water quality, the water quantity technical criteria are contained in Part II of the VSMP regulations.

Recognizing all of these needs, in late 2005, DCR and the Board embarked on a regulatory process to amend the VSMP regulations. This was commenced through the publication of Notices of Intended Regulatory Action related to Parts I, II, III, and XIII of the VSMP

regulations. A technical advisory committee, or TAC, was formed to assist with the preparation of proposed regulations. The TAC was composed of nearly 30 members representing localities, consulting firms, environmental organizations, state agencies, colleges and universities, planning district commissions, soil and water conservation districts, and federal agencies. Overall, the TAC met 17 times between May of 2006 and August of 2008. Subcommittees held an additional 8 meetings. Numerous other meetings were held related to the regulations. In all, over 50 public meetings have been held to date, along with a series of design charrettes which examine real-world site planning. These charrettes have been held statewide and attended by over 400 individuals. Following the completion of the TAC's work and these other meetings, the Board proposed the amended VSMP regulations on September 25, 2008. As is required by Virginia's administrative process, the regulations as they were proposed on this date are what is now before you for public comment, although we are aware of a number of areas that will additionally need consideration before preparing final revisions to the regulations.

With this background, what do the proposed regulations do? Four different parts of the VSMP regulations are amended by this action. These include the definitions contained in Part I, the technical criteria (including water quality and quantity) contained in Part II, the requirements for local stormwater management programs contained in Part III, and the stormwater permit fees contained in Part XIII.

Turning first to Part II, water quality and quantity, these are the technical criteria that will be employed by a locality when it operates a local stormwater management program and, for those localities that do not adopt their own program, the criteria that will be utilized by DCR in administering a local stormwater management program within a locality.

As it pertains to water quality, the amended Part II maintains the current approach of focusing on phosphorus as an indicator pollutant. By employing practices that remove phosphorus from discharges from a site, it has been demonstrated that other pollutants (such as nitrogen and sediment) will likewise be reduced. Through examination of Virginia's Tributary Strategy goals for the Chesapeake Bay, however, it has been determined that the current 0.45 pounds of phosphorus per acre per year standard for new development projects is continuing to allow degradation. The proposed amendments to Part II amend this standard to 0.28 pounds per acre per year, which is the level indicated by Virginia's Tributary Strategies but more lenient than a forested situation that is 0.11 pounds per acre per year. This is a design standard, meaning that the site will be designed in a manner that is deemed to achieve this standard. It is not a load limit that would require monitoring from the site. The water quality requirements also provide a more lenient standard for redevelopment, which would be required to achieve a load 20% below that present prior to the redevelopment of the site. This is more stringent than today's 10% requirement, but, with the goal of not creating an obstacle to redevelopment projects, has been established at a level much lower than the 44% that is indicated by the Tributary Strategy goals.

Compliance with water quality requirements would be achieved through utilization of the new Runoff Reduction Method and an expanded set of best management practices contained in the regulations. Implementing BMPs consistent with a plan developed based on the Runoff Reduction Method would achieve compliance with the standard; additionally, the proposed amendments allow for local adoption of other methods, off-site compliance, and participation in regional stormwater management plans and pro-rata fees. DCR is also currently working on guidance related to the new nutrient offsets program, which would allow for another "trading for compliance" option.

The proposed Part II also contains new provisions related to water quantity. A special water quantity workgroup was developed to work specifically on this issue, and section 66 of the proposed regulations is the result of this group's work. To alleviate stream channel erosion and downstream flooding, section 66 contains requirements related to channel protection and flood protection that vary based upon the condition of stormwater conveyance system that is being discharged into. Sheet flow is also addressed. It is DCR's long term intention to use this criteria, when finalized, to amend MS19 of the Virginia Erosion and Sediment Control Regulations to bring consistency across the Stormwater and Erosion and Sediment Control programs.

Secondly, the proposed regulations do establish the framework for local stormwater management programs (both locality administered "qualifying local programs" and DCR-administered programs for those localities that do not adopt their own programs). Due to the timeframes established by law for the effective date of these regulations and the timing for local program adoption, local programs are not likely to begin being adopted until between October 2011 and April 2012, with all programs being in place by April of 2013.

Part III requires that all local stormwater management programs implement the new Part II technical criteria. Specific requirements for up-front plan review, permit issuance, inspections (during and post-construction), long term BMP maintenance, and other program components are contained in Part III as well.

Finally, the proposed regulations do include amendments to the permit fee schedule contained in Part XIII. As noted earlier, the law requires that fees be established at a level sufficient to adequately fund the administration and oversight of stormwater management programs. The fees proposed are scaled based upon acreage of the project, and were established based upon the actual work that is projected to be necessitated by the site. Twenty-eight percent of the overall fee is attributed to technical assistance and local program oversight and will go to DCR. In the case of a locality-administered qualifying local program, the remaining 72% is believed to be sufficient to fund the locality's responsibilities.

The previous slides summarize what is contained in the proposed regulations. As noted earlier, however, since the time of the Board's proposal of these regulations in September of last year, DCR has become aware of a number of issues that need to be considered going forward. These include grandfathering of existing projects from the requirement to meet the new technical criteria, the effect of the new technical criteria on commercial, redevelopment and infill sites, as well as sites located in urban development areas; nutrient offsets; and questions as to whether it is appropriate to have a single statewide standard or whether different standards for different regions of the state would be more appropriate. DCR is already considering these concerns. Public comment will undoubtedly produce other issues that need to be considered carefully.

Finally, although these regulatory actions have been ongoing for several years, there are still many important steps remaining. Following the close of the public comment period on August 21, all public comments will be carefully considered as final regulations are developed and forwarded to the Board for approval. By law, they cannot become effective prior to July 1, 2010. Similarly by law, the adoption of local stormwater management programs will follow the effective date of these regulations by 15 to 21 months, placing them at earliest between October 2011 and April 2012.

More information on these regulatory actions can be found on DCR's website or the Virginia Regulatory Townhall at the addresses appearing in this presentation. Public comment information is also included on the final slide of this presentation, as well as in the handout provided.

Ms. Watlington: Thank you Mr. Brown.

Before we begin receiving testimony on the proposed regulations, I would like to stress that this is an information-gathering meeting. Everyone wishing to speak will be heard. However, due to the number of individuals present we ask you to limit your comments to 5 minutes and to address information that others may not have already covered. For your information, the timer located at the front of the room will monitor your time. If necessary, we may ask speakers questions concerning their testimony or to request additional information concerning a subject believed to be important to the process in order to help the clarify and properly capture your comments. Staff will be available after this hearing to take any individual questions you may have.

We will now begin the public comment portion of the hearing. When I call your name, please come to the front and use the podium. Please state your name and who you represent. If you have an extra copy of your comments, please provide it to us so that it may be utilized in developing the minutes of this hearing.

Dorothy Abbott

Thank you very much for the honor of speaking before you and addressing my comments. I'm just a very simple citizen that is interested in preserving our quality of living.

I remember a little poem that I had over 50 years ago. It was:

Little drops of water, little grains of sand, makes a mighty ocean what it is today.

Right now, we have a lot of non point source runoff. And these little drops of water and little grains of sand are not what they were half a century ago.

We need to address what has happened to our society, what has gone on, what we've found easy to do. And now it's going to cost us money. So we need to just look forward. Unfortunately we have to put in regulations. We have a society unable to govern ourselves.

I'm very pleased that you are beginning to direct the society in a more positive way.

Thank you.

Charles Denny

I'm Charles Denny from Norfolk, Virginia.

Again, I'll kind of echo what Dorothy said. We've got the point sources in progress. It takes some time for those to kick in. The agricultural runoff programs are starting. We probably have not seen the affects of those yet, but at least they are started.

This is kind of the last part of the loop, the hardest; it's always harder to get to the last part. It's gonna be some anguish I'm sure for the various groups that will have to implement them, have to go the extra mile, have to pay the cost. But I feel it's worth it. And we really need to do it.

I might add that I'm a sailor out there in the southern part of the Bay. Over the last few years I've seen the dead spots and so forth in the waters. And it's disheartening and we should be better stewards.

Thank you.

Fred Bashara

Good evening. I want to congratulate you for doing this and thank you for doing this.

I'm concerned about the source of pollution that occurs from city streets and neighborhoods. I think we have emphasized so much in agriculture runoff that we've lost sight of the huge amount of waste and debris that runs into, like in Norfolk, across from my house, an estuary of the Lafayette River.

When there's been a rain storm, the water turns into muck. What is clear water you can see in ends up being like dirty dishwasher water. And that's tragic.

I've watched over the years I've spent on the Chesapeake Bay and the river, the decline of aquatic life and the quality of the water. We are way behind the curve.

What we need to do is not set up a program that has some future application, that's gonna happen after this year or maybe another extension. We need to take steps now to block pollution from street runoff.

The Chesapeake Bay and Rivers have been greatly attacked by algae. I've flown some of the Chesapeake Bay people over the local waters to take photographs. You've probably seen the pictures.

We've seen the water all around the cities of Norfolk, Portsmouth, Hampton and Newport News is brown, it's like Armageddon.

You can't imagine what it is like to see hundreds of miles of water turn red or brown.

So we need to move very fast toward quick application of rules to reduce urban runoff.

Thank you.

Claudia Cotton

Good evening. It's a pleasure to be here. Thank you

My name is Claudia Cotton. I'm the staff Vice President of the Tidewater Builder's Association.

We have over 800 member firms that are concerned with building homes in South Hampton Roads.

Others tonight are going to comment on the technical criteria, so what I'd rather like to do is just to address things in a broader context.

We convened a group of consultants, land owners, builders, developers, local and regional officials that deal with stormwater to study the proposed criteria and you'll hear some reports in a few minutes on their findings.

As responsible business people and responsible Virginians we also want to protect the waterways. And we do believe the industry has come a long way, particularly in this area, with complying with the Bay Act to improve water quality.

We're trying to understand whether these new regulations would get us really where we want to be. We know that Maryland has something similar, but I think it's too early to see the difference there and perhaps too early to learn any lessons yet.

I believe you've had testimony from our state association, the Home Builder's Association of Virginia, regarding a different and new approach that we feel is more comprehensive, will create better water quality, faster and more efficiently than the proposed regulations. So I don't want to go into detail but only to tell you that we support that proposal.

We are gravely concerned of the impact that these regulations will have on the economic health of our community.

You mentioned fee increases and new fees at a time when governments across the nation are really trying to find ways to scale back on increases and reduce costs to stimulate the economy. Yet here in Virginia, where we're supposed to be a number one place to do business, we're now talking about adding thousands of dollars in fees. Not to mention the increase cost of doing business and what the new regulations may add to the cost of doing business.

Please consider the importance of housing to our economy. We ask that you consider balancing a healthy economy and a healthy environment.

If I may ask those in the audience, if it's permissible, to ask those who oppose the regulations as they are currently drafted to stand? Is that okay?

[Those in opposition stand]

Thank you.

We urge you to listen to the comments carefully tonight. I know you've got one more session in the Capital. We feel maybe there's still more work to do, again based on the proposal that came out of our state association. We urge you to reconvene the Technical Advisory Committee and discuss the alternative proposal.

That concludes my remarks. Thank you.

Andy Herr

Good evening. It's good to see you all again. I appreciate the opportunity to speak.

I'm Andy Herr, Vice President of Land Development with the Terry Petersen Companies in Virginia Beach. About a year ago, I became involved with establishing a Stormwater Committee through the Tidewater Builders Association. The purpose of this committee was to review the Proposed Stormwater Regulations and apply them to real world development projects that had previously been designed under the current regulations. Several design firms, builders, local governments, and members of the Hampton Roads Planning District Commission participated in this effort. In particular, I would like to take a moment to thank the efforts of the engineering firms that volunteered their time for these projects. Those firms included Timmons Engineering, Landmark Design Group, AES Consulting Engineers, Kimley Horn and Associates, Miller Stephenson and Associates, and Kerr Environmental. Some of those folks are here tonight so I just wanted to thank them for their participation.

What I would like to do is summarize our findings. I particularly want to point out the costs that we estimate. The costs I'm going to present are only capital costs and don't include inspection costs or maintenance costs.

We worked on 11 different projects total and they were independently designed by five different engineering firms. The consisted of:

- 2 commercial/retail, 2 mixed use, 2 commercial redevelopment, 2 institutional, 1 infill, 1 residential redevelopment, 1 residential
- Project sizes ranged from $\frac{3}{4}$ to 134 acres – average size 34 acres
- Total cost of P removal per pound ranged from \$9K – 768K with an average cost of \$262K/lb
- The Incremental Cost increase of P removal per pound ranged from \$12K-4.1M with an average of \$658K/lb (this is the increase in cost of removal required by the new regulations)

Individual land uses breakdown as follows:

- Commercial projects – averaged \$39K/lb
- Mixed Use projects – averaged \$30K/lb
- Commercial Redevelopment projects – averaged \$735K/lb
- Institutional projects – averaged \$12K/lb
- Infill projects was - \$677K/lb
- Residential Redevelopment (high density) project was - \$1.32M/lb or \$21K/unit (vs. \$1,400/unit current regulations)
- Residential project was - \$73K/lb or \$37K/unit (vs. \$3,500/unit current regulations)
- All but one project only considered Water Quality requirements – the 1 project that included Water Quantity requirements was unable to meet both requirements on site and remain a feasible project.

Having stated the estimated costs from our example projects, I think it is important to contrast those findings with a portion from the Economic Impact Analysis performed by the Virginia Department of Planning and Budget which states that “Uncertainties exist over the long term cost and effectiveness of many stormwater control practices.” I’m just concerned that we’re spending a lot of money on something that is not proven.

In summary, I want to be clear that I am very much in favor of cleaning up the Bay. I firmly believe that all segments of our population including the home building industry must do their fair share to meet those goals. However, I believe that these new regulations, in their current form miss the mark and will not be effective in reaching our goals but rather will result in a tremendous and extraordinarily disproportionate expense for very little gain at a time when neither home builders nor the home buying public can afford to waste money. The fact is that the building community has already been installing BMP measures in accordance with the Chesapeake Bay Act for 20 years. Therefore, it’s troubling that the Tributary Strategies doesn’t take into account all of these measures. The Tributary Strategies currently, the input decks only account for about 1% of the developed land since the Chesapeake Bay Act for structural BMPs.

As a professional engineer in the State of Virginia I’ve personally designed hundreds of acres of BMPs, and I know there’s a lot more on the map that aren’t being accounted for.

Unfortunately, rather than taking a cost effective and realistic approach to meeting the Bay clean up goals, I’m concerned that these regulations are a politically expedient way for Virginia to appear to be working towards these goals by overstating the contribution of new development. The fact is that new development accounts for well less than one percent of pollutant loads to the Bay annually and that all existing urban areas account for less than 20% of the pollutant loading to the Bay while the estimated cost to address this contribution accounts for 75% of the total costs to meet the Bay Goals. Most important is the reality that the funding necessary to address the goals set forth the Virginia’s Tributary Strategy does not currently exist. Insufficient funding is historically proven to be the primary factor in the failure of the Bay clean up programs and Virginia is falling in line with the same type of strategy that has been proven to fail. Virginia has an opportunity to take the lead among the states in the Bay watershed by stepping back and developing a smart comprehensive plan that utilizes equitable contributions from all stakeholders to generate funding and to employ those funds in the most efficient and cost effective manner possible to reach the Bay clean up goals.

Thank you.

Bill Dodson

I’m Bill Dodson. I represent the Gloucester County Green Committee, a newly formed committee in Gloucester. We’re just getting kicked off to see as a developing county what we can do to prevent some future problems that other cities like Virginia Beach and Norfolk have seen.

I’m also a citizen and resident of that area. I remember as a kid water skiing on the local tributaries. And learning to water ski on a flat bottom wooden boat. It was very foolish at that time to own a fiberglass boat because if you owned a fiberglass boat you were bound to wreck it on an oyster reef. Those oyster reefs no longer exist.

Having any improvement over the current regulations is a good thing. There's going to be some debate over what's a good regulation and what isn't. But taking any step is taking a step in the right direction.

I'm glad to see some revision of some of the BMPs in the new regulation because the old BMPs were very difficult to use and to calculate and there were very few alternatives to do even simple commercial developments. So thank you very much for expanding some of the BMPs that we have.

We moved up and now live on the York River and some of the tragedies is that we've seen is the turbid zone or the area where the freshwater and the saltwater mix. It has moved dramatically down river due to the increase in fresh water and stormwater runoff in our area. The turbid zone defines where saltwater habitat can exist.

The last point I wanted to bring to your attention was that we are now having a problem with invasive species. And I know your Board is not necessarily the right entity to fully address it. But some of these invasive species are changing the way in which our, the zone, I apologize for forgetting the names, but the zone that we have at the waterfront that filters our water runoff.

Those plants include a very invasive species called Phragmites. If you're not familiar with it, please get an aerial view of the island out in the middle of the Bay, Tangier Island, from 10 years ago. Look at the area then and look at the area now. You'll see this invasive species.

Please look at some of the tragedy this species is doing in order to help defer the sediment runoff into the Bay. Would love for you guys to become aware of some of those. I don't have the numbers with me, I wasn't aware of the meeting until recently.

Thank you.

Patty Van Ohlen

Well, good for you. I'm really glad that a change is being considered. Once I heard that nobody likes changes except maybe a baby. So I know that change is hard. But sometimes it's necessary and I believe that one of the times is now.

It's become apparent that our old ways have caused irreparable damage. So it's time to change the way we reconstruct our landscape for development.

My name is Patricia Van Ohlen. I'm a retired teacher and I live in Newport News. But this evening I came to speak for the fish, and the crabs and the shore birds and all the marine life that are compromised by polluted water waste.

I also want to speak out for our children and our grandchildren that will inherit the earth that we leave behind.

We have a beautiful earth and I know you agree. But it looks like we're at the tipping point of our natural environment being pushed beyond repair. And yes, I believe it's time for a change.

I've read that you're considering stronger stormwater pollution regulations that will lessen the nitrogen, phosphorus and other pollutants that runoff from impervious surfaces into our streams, rivers and waterways. And I urge you to support these strong changes to the regulations to reduce the speed of runoff and to reduce the stress on local waterways and the Chesapeake Bay.

Yes, please do make these changes.

And I also read that the Peninsula Housing and Builder's Association opposes those changes. I'm sure their opposition is based on the concern of increased costs that the tougher regulations will require. And I know that's a concern and the cost will be passed on to home buyers and others and I care about those people too. So I don't like to think that stronger regulations will cause economic hardship that will prevent home ownership. But ignoring pollution that's pouring into our waterways is short sighted and it's also selfish. So what's the cost of clean water for our children and our grandchildren? How can we put a price on that?

It's time for us, and I mean all of us, to consider the impact of our decisions and how our actions affect the ecology of the earth.

Really, it's time to change our outlook and we recognize the damage that development can do. Changing the regulations will help and that's the very least we can do, but it really is time to change.

So thanks for your earth stewardship and taking it seriously. Thanks for adopting regulations that will help lessen the negative impact of stormwater runoff.

Thanks for letting me speak.

Melanie Wills

Good evening. I live in Norfolk and have the privilege and honor of living on the Lafayette River. I take it very seriously as a steward.

And, I probably have the ugliest lawn in my neighborhood because I don't use any fertilizer. My lawn is weeds.

The beginning of March, I noticed we had a huge algae bloom, which was much earlier than usual. Usually it's in June. And I was panic stricken and I said what is all this stuff in the water already. So I spoke to some friends and of course it's people using their fertilizers and wanting the perfect lawn.

So in front of my home is a stormwater drain and I make sure all the leaves are out so that the water can run into it. That's probably not a good thing to do since all the water runoff is from the street. And all the oil and the paint and things of that nature.

But then again, the past three days, the smell from the river where I live is so bad that the river doesn't have a voice, but it's sending out messages like the Indians with smoke. It's saying "I'm ill, you're killing me."

The color is horrible. The smell, we can't even sit out in our back yard. And 2011 is too far out in the future. I mean now, if we don't do something now, it will be too late.

I just read an article two days ago about a man that was severely infected from the Nansemond River from a sore he had. So I tell my children, my teenagers, don't go out kayaking in the water because the water is in bad shape and I'm afraid they're going to catch something.

You know the almighty dollar is, everyone wants to make a living, including myself and my husband--I'm not pointing the finger at builders, everyone wants to make a profit--but at what cost?

No one is going to want to live on the water. No one is going to want to look at the water, because it is in foul shape and we are doing it.

So, I just feel like whatever we can do to repair the damage that we have done, we should do it now. And that's all I have to say.

Thank you.

Charles Frederickson

Good evening, my name is Chuck Frederickson. I'm the Lower James Riverkeeper with the James River Association.

Although my main concern is with the impacts of the stormwater on the James River, I'm concerned about all the other waterways too.

If I could, I'd like to just read a quick passage here. This is in a discussion of silt transport on the James River, and I quote,

“The discussion of silt transport leads to a more general consideration of the beneficial, detrimental and questionable contributions coming to the drainage basin into the Tidewater stretches. There's widespread concern today over erosion, whereby the soil and with it soil nutrients are washed from the land. Silt from such erosion is extremely detrimental as it buries otherwise productive [inaudible]. With varied organisms or edible forms such as oysters, the damage is obvious. Less apparent is the damage, but undoubtedly just as real, is the damage to general productivity as silt covers organisms from which our useful forms are nourished.”

Now that passage probably could have been written yesterday, or the day before in any treatise on stormwater. But it was actually written by Dr. Nelson Marshall in 1950 in a book called “James River Basin: Past, Present and Future.”

1950. Sixty years ago he knew that excess nutrient and sediment was having a major detrimental impact on the river.

If you talk to any waterman out there today working the water he can tell you much more eloquently than I could the impacts that the excess nutrients and sediment are having on the organisms in the James.

We've been studying this issue; we've looked at it for over sixty years. It's time to act on it now. We're at a point in time where we have a choice to make. We can choose to do business as usual, and see our water quality go down. Or we can take the choice of adopting these new regulations which were crafted over close to four years with people from all sides of the issue using the best available science which produced realistic achievable standards for our discharges.

So I think it's time that we make that choice. That's the choice that I want to make. The James River has nurtured us for over 400 years, and I think it's our turn now to nurture her. Adoption of this regulation as written will go a long way towards that.

Thank you very much.

Richard Marshall

My name is Richard Marshall. I am a resident of Hampton and I have been for 40 glorious years.

There's been a lot of concern about the current state of our rivers, streams and the Bay. And I might add mud puddles to that because my wife says that's all it would take for me to put a fishing rod in.

There's a lot of action around reducing pollution from wastewater treatment plants. The Governor and others have said that we will meet these pollution reduction goals. That's great.

Unfortunately the EPA released a report that showed that we aren't doing enough, especially in stormwater runoff. Therefore I am in support of DCR's proposed changes to regulations that will reduce stormwater pollution in our streams.

These regulations are a good step in the right direction to reduce pollution, to reduce the speed of runoff and reduce the stress on our local waterways and the Bay.

Urban runoff, or stormwater, is the only segment of water pollution that is increasing. Wastewater treatment plant pollution has decreased. Agricultural runoff has decreased. And atmospheric disposition of nitrogen has decreased.

Approximately 1, 570 miles of Virginia's streams are polluted because of stormwater. At the current rate as much forest and farmland in Virginia will be developed over the next 40 years as was developed over the previous 400 years.

The technology exists, therefore there are ways to build smarter. I have faith that the development community can meet these new standards. Studies across the nation demonstrate that preventing stormwater pollution saves money in the long term by capture the true lifetime costs of development up front, reserving benefits to the economy that rely on clean water and lessening the burden on communities that have disproportionately born the costs and consequences of water pollution for far too long.

Thank you.

Mark Kantor

Thank you for the opportunity to speak this evening. I am a business owner in the City of Hampton. I'm a homeowner in the City of Poquoson. And I grew up on the Lafayette River in Norfolk.

I've been around the Bay a long time, as a kayaker, a small boater and an enjoyer of crabbing with nets along the seawall and enjoying the many prosperous opportunities that our Chesapeake Bay and our tributaries offer.

Recently, four years ago, in the City of Poquoson, I found out about minor water quality impact surveys. New homes were built with no consideration, no discussion thereof. Four years later, I wanted an improvement. And all of a sudden as a homeowner, I became aware that I had significant impact on the Bay and an additional improvement would have even more of an impact.

I had a personal decision to make which my wife didn't necessarily agree with. I could proceed with improvement and pay additional money out of our pocket to protect the Bay. I didn't understand what she was worried about. Pay money to improve the runoff from my personal property to improve the likelihood that my five children could enjoy some of the things I enjoyed as a child.

It does cost more. My brother, a member of the Tidewater Builders' Association, let me know that it's going to cost more and he's worried about it as a builder. That's his livelihood.

I'm a small businessman in the City of Hampton; I have been for sixteen and a half years. And I understand the impact of this regulatory decision on small businesses and also the impact on private citizens.

I am here to support from the bottom of my heart and my pocketbook the recommendations that DCR is recommending, or regulations that DCR is recommending, as an appropriate next step.

Do I have a technical background? No.

Do I have the economic understanding of all the costs? No.

But what fellow citizens from various cities have already stated, it's going to cost money. Everything costs money. This is money worth spending. Is it the best spent money or the best way to spend it?

I appreciate the Tidewater Builders and other professional associations that have tried to look at the impact. I understand impact. But I don't understand not caring for something that none of us can afford to lose.

Thanks for the opportunity.

Judy Hinch

My name is Judy Hinch. I live in the Deep Creek section of Chesapeake. I actually live on Deep Creek which isn't very deep anymore. Possibly because of sediments from development. I too support the more stringent regulations to curb runoff. I just wish it could happen more quickly.

Development has disrupted the natural features of the landscape by removing the vegetation, compacting soil and preventing rainwater from soaking into the ground. And this allows stormwater to quickly flow into the waterways where it introduces harmful pollutants such as sediments, nutrients, bacteria, pesticides, metals. These also block the sunlight the underwater grasses need to survive and reduces the oxygen and water clarity required by fish, crabs and other aquatic life, whether it's insect larvae, fish eggs and other bottom dwellers.

It also harms seafood and the tourist industry, property values and public health.

We need to start using low impact development techniques that promote preservation of native vegetation, soaking rainwater into the soil and water recycling. And we should start it as soon as possible.

Now is the time for developers to do their part.

Thank you.

Karl Mertig

Good evening. I appreciate DCR's invitation to the public to come out and speak on the proposed regulations. I am Karl Mertig, a resident of the City of Virginia Beach, formerly of Hampton, formerly of Suffolk. I been around the water my entire life.

I appreciate the fact that the stormwater regulations are ripe for review and that their format that they've been in for about 20 years now is ready to be looked at.

However, I would encourage DCR to take a measured approach in addressing stormwater runoff and realizing that a one size fits all approach for the entire Commonwealth may not be appropriate.

The regulations as written treat stormwater runoff volumes in small-size streams in the Piedmont in the same way as runoff discharge in terms of volume directly into the Chesapeake Bay. I would encourage DCR to further evaluate the runoff reduction method as proposed in the regulations to more fairly address the actual impacts of runoff volume on the receiving waters into which they are discharged.

I would also encourage DCR to take a look at the inequalities in the regulations between redevelopment and new development. And the very real possibility that the enactment of the regulation as written will encourage sprawl and will encourage more green field development when development projects or redevelopment projects are forced to meet a higher pollutant removal standard and the runoff reduction portion of the regulation together.

In my line of work, personally I would stand to make more money if these regulations were enacted as they're written. So am I up here saying that these regulations are not ready to go into effect?

I plan on living in Virginia the for rest of my life which hopefully is a very long time. And I'd rather see the Commonwealth get it right and do something that is really going to improve the water quality than dwelling on development and saying we're improving water quality.

Let's take steps that are meaningful and that are equitable across all phases of development, and all phases of non point source runoff pollution. Let's take this step that we have while everyone is focused on stormwater and water quality and make measurable, achievable and meaningful improvements to water quality and not just pass a regulation for the sake of regulation that will not truly improve the quality of the Chesapeake Bay.

Thank you.

Ted Miller

Good evening everybody. My name is Ted Miller. I also appreciate the opportunity to be here.

I, like everyone here am a proponent of improving the water quality of the Bay. I like to swim. I like to fish. I'm pretty sure that I enjoy the crabs more than anyone in here. So, I would like to see the water quality in the Bay improve as much as anyone. I'm sure of that.

Why am I up here tonight? I would like to see a change in the regulations. There's a bunch of different issues that are going to be spoken about. I'd like to focus on one particular element which is how best to attack the problem.

I'll relay a story and see if I can people can see where I'm coming from.

I think we've done a lot of different studies. The tributary studies, and DCR has different studies. That in itself is something to comment on. The graphic showed earlier showed agricultural being 46% of the phosphorus load that goes from the Bay. The tributary strategy document shows that in the neighborhood of 36%. I think it's just worthwhile to point out that we're talking about a very inexact science here, so it's very difficult to pinpoint down costs. We're talking about 0.28 pounds per acre per year and things like that that are very, very difficult to define.

However, let me just again use an example. We tried to identify what the problem is and I think we've done that. It's agricultural, it's the pollutant load. We've got urban. We've got mixed use. We've got forests. You know we've got our other point source discharge being wastewater treatment plants. And then we tried to define and determine, okay how are we going to combat this problem?

We all agree that the water quality in the Bay and the tributaries is getting worse. How are we going to make it better? We tried to come up with regulations for our wastewater treatment plans, for our farmers, and for the development community as we try to improve water quality.

Where I think we're missing something here is that this regulation is aimed really at the development community. I agree that there should be regulations, don't get me wrong. But we need to all go into this with our eyes open and recognize that the urban source is 32% roughly.

This regulation is going to be for new development, which is a fraction of this 32%. The 32% is already developed. So these regulations have BMPs and things that are going to be put into effect from here on is for a fraction of that 32%.

So it really is a very small portion of the total load going into the Bay.

Hear me. I'm not saying there's no regulation. We need regulation for that. But we need to recognize that it is a very small contributor to the Bay. So what are we going to do? Well, I think we need to be prudent with the resources and dollars allocated to the cause.

We've got a tough economic time going on right now so if we view it personally, let's say you owe a \$50,000 debt. You may have a loan that's at 1% that's out there; you may have a loan at 10%. And there may be some credit cards that are at 28%

Well, as you gain money and you're gonna allocate to pay off your debt, what are you going to do? You're going to go right to the 28% and pay off that high interest stuff first. Then you're going to go down to the 10% and pay that off as well.

What I feel that we're missing here with the regulations is the developer and especially the people doing redevelopment are going to be paying extraordinarily high dollar amounts to combat a very small portion of the total load.

I would suggest to DCR and the state that they adopt some sort of in lieu of fee where the development community can pay. And I know the number that's been thrown out there is \$15,000 a pound. So that the state can impact and implement some broader range solutions not just for this new development but how about to the urbanized area? Do something for all of downtown Norfolk, not just this new development on the fringes of the City.

Hopefully that makes sense. Take the money instead of allocating it to a very small fraction; allocate it to the problem which is global. It's agricultural, existing development and redevelopment.

I appreciate the opportunity. Thank you.

Mike Gerel

I'm Mike Gerel, a staff scientist with the Chesapeake Bay Foundation in Richmond. I was a member of the TAC and attended many of the 50 or more meetings that went into the development of this regulation.

I just want to state very clearly that the Chesapeake Bay Foundation strongly supports this. I'm going to provide a couple of points and will provide more thorough comments in writing by August 21st.

I just wanted to relay a few points from sitting in on all these meetings, things that I've learned.

There's no question that at the site level, whether we're talking about a single wastewater treatment plant or a single development, or a single parcel of ag land, that we're doing better than 25 years ago when we first started really getting into the Bay cleanup.

However, the Bay, the streams, the critters, don't really care where it comes from. Those site specific improvements are very important. But it's the aggregate load. The aggregate load that is

coming from urban and suburban development is the only one that is going up. Several people have said that today. So I do think that's an important distinction.

What we do know as well is that as the Bay TMDL and other TMDLs for streams across the Commonwealth come up, we need to do more. We don't like it, but we need to do more.

Some of the folks have mentioned it this evening. But I also want to be clear that new development is not the only part, or source of pollution that is being targeted in the Commonwealth. Sewage treatment plants, there's been about a billion dollars of public monies that have been provided to get the state of the art treatment. The best available treatment.

Poultry litter regulations are out for comment now. I encourage anyone that's mentioned agriculture tonight to come and support those. Any farmer that uses poultry litter has to meet nutrient management plans and requirements.

The existing development is handled by the City of Hampton, the City of Norfolk, through their municipal separate stormwater, their MS4 programs. All those sewers that go in your drive way when you wash your car, that's a city permit that they're dealing with. They are being asked to make significant reductions. And many local communities are requiring septic pumpout. So it's everyone. It's everywhere.

I you have a car, if you go to the bathroom, if you have a house; you're part of the problem. It's everyone. There's no reason to point fingers anywhere.

Just a quick point on, the question of is the science right, has it been vetted. Has everyone asked participated?

Whatever you think about the Bay program and the Bay model, it's been around for 20 years. It's probably the most sophisticated model in the world for looking at an estuary. It has its faults, but it gives us a lot of information.

I was one of the people that gave DCR some grief—"we don't have enough experts on this committee". Well, they responded by reconvening the TAC, getting many folks from this room. Getting all the experts they could. Hiring the Center for Watershed Protection. Bringing in Tom Schuler, the guy who invented a lot of the terms we use now. We have new BMP efficiencies. We have the Runoff Reduction Method. We have new standards and specs that can determine when you can use these practices in coastal areas, in karst areas, out in the Valley. We have the Clearinghouse where new BMPs can come in and we can try and test the technology to make sure they work.

This has been more vetted than any regulation that most people that have been doing environmental work in Virginia can remember. There was an opportunity for everyone to participate. The thought of additional meetings is really hard for me to think about. We spent three or four years working on this and tried to be inclusive.

One comment about going wholesale out to agriculture for reductions, via an alternative plan. We have to be very careful with that. There are existing mechanisms, as somebody just said, to go offsite that are scaled as appropriate. But when you start doing everything offsite in a rural area, outside an urban area, you're in trouble.

A few farms at this point are getting better. But they don't meet a level of performance to be adequate to improve water quality.

Also, as was mentioned by Ryan earlier, phosphorus is the keystone pollutant. There are other issues, nitrogen, bacteria, others. If we move them out to farms, we're losing that in the urban area. And then we just get into a difficulty and equity solution between the building areas going out to rural areas.

Just the last point I'll make about redevelopment and infill. There are some costs Andy mentioned, some real high costs for redevelopment. We've seen that. We've heard that. Everyone has heard that.

There are solutions in the regulation now. There are solutions with regard to water quantity that the environmental community, we've gotten together in our sandbox and we've gotten along with the smart growth people.

We've come up with a solution to try help that. So there are solutions for those costs.

What I think we need to keep in mind, in closing, is that we have to do a better job of looking at the lifetime cost of the actions we take.

Whether new development is small now, as soon as it is built it's existing development. We have to capture it as we move forward. Rather than looking at the two to three year window of builder or developer we have to look at the 20-40 year window of communities.

I think these regulations are an equitable way to try and do that.

Thank you to DCR and all the staff and everyone that listened to our comments and our complaints throughout the process. They've listened. It was an inclusive process. And I appreciate it.

Thank you.

Greg Johnson

Good evening and thank you for being here tonight. I know that it is not easy sometimes being away from home and I appreciate your being here.

My name is Greg Johnson; I'm a practicing civil engineer. I do presently serve on the BMP Clearinghouse committee. I live in Virginia Beach.

We do need to protect the waters of the Commonwealth and the Chesapeake Bay. I firmly believe that. And I believe we have not done enough to protect it. Obviously.

The health of the Bay has diminished. We're trying to make that better. And even the creek that I live on. There are things that just are not right.

I grew up in Madison County and Orange County, Virginia. For those who don't know that's near Charlottesville and Culpeper.

I can tell you point blank, when I was a kid, I remember drinking water right out of the Rapidan River. It was crystal clear. Cold, great water.

And, as you watched that water flow down the Rapidan River in Madison County and headwaters toward the Robinson River and beyond that down to the Rappahannock River, as you watched the water flow through agricultural fields after the rain you'd have field ditches full of water dumping into the river. And sometimes it seemed so muddy it was like molasses. This is a long time ago.

So, I think as we work through this regulation, it's important to remember that we share and be equitable with the different sectors that are involved. I think agriculture plays a major impact on the health of the river and the Bay. And that has to be addressed.

The financial burden has to be shared by developers and builders, agriculture, sanitary facilities and that kind of thing. I think we really do need to do a lot more.

I don't believe that the average citizen fully appreciates the financial impact that these improvements will force us to do. I don't think the citizens of Norfolk will appreciate some of the things that the City is considering in doing and creating, and the financial impact that will have.

I know everybody wants to clean the Bay; everybody will raise their hand today and say that. But there's going to be an impact and a cost.

I think that cost has to be equitably shared.

Professionally, I think this is being talked about tonight; I am concerned about the impact of the regulations on the Commonwealth's Tidewater area. I really do think that the regulations do a good job in the Piedmont. But when you consider the difference between Piedmont and Tidewater, there are differences that I don't think have been fully explored and understood at this point.

I would hope that we would sincerely and adequately address those inadequacies.

The other thing I would like to say is that I think we do need new regulations. But I think if we adopt those regulations, some of the local communities' zoning regulations are going to have to be modified, sometimes to a great extent, to be able to equip those communities and do a good job with stormwater.

I really think that low impact development is the way to go and should be explored. And the things we do on the local level need to go in that direction.

Thank you for your time.

Katie Hayes

My name is Katie Hayes. I'm the Executive Vice President of the Peninsula Housing and Builders Association located in Newport News representing the Peninsula and over 15 member companies here on the Peninsula.

Like all responsible Virginians, builders too are concerned about water quality.

However, the cost of these amendments will far outweigh the benefits. The Homebuilders Association of Virginia, with the support of all the locals throughout the state of Virginia, have proposed an alternative plan that deserves the opportunity to be evaluated. We ask and encourage that the process be implemented.

Thank you.

William Rachels

Thank you very much my name is William Rachels. I have a residence in Virginia Beach. I also have a home in Norfolk on the Lafayette River where I grew up waterskiing, fishing, crabbing, all those good things. I want that for the children and grandchildren of everyone involved.

In terms of my personal experience with stormwater runoff there would be two. One direct and one indirect.

When we built a house on the Lafayette River in 1990 we became involved with the Best Management Practices of the Chesapeake Bay Act and Regulations. We had to put in some French drains and other items that were expensive. It should have been done. I'm very glad that we did it.

The other project is more indirect. That's one down on 79th Street, where they put in an 1800 ft. pipe as an outfall for stormwater drainage into the Atlantic Ocean. That took about one and a half years. So they're two significantly different projects. But cost is a factor and we're going to have to face costs if we're going to make improvements.

The Chesapeake Bay and its tributaries are under severe stress. I think we all recognize the need to take action. The question is what action.

I am not an expert on this issue. I am not an engineer and I frankly have not studied the regulations. I'm not sure it would benefit me greatly to do so because of the technical approach.

Nonetheless, I come from an orientation with the law where you have presumptions that you work with in certain situations. And the case becomes whether or not a presumption would be rebutted.

I would suggest that the study that has gone into the proposed regulations over what I understand to be a four year period, with tremendous input from a variety of experts, should be given a presumptive weight.

And unless there is demonstrated reason to do other than this regulation, I urge that they be adopted.

There may be room for some fine tuning. But I think we've got to face the music and realize we've got to change. Our Bay is trying to survive. We're going to need to spend some money and take some action.

It's been said that our land and our waters have been inherited from our ancestors. The truth of the matter is that we are borrowing them from our children and grandchildren. They need protection, just as does the Bay.

I'm disturbed by the thought that it make take some four years from now to implement the regulations if they go through as they are now proposed, much less if there are delays.

That's a good ways off, and I'd urge you to move forward.

Thank you.

Greg Garrett

Greg Garrett. I grew up in Hampton and live in York County and am actually a direct descendent from a guy that came to York County in 1620, fourteen generations ago.

My family has loved the water; I grew up on the water. I was water skiing when I was six-years old. I had a seafood stand on Chesapeake Avenue; I'm sure it violated some law in the City of Hampton. When I was about eleven my brother and I would sell clams and shrimp that we would find out there. We would snorkel down there off of Chesapeake Avenue as kids.

I grew up sailing in Gloucester and all around. I have loved the water my entire life as my father did before me and his father before him and many others.

I currently live on the water. I own some waterfront property. I am a landlord of purple martins and bluebirds and barn swallows and I'm also a developer. I'm also a realtor.

I'm also a person that wants to do the right thing in regards to anything that would affect or impact the Chesapeake Bay or its tributaries.

I am on a fairly new organization in York County called the York County Waterways Alliance. I'm a member of the Board of Directors for that organization. We're very concerned about water quality. We're very concerned about stormwater runoff as one of the main issues that are affecting our waterways.

But I look back over my career in the real estate business. And my first year in the business, in 1978, there was a law that was passed. And it was a very controversial law and we really thought it was going to be a major problem. It was actually not passed in 1978; it was passed actually sometime after that.

I remember when this law was passed. It was about lead based paint. It was a really big problem if you remember; the kids and the news reports where kids were getting brain damage from eating the chipped paint, the lead based paint. And so it was regulated that if you would sell a house that was built prior to 1978, you had to disclose that it had lead based paint.

Well, back in 1978 they outlawed lead based paint. And that was the first controversy and the later controversy was when we had to disclose it as realtors.

The point is that since that law changed, you know the conflicts and the problems that were coming up about that. “Oh we’re going to have to paint our houses all the time and use water based paint.”

I just painted the handrails at my house with a paint that is guaranteed for 50 years and it’s a latex paint. We’re going to develop the technologies and things to overcome the issues.

The issue is not the last 100 ft. where somebody lives. The issue is not the waterfront home owner. The issue is not the developments.

I’ve had some testing done on local retention ponds. In some cases the nitrogen and the phosphorus coming out of the retention ponds were greater during a rain event than the water going into the retention ponds?

We’re focusing on the wrong thing. It’s not about developers vs. environmentalists.

There are plenty of developers that live on the water, that love the water, that enjoy the water. There are plenty of people in the industry that want to solve this problem. But as one of the other gentlemen stated earlier, just to attack this small group of new development is not the issue. It’s pretending to do something.

We need to actually address the real problem. The real problem is phosphorus. The real problem is nitrogen. The real problem is what we can attack. If you look at what Annapolis has done, what Maine has done, what Florida is considering, what New Jersey has done. This new legislation in Annapolis where they outlawed the sale and use, in most cases, of phosphorus on lawns in Annapolis. That’s a great example to all of us. Let’s research these effective solutions that are attacking pollutants. Stop trying to beat around the bush with all these issues and the way this ordinance does trying to create a solution where there may not even be a problem.

I’m in the process of developing a piece of property right now and one of the requirements I’m going to put in there is that you can not put phosphorus fertilizers on your yard. Like the lady says who lives on the Lafayette River, I would never put fertilizer on my yard that has phosphorus in it.

As a developer I’m putting that in the homeowner’s association document. Let’s deal with phosphorus. Let’s not deal with everybody’s land. Let’s go back to property rights and deal with the issues that are actually hurting the Bay and the rivers.

Thank you.

Tim Morton

There are no farms on my and my neighbor’s river. There are no disposal plants. Yet our river, the Lafayette River in Norfolk is polluted. It can only be polluted from what they call urban runoff.

The Virginian-Pilot Newspaper in 1886 described the Lafayette as having an “extraordinarily productive shellfish grounds.” The newspapers said oyster beds lined the northern shore. There were thriving crab houses and fishermen were catching luscious sturgeon.

All of that had disappeared by the 1930s. A few crabbers pull up pots today on the Lafayette. But nobody fishes the river anymore except for the novice souls who throw out lines from under the Granby Street bridge.

Out walking with my dog on Mayflower Drive, I read signs that say “No crabbing, No fishing.” Although the river invites you to these things, shimmering silver dollars reflect off the water in the afternoon light. It’s beautiful. And sick.

I don’t see much in the way of recreation on the Lafayette now. High school crew teams race in the spring. One or two water skiers ski by on the weekends in July and August. But the river on the whole is overwhelmingly quiet.

There is intense development alongside the Lafayette. And the City of Norfolk is encouraging more. Condo and apartment buildings looking as big and massive as cruise ships are going up much too close to the water. The City appears to want the tax money more than the possibility of a recuperating river.

I daydream of thriving oyster beds, more crabbers and moms trusting the water, fishing with their children.

Toward the mouth where the Lafayette meets the Elizabeth River, oysters in bags are being raised by kind souls. That seems hopeful for the river. Though the oysters cannot be eaten.

I did eat a dozen luscious Lynnhaven River oysters the other day. The first time I’d eaten a Lynnhaven in decades. The work cleaning up the Lynnhaven River is proving that our estuary rivers can be restored. It’s proving that we on the Lafayette can and should do more to restore our river.

My neighbors and I urge you to adopt these new regulations. It will help.

Thank you.

Jonathan Robbins

Good evening. I am a citizen of Chesapeake and a civil engineering student at ODU.

Water quality in Virginia affects me in a very personal way. It basically impedes my ability to lie to my friends.

Like many people in this room, maybe some day I’ll sit up there and in my time off I’ll like to go drinking with a fishing pole in my hand and when I come back nobody is going to believe in July I’m catching a twelve-inch spot. I’d like them to believe that I’m catching an eight-inch spot, but if my cooler is filled with four to six inch spot, it’s just not going to happen.

And that is the negative impact of phosphorus, nitrates and other sources of pollutants in our rivers.

That affects me on a very amateur level. I like to fish as hobby. But it does affect the economy in Virginia. Fisheries in Virginia, marine fisheries in Virginia generate about 1.2 billion dollars in sales and about 13,000 jobs. Freshwater fisheries generate about 400 million and about 6,800 jobs. Which sounds kind of small, Virginia is a big state, so maybe fisheries aren't a cornerstone industry. But it's certainly at least a brick in your bathroom wall. If it goes missing your house won't come down, but it certainly would be embarrassing.

So I would just like to voice my approval of these new regulations as a taxpayer, as an amateur fisherman and as a terrible liar.

Thank you.

David Bernard

My name is David Bernard; I'm water quality chair for the Virginia Chapter of the Sierra Club. I decided to become an environmental activist after years as a hiker, a canoeist and sometimes kayaker. I've been in waters and forests all over Virginia.

One place I particularly enjoy is the headwaters of Johns Creek in the Mountain Lake wilderness, the western most tributary of the Chesapeake Bay.

I've seen water in all kinds of conditions and have had an opportunity to learn first hand what inappropriate development, inappropriate practices can do. And I definitely applaud DCR and the Commonwealth of Virginia for taking these problems seriously.

The Sierra Club strongly supports these proposed regulations, the revised stormwater regulations, without weakening them in any way.

Actually we're concerned that they might not go far enough. We've been very concerned about inappropriate development and critical riparian and waterfront areas that there's been no restriction on that in the regulations that I've been able to read.

This is something that I have seen a lot and it concerns and worries me. Everywhere from mountain streams to the ocean and bay shores, people are building as close as they can to the water. They cut down the trees; they harden the shore if they can get away with it. This is leading to erosion and other pollution runoff.

I know that development is meant to allow people to enjoy nature. But the very process of the development is destroying nature.

Thank you for your consideration.

Ms. Watlington: That completes the list of those individuals who signed up to speak. Are there other individuals who would wish to comment or leave written remarks?

Mr. Frederickson: Could I ask one thing? I forgot to say it when I was up there. But we had a show of the people who were opposed to the regulations. Could we ask the people who are for the regulations to stand up just in fairness?

[Those in support stand]

Thank you very much.

Closing:

Ms. Watlington: A handout is provided on the table outlining the public comment submittal procedures I am about to cover and the dates and locations of the remaining public meetings.

Persons desiring to submit written comments pertaining to this notice and this meeting may do by mail, by the internet, or by facsimile. Comments should be sent to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219. Comments also may be submitted electronically to the Regulatory TownHall. Or comments may be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address or email address of the commenter. In order to be considered, comments must be received by 5:00 PM on August 21, 2009.

I hope that everyone has a safe trip home.

DCR Staff Present

Jan Briede
Ryan Brown
David C. Dowling
Michael R. Fletcher
Ved Malhotra
Joseph H. Maroon
Christine Watlington

Members of the Public Present

Dorothy Abbott, Chesapeake Bay Foundation
Fred Bashara, Norfolk
Connie Bennett, York County
V. Marc Bennett, AES Consultants
Donna Briede, Yorktown
Tuck Bowie, Terry Peterson Companies
Will Bullard, U.S. Navy
Claudia Cotton, Tidewater Builders' Association
Sydney Cortoire, Virginia Beach
Dave Cotnoir, Department of Defense
Charles Denny, Chesapeake Bay Foundation

Ken Dierks, KEG
Bill Dobson, Gloucester Green Committee
Charles Frederickson, James River Association
Myrina Gaglione, VITB Consulting Firm
Greg Garrett, York County Watersway Alliance
Mike Gerel, Chesapeake Bay Foundation
Katie Hayes, Peninsula Housing and Builders Association
Mike Hess, Virginia Beach
Andy Herr, Terry Peterson Companies
Gayle Hicks Hampton
Julia Hillegas, Hampton Roads PDC
Judy Hinch, Chesapeake
Jane Holloway, York County Watersway Alliance
Ann Jennings, Chesapeake Bay Foundation
Greg Johnson, PHR&D
Mark Kantor, Hampton
Frank Kenney, CCA VA
Beth Konopnicki, York County Watersway Alliance
Brian Lewis, Newport News
Richard Marshall, Chesapeake Bay Foundation
Jerod Markley, Virginia Beach
Ken Merner, Boyd Homes
John McGaltee, AES Consulting Engineering
Karl Mertig, Virginia Beach
Ted Miller, Virginia Beach
Chris Moore, Norfolk
Tim Morton, Norfolk
Chris Parker, Timmons Group
William Rachels, Chesapeake Bay Foundation
Jonathan Robbins, Chesapeake
Toni Small, WEG
Matt Strickler, Office of Senator Northam
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Beth Wilson, York County Watersway Alliance
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