ATTACHMENT A

Comparison of current and proposed regulations

Current Regulation – Where fill activities permitted:

Fill Areas, Waste Areas are permitted in all zoning districts and allow for the placement of soil or inert materials.

Proposed Regulation – Where fill activities permitted:

Create two types of fill activities, Clean Earth Fill and Inert Waste Fill.

Clean Earth Fill Activity would be permitted by-right in all zoning districts.

Inert Waste Fill Activity would be permitted by-right in all zoning districts except for the Rural Areas, Village Residential and Monticello Historic District. In the Rural Areas, Village Residential and Monticello Historic District Inert Waste Fill Activity would be permitted only by special exception.

Current Regulation – What fill activities permitted:

The County allows Inert Materials as fill. The Code defines Inert Materials as:

> "Inert materials" means solid materials that are physically, chemically and biologically stable from further degradation and considered to be nonreactive, including rubble, concrete, bricks, broken bricks and blocks, and asphalt pavement.

Proposed Regulation – What fill activities permitted:

Definitions would be established for Clean Earth Fill and Inert Waste Fill.

> Clean earth fill: Fill that consists of any soil material that occurs naturally on the surface of the earth which can be dug, plowed, or planted, that can be classified as a soil in accordance with the "Unified Soil Classification System", which contains less than twenty-five (25) percent rock fragments greater than three inches in diameter, and that contains less than five (5) percent by volume of root or woody material. Clean earth fill shall be free of:
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> 1. Any contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations; and
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> 2. Construction debris and demolition waste including asphalt, concrete and other materials not found in naturally occurring soils.
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> Inert waste fill: Brick, concrete block, broken concrete, asphalt pavement and uncontaminated minerals or clean earth fill. Inert waste is physically, chemically and biologically stable from further degradation and considered to be nonreactive, and includes fragmented solid material such as rock, concrete, broken bricks, and block.

Current – What fill activities exempted from regulation:

Fill activities associated with agriculture activities are exempt. Currently Agricultural Activity is defined as:

> "Agricultural activity" means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities.

Fill activities of less than 10,000 square feet are exempted from the regulations of the Water Protection Ordinance. If the fill activity is less than 10,000 square feet but the fill material is generated from an Albemarle County regulated activity the fill is not exempt from the regulations of the Water Protection Ordinance.

Proposed Regulation – What fill activities exempted from regulation:

Remove exemption for placement of fill as an agricultural activity by redefining agricultural activity:

> Agricultural activity. "Agricultural activity" means the bona fide production or harvesting of agricultural products as defined in section 3.2-6400 of the Code of Virginia including ~~a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to:~~ tilling soil for raising crops; ~~keeping livestock, poultry, or both;~~ operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities~~.~~ but shall not include the above ground application or storage of sewage sludge, or the storage or disposal of non-agricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act.

Establish requirement that all fill activity of 2,500 square feet or greater is subject to performance regulations.

Current – Operational regulations:

> For all fill operations:
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> - Material must be appropriately placed to minimize ponding of water. Treatment for mosquitos if ponding does occur is required.
> - Material may not be placed in floodplain or stream buffers.
> - Area must be reclaimed after the completion of work.
> - Bonding may be required for reclamation.
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> For fill operations greater than 10,000 square feet or as part of a project permitted in Albemarle County:
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> - Material must be secured appropriately in transport vehicles.
> - Area must be treated to prevent dust.

- Setbacks, fencing and landscaping may be required subject to limitations:
    - Setback cannot exceed 100 feet from public road right-of-way.
    - Landscaping limited to areas adjacent to public road
- Hours of operation limited only for "industrial-type power equipment". This term is not defined.
- Activity must provide lateral support to adjacent properties.
- Activity must be completed within one year. This period may be extended.

Proposed – Operational regulations:

Maintains current regulations and adds:

- Setback of 150 feet from Entrance Corridor and 75 feet from all other public road right-of-way.
- Establishes 75-foot setback for fill activity and all associated activities except for access from rural and residential property lines.
- Establishes 50-foot setback for fill activity and all associated activities except for access non-residential property lines.
- Establishes a 50-foot setback for access from rural and residential property lines.
- Establishes a 100-foot setback from dwellings on adjacent property.
- Establishes minimum lot size of 5 acres, with the ability to include multiple parcels owned by the same owner to achieve the minimum lot size.
- Creates maximum activity area of 2 acres.
- Allows some trees to be cut in the development areas for the placement of fill.
- If a private access easement is to be used the applicant must demonstrate that they have a right of usage and that the access is of adequate design to accommodate the proposed activity.
- Limits all operational activities to the hours of 7:00 a.m. to 9:00 p.m.
- Establishes a maximum height of fill above natural grade of 8 feet.
- Establishes a maximum slope of 3:1.
- Prohibits the placement of fill on critical slopes and hydric soils.