



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC - 2 2009

THE ADMINISTRATOR

The Honorable Timothy M. Kaine  
Governor of the Commonwealth of Virginia  
Patrick Henry Building, Third Floor  
1111 East Broad Street  
Richmond, Virginia 23219

Dear Governor Kaine:

I want to take this opportunity to thank you for your outstanding leadership on the Chesapeake Bay Executive Council. As Chairman, you have helped forge a renewed commitment to restoring and protecting a treasured national resource. Your efforts to create a new model for watershed protection, as exemplified by President Obama's Executive Order on protecting and restoring the Chesapeake Bay – have left a lasting legacy for the people of the Bay watershed and the entire country.

Thank you also for the Commonwealth's efforts to control stormwater flowing from developed properties. Stormwater runoff is the only major source of water pollution that is growing in Virginia, as well as the other Chesapeake Bay jurisdictions, and initiatives to reduce its impact will help protect local waters as well as the Chesapeake Bay.

The U.S. Environmental Protection Agency (EPA) has participated in and closely followed the process underway to establish final stormwater management regulations. It was EPA's intent to use Virginia's regulations, once finalized, as a model for the adoption of numeric limits for nutrient pollution in a storm water regulatory program. EPA appreciates the Commonwealth's extensive and highly-transparent public input process over the last several years. While encouraged by the regulations as initially proposed, EPA has concerns about the revised regulations that were approved and suspended by the Soil and Water Conservation Board on October 5, 2009. Those concerns, primarily focused on exemptions and performance standards that compromise the ability for the regulations to attain water quality goals, are specified in a letter dated November 20, 2009, from EPA Region III to Director Joseph H. Maroon of the Virginia Department of Conservation and Recreation.

We urge the Commonwealth to adopt stormwater management regulations and technical criteria that are at least as stringent as those contained in the initial proposal in order to sufficiently reduce future nutrient contributions to the Bay from construction activities and to protect local channels from downstream flooding and erosion caused by

stormwater runoff. These regulations would facilitate future development in an environmentally sound manner.

EPA recently provided to the Bay jurisdictions its expectations for Watershed Implementation Plans to meet nutrient and sediment limits in a Chesapeake Bay Total Maximum Daily Load. If the plans do not support these limits, EPA is committed to taking specific actions, such as objecting to permits and withholding grant funds. The Agency will detail these actions in a letter later this month. Without significant reductions in pollutants delivered to the Chesapeake Bay system from stormwater runoff, the burden for reaching the load limits would shift more heavily to other sources including agriculture, point sources, air sources and others.

In addition, if the regulations approved and suspended on October 5, 2009, are not modified to strengthen the underlying water quality requirements, the Commonwealth may be required to develop and issue site-specific (individual) permits that would be subject to EPA review and approval. We are eager to work with you to avoid this approach.

EPA believes the Commonwealth's stormwater regulations can be drafted in a manner that protects water quality, safeguards Virginia's economic interests and serves as a model for the nation. We remain committed to helping the Commonwealth achieve these goals. If you have questions or concerns, please call me or your staff may call Sarah Hospodor-Pallone, Deputy Associate Administrator for Intergovernmental Relations, at 202-564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a long horizontal flourish extending to the right.

Lisa P. Jackson