

# Virginia Stormwater Management Program (VSMP) Regulations Update

Hampton Roads Planning District Commission

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# Short History of Stormwater Regulations

- March 2008 – Notice of Intended Regulatory Action
- June – August 2009 – Public Comment on Regulations
- September – 2009 – Major changes made to Regulations
- October – November 2009 – Additional Public Comment
- December 2009 – Soil and Water Conservation Board Approved Regulations
- January 2010 – Board Suspended Regulations
- March 2010 – General Assembly Action
- July 2010 – New Regulatory Advisory Panel Established
- March 2011 – Regulations released for Public Comment

# HRPDC Concerns with Regulations Suspended in January 2010

- High cost of redevelopment
- Timeline for implementation too short
- No grandfathering for Master Plans
- Local program criteria too prescriptive
- Specifications for stormwater controls incomplete

# Major Changes in Draft Regulations

- Delayed Implementation Date to July 1, 2014
- Statewide Phosphorus Standard of 0.41 pounds/acre/year
- Additional Grandfathering Provisions
- Greater Local Program Flexibility
- Addition of Effluent Limit Guidelines for Construction Activity

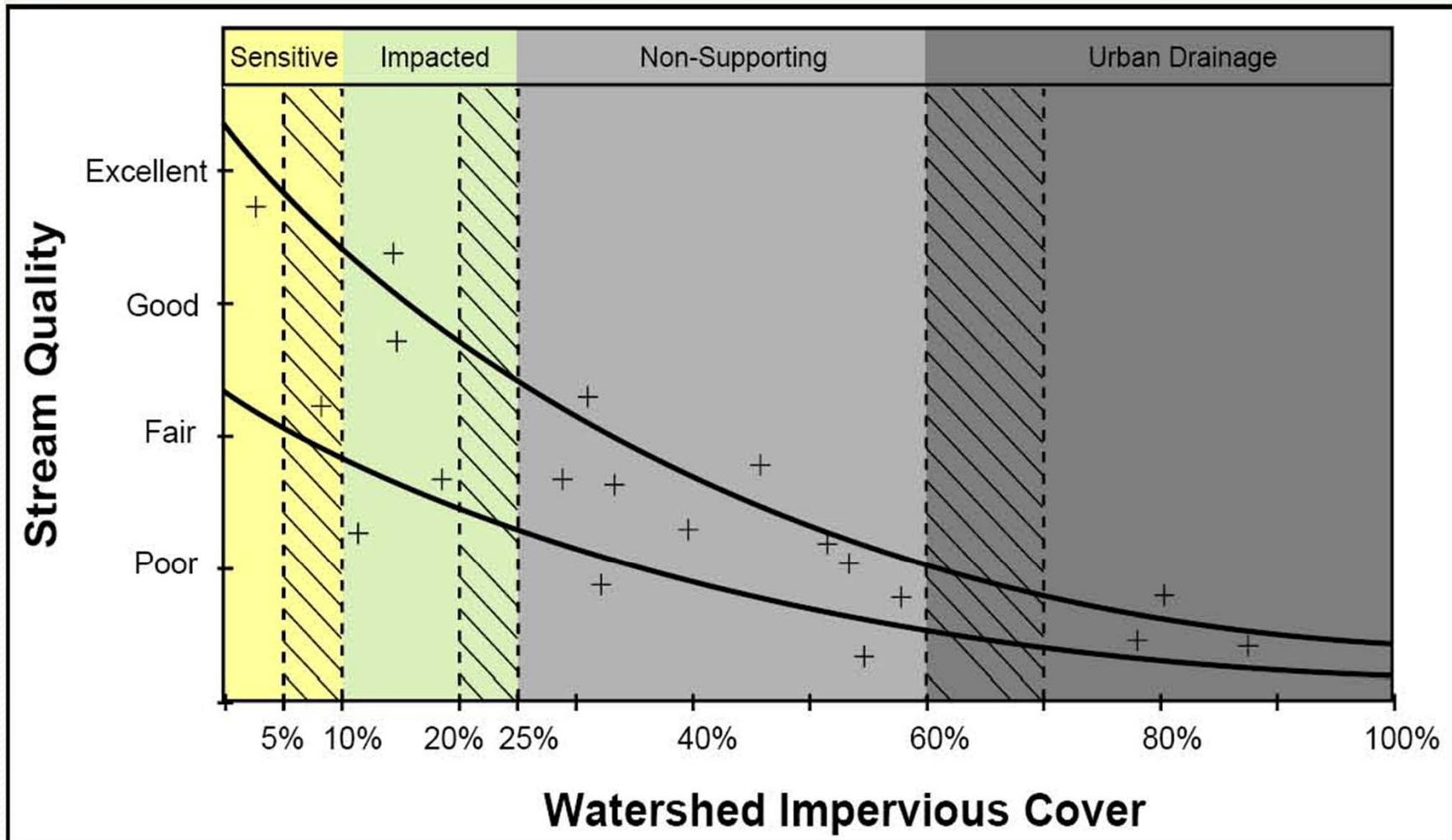
# Regulations Timeline

- April 28, 2011: Public Comment Period deadline
- May 2011: Soil and Water Conservation Board Adoption
- October 2011: Effective Date of Regulations
- July 1, 2014: Implementation Date of Regulations

# Water Quality Criteria: New Development

- Goals
  - Develop statewide standard to protect local water quality.
  - Develop standard for the Chesapeake Bay Watershed.
- Outcome
  - Statewide Phosphorus Standard of 0.41 pounds/acre/yr.
  - Based on scientific linkage of impervious cover and water quality.
- Benefits
  - Protective of local water quality.
  - Meets Chesapeake Bay Total Maximum Daily Load (TMDL) requirement for “no net increase” in pollutant loads from new development.

# Water Quality and Impervious Cover



# Water Quality Criteria: Redevelopment

- Projects with no net increase in impervious cover from the predevelopment condition
  - Greater than 1 acre = 20% reduction in phosphorus
  - Less than 1 acre = 10% reduction in phosphorus
- Projects that increase impervious cover must follow the design criteria for new development for the increased impervious area.
- Linear development project occurring on prior developed lands reduce phosphorus by 20%.

# Grandfathering

Projects meeting the following criteria are grandfathered until June 30, 2019:

1. Receive a Virginia Stormwater Management Program (VSMP) permit prior to July 1, 2014.
2. Part of a common plan of development or sale that has obtained VSMP general permit coverage prior to July 1, 2014.
3. Receive locality approval of valid proffered or conditional zoning plan, subdivision plat, site plan or zoning with a plan of development, or any document deemed equivalent by the locality prior to July 1, 2014.
4. Receive an obligation of funding for locality, state, and federal projects or issued governmental bonding or public debt financing prior to the effective date of the regulations.

VSMP permits issued can be renewed for an additional two permit cycles.

# Local Programs

- Implementation Date of Technical Criteria: July 1, 2014.
- Virginia Stormwater Act currently requires that local programs be approved by July 2013.
- Locality ordinances will mimic state criteria in order to “adopt” local programs.
- Prescriptive elements of programs removed.
- Department of Conservation and Recreation (DCR) still issues the permit and has oversight of local programs.

# Effluent Limit Guidelines (ELGs) for Construction

- Environmental Protection Agency (EPA) published final rule on December 1, 2009.
- State programs required to incorporate into Stormwater Regulations.
- Adds requirements to the Stormwater Pollution Prevention Plan
  - Control volume and velocity to minimize soil erosion
  - Minimize disturbance of steep slopes
  - Maintain natural buffers around surface waters
  - Minimize soil compaction and preserve topsoil

# Major Comments

- Effluent Limit Guidelines are too vague and do not belong in this section of the Regulations.
- Grandfathering language could allow projects to use existing water quality criteria until 2029.
- Virginia Stormwater Act needs to be updated to give localities until July 1, 2014 to have local programs in place.
- Localities need technical and financial assistance to establish successful programs.

# Technical Issues in Comment Letter

- Definitions for grandfathered technical criteria section.
- BMP efficiencies for pollutants other than phosphorus.
- Reference to Clearinghouse and design specifications.
- Coordination with DCR and procedures for oversight of local programs.
- Model ordinances and program development guidance.

# Recommended Action

Authorize the Executive Director to submit a comment letter to the Department of Conservation and Recreation based on the comments and concerns presented in the draft letter.