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Subject: COMAR 26.08.11 - Proposed regulations published in the December 8, 2017 Maryland Register

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This is to express Anne Arundel County Department of Public Works' (DPW) opposition to the current trading proposal issued by MDE as publicized on the current Maryland Register. Our agency provided representation on the committee that developed much of the content of the proposal to ensure the outcome aligned with our interests to promote reasonable, rational and cost effective rules for trading. Most of the elements of the proposal were aligned with, or at least not contrary to, our interests until just days before the publication on the Maryland Register for public comment. At that time, one significant material change was made that has caused the Anne Arundel County DPW to remove its support and oppose the trading proposal. This change, lowering the nitrogen trading cap from 4 mg/l down to 3 mg/l, essentially eliminates nutrient trading as an option for Publicly Owned Treatment Works (POTW's). For our County, this cuts very deeply into our ability to trade between point and non-point sectors regulated under our respective NPDES permits. We were anticipating that the original proposal would have retained the elements of integrated water management toward solving the vexing point and non-point source sector pollutant contributions to the Bay and provided jurisdictions with a defensible and appropriate means to "trade in time" and allow our watershed projects to catch up.

Beyond the fundamental concerns of whether the committee recommendations and proceedings were conducted with full transparency and in good faith devoid of strong outside market influences, our biggest concern is that the last minute change runs counter to one of the most elemental goals of the committee: to accelerate the restoration of the Chesapeake Bay while reducing the **costs of implementation** (emphasis added). In fact, by eliminating nitrogen credits between 3 mg/l and 4 mg/l, the public is restricted from accessing a large quantity of credits that were funded by that same public, and instead will have to purchase otherwise unnecessary offsets at higher costs. Meanwhile, the credits generated by the POTW's will continue to improve the Bay with real, actual and, most importantly, measurable pollutant reductions. Furthermore, this provides a disincentive for POTW's to operate under 4 mg/l and thus risks the loss of otherwise immediately available pollutant reductions.

Recognizing the leadership that this State has demonstrated in the Bay cleanup efforts requiring unprecedented investments by the public toward both the point and non-point sectors, why jeopardize compliance by requiring even more, yet unnecessary, investments? This last minute change transforms the trading program from efficient and value-driven to ineffective and cost irresponsible. This we cannot support. We strongly request that consideration is made to increase the nutrient trading limit above 3 mg/l, closer to 4 mg/l. We believe there is room to improve the proposal without losing all the other positive and supporting aspects and honor the integrated water management approach envisioned by the original proposal.

Sincerely,

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