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June 7, 2019

Mr. Robert Cooper  
Commonwealth of Virginia  
Department of Environmental Quality  
1111 East Main Street, Suite 1400  
Richmond, VA 23219  
*Online Submission*

The Stormwater Equipment Manufacturer's Association (SWEMA) represents a diverse group of stormwater solutions providers, as well as supporting other associate and professional members. SWEMA's membership is quite interested in seeing the Virginia Department of Environmental Quality (DEQ) chart a responsible and scientifically driven course forward as the Department moves from an interim guidance period to one with more permanent guidance. We appreciate the opportunity to provide comments on the proposed modifications to Guidance Memo No. 14-2009, *Interim Use of Stormwater Manufactured Treatment Devices (MTDs) to Meet the New Virginia Stormwater Management Program (VSMP) Technical Criteria, Part IIB Water Quality Design Requirements*, as our members have a number of concerns about the proposal DEQ put forth at the April 17, 2019 BMP Clearinghouse Meeting.

Given our concerns have been brought to DEQ's attention on numerous occasions since the release of the original memo, we respectfully request a formal response addressing each of the following in order to document the Department's opinion and justification:

1. Do Not Allow Multiple Pathways for the Approval of MTDs: Permanent guidance should include a straightforward path for approval of MTDs. A process that relies on proven, scientifically sound evaluation protocols will be most beneficial to water quality in the Commonwealth. DEQ's proposal containing multiple paths for approval will not accomplish water quality goals. While the standard for reciprocity of hydrodynamic separators (HDS) and filter technologies is appropriate and welcomed, the Department's proposal to rely on an unproven field testing protocol for the evaluation of new filter technologies is not. The Washington State Technology Assessment Protocol- Ecology (TAPE) is the "industry standard" for conducting a field monitoring effort for the purpose of verifying MTD performance claims. Establishing a less robust protocol or even one that has different requirements has proven to result in inconsistent reviews and unnecessary data evaluation by staff, as well as, create an uneven playing field for the manufacturers. All of which results in placing water quality at risk.



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It is SWEMA's recommendation that DEQ continue to establish a VA specific process based on the TAPE program. This includes reciprocity for MTDs that currently have a General Use Level Designation (GULD) for phosphorus removal and future GULD approved MTDs that have been tested outside of the Pacific Northwest, like the TAPE approved site at the University of New Hampshire (UNH), or other sites in VA.

2. Increase Percent Total Phosphorus (TP) Removal: Virginia DEQ currently restricts the maximum amount of TP credit awarded to MTDs to 50% regardless of the level of performance achieved during testing or how much supporting data is available. This unjustly penalizes MTDs against land based practices, discourages innovation that is the driver for more effective treatment options, and artificially restricts the options available to comply with Virginia stormwater quality requirements. SWEMA feels that DEQ must remove this scientifically baseless barrier which artificially inhibits the water quality benefits associated with MTDs. Instead, DEQ should credit those technologies that have completed long term field testing in compliance with TAPE with greater than 50% TP removal.
3. Establish a Transition Period: The proposal does not contain a transition period from the interim guidance to the proposed guidance. Given that DEQ has operated under the interim guidance document for nearly five (5) years, SWEMA feels it appropriate that DEQ establish a timetable for manufacturers to meet the new guidance. We recommend a two (2) - year transition period to ensure that all manufacturers transition at the same time, while allowing a manufacturer with a MTD having a less robustly tested filter technology time to achieve GULD and create consistency in the types of applications DEQ will receive. It's critical to the future usefulness of the program that DEQ transition from the current inadequate interim guidance to a robust and fair program that is consistent with the criteria of the TAPE program.
4. Do not implement TP Load Reduction for HDS systems from 20% to 10%: While we recognize that DEQ believes this decision to be appropriate, reducing the effective pollutant removal effectiveness of HDS systems penalizes those manufacturers that have field data demonstrating TP removal above 10%. Arbitrarily limiting these solutions also penalizes a number of localities partially dependent on the pollutant reduction benefits of HDS practices to meet their own pollutant reduction goals. This issue is best addressed collectively with removing the TP cap, so localities can implement the most effective treatment strategies as soon as possible.
5. Publish Hydraulic Loading Rates: While DEQ has made strides to improve upon MTD sizing guidance found on the BMP Clearinghouse website during this interim period, all MTD approvals moving forward should contain clear and specific information identifying a maximum design hydraulic loading rate. As plan review professionals seek to have the BMP Clearinghouse act as a



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one-stop shop for approvals, continuing to omit this critical MTD sizing information is an oversight that should be corrected in order to lessen the burden on localities and lower the frequency at which undersized technologies are installed.

We appreciate you taking time to hear our concerns and look forward to your response to these issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jacob Dorman, AICP

Member

SWEMA Government and Regulatory Comm.

A handwritten signature in blue ink, appearing to read "Laurie L. Honnigford", with a long horizontal flourish extending to the right.

Laurie L. Honnigford

Managing Director

SWEMA