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ENVIRONMENTAL REGULATION NEWS UPDATE

Several important pieces of water quality regulations proposed by EPA have recently been postponed or delayed giving those of us in the development community a little more time and hopefully more realistic standards before we are required to begin implementation.

The first was in regards to a national effluent standard, ie, "turbidity". On August 19th the Environmental Protection Agency (EPA) decided to reconsider the imposition of a nationwide cap on how much sediment can be released with stormwater draining from construction sites. The National Association of Home Builders (NAHB) sued EPA over its first proposal to develop a numeric limit for the turbidity (cloudiness) of stormwater discharges. NAHB had estimated that attempting to comply with the regulation would carry a \$10 billion annual price tag. EPA voluntarily withdrew the proposal recognizing that it was not legally defensible. NAHB Chairman Bob Nielsen stated "EPA set a numeric limit for water cloudiness that was based on flawed analysis". Greenville County Land Development Division also felt the standard was flawed and submitted comments to EPA during the comment period stating as such. It was felt by our consultant who reviewed the data that EPA relied on questionable data. Terrain, geography and rainfall vary significantly in our county. NAHB and Greenville County felt more regional standards are needed to account for these variations. NAHB was noted as saying "a nationally applicable numeric limit is neither defensible nor practicable. NAHB is redoubling its efforts to collect turbidity data from its member's construction sites to help ensure that the eventual ruling makes good scientific sense." Additionally, Land Development will also take on a project this year to collect turbidity readings from a construction site to determine what is a reasonable number in Greenville County.

On August 25, 2011 it was announced that an agreement between Chesapeake Bay Foundation (CBF) and EPA to delay the new "post-construction" stormwater rule by two months. The new rules were to be published on September 30, 2011 but EPA has had difficulty completing the drafting of the requirements. This delay however, does not apply to the final deadline by which the new regulations must be enacted which is November 19, 2012. Environmentalists view the rules as a way to ensure stormwater runoff is clean after land development occurs. Construction and real estate industry groups say the rule represents an attempt at regulatory over reach. Four GOP senators on the Senate Environmental & Public Works Committee wrote the EPA Administrator saying that the agency would be over stepping its legal authority to propose such a rule. Greenville County's Stormwater Consultants advised us of the same conclusion. Land Development submitted a letter to EPA during the comment period where we outlined our concerns reaching beyond the Federal Register Clean Water Act regulations. Land Development staff also sent a letter to Senator Jim Demint and Congressman Trey Gowdy outlining our concerns and urging them to push EPA to re-examine their purposed regulations or to take their proposal to our elected officials to endorse or change the federal law.