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*Executive Director*

June 6, 2012

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Senate President Therese Murray  
Suite 332, State House  
Boston, MA 02133

**RE: Senate Bill 2046**

Dear Senate President Murray:

The Association to Preserve Cape Cod (APCC) has had the opportunity to review a redraft of SB2046 regarding the regulation of fertilizers. The text of the bill is attached for your convenience. In this most recent iteration of SB2046, the Department of Agricultural Resources (DAR) is given sole authority to regulate and enforce the registration and application of fertilizers for both agricultural and nonagricultural uses. DAR is also given the exclusive authority to develop regulations for the application of phosphorus fertilizers and to determine mandatory guidelines for phosphorus fertilizer use for “municipalities, geographic regions, coastal zones, riverways, watersheds and other environmentally sensitive areas as determined by the department.”

APCC cannot support SB2046 as currently written. APCC strongly believes that municipalities, as well as regional planning agencies given regulatory powers under special acts such as the Cape Cod Commission Act, should retain the ability to regulate and restrict the application of fertilizers for nonagricultural uses, such as lawns, golf courses, commercial uses, etc., particularly in nutrient-impacted watersheds and near bodies of water. However, APCC does support the ability of DAR to have exclusive authority to regulate and enforce the registration of all fertilizers in the Commonwealth, as well as the exclusive authority to regulate the application of fertilizers for agricultural uses.

While the state does have a legitimate and important role in ensuring the protection of the Commonwealth’s water resources, APCC maintains that DAR is not the appropriate entity to enact and enforce geographically-targeted fertilizer application and use policies that are based on environmental factors. DAR does not possess the capacity or authority to protect resources such as coastal zones, riverways and watersheds. Regardless of the state’s potential role in restricting fertilizer use in certain locations, the authority should be preserved on the local and regional levels to enact regulations specifically

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concerning the application of fertilizers for nonagricultural use in environmentally sensitive areas. This authority should rest with a municipality through local bylaws and regulations, or through minimum performance standards imposed through a regional policy plan adopted by a regional planning agency.

Cape Cod communities are faced with the monumental challenge of addressing the impacts of excessive nutrients on our coastal waters and fresh water bodies. Use restrictions for nonagricultural applications of fertilizer in watersheds and in close proximity to water bodies can be a valuable component of a larger strategy to reduce nutrient loading in these sensitive environments. The environmental benefits of reducing nutrient impacts from fertilizer use are not restricted to Cape Cod, but are also important for both coastal and inland watersheds throughout the Commonwealth. But, municipalities must have the flexibility to adopt their own local regulations that are relevant to specific local needs.

Regarding the issue of specifically controlling phosphorus content in fertilizer, APCC supports HB3270, An Act Relative to Phosphorus Runoff, which is currently under consideration by the House. If adopted, this bill would be a more effective tool for controlling phosphorus content. Phosphorus is a nutrient that adversely impacts water quality in our state's freshwater ponds and rivers, and in many instances may not be necessary as a fertilizer ingredient for soils in our region.

APCC respectfully requests that you work with Senate Ways and Means on the adoption of language to SB2046 that would provide municipalities and regional planning agencies with the authority to regulate the application of fertilizers for nonagricultural uses. APCC is also available to offer assistance in this effort.

Thank you very much for your consideration of this important issue.

Sincerely,



Ed DeWitt  
Executive Director



Don Keeran  
Assistant Director

cc: Sen. Daniel Wolf  
Rep. Timothy Madden  
Rep. Cleon Turner  
Rep. Demetrius Atsalis  
Rep. David Vieira  
Rep. Sarah Peake  
Rep. Randy Hunt  
Rep. Susan Williams Gifford  
Commissioner Gregory Watson  
Paul Niedzwiecki, Cape Cod Commission  
William Clark, Cape Cod Cooperative Extension