

Sediment and Stormwater Regulatory Advisory Committee
 Meeting Notes
 5/4/2016

RAC Members in attendance:

SAN 2015		
First	Last	Affiliation
Jeff	Bross	Water Infrastructure Advisory Council
Dirk	Durstein	Dept. of Justice
Sally	Ford	Delaware Assn of Surveyors
LaTonya	Gilliam	DeIDOT
Doug	Hokuf	New Castle County
Connie	Holland	Office of State Planning Coordination
Bobby	Horsey	David G. Horsey & Sons
Bruce	Jones	ACEC - DE
Frank	Kea	Secretary Designee - Land Development Consultant
Sarah	Keifer	Kent County
Lew	Killmer	League of Local Governments
Phil	McGinnis	Delaware Association of Realtors
Hans	Medlarz	Sussex County
Paul	Morrill	Committee of 100
Robert	Palmer	DNREC
Michael	Riemann	Homebuilders Assn of Delaware
Preston	Schell	Secretary Designee - Land Developer
Jessica	Watson	Delaware Assn of Conservation Districts

Staff Members in attendance:

SAN 2015		
First	Last	Affiliation
David	Athey	AECOM
Mike	Falkowski	DNREC
Randy	Greer	DNREC
Dean	Holden	Becker Morgan Group
Jamie	Rutherford	DNREC
David	Small	DNREC Secretary
Matt	Watkins	DNREC
Elaine	Webb	DNREC
Stephen	Wright	DNREC

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Interested Parties in attendance:

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First	Last	Affiliation
Jared	Adkins	Kent Conservation District
Ted	Bobola	Bobola Farms
David	Cahill	Kent Conservation District
Vince	Davis	DelDOT
Jim	Elliott	Sussex Conservation District
Laf	Erickson	Atlantic Resource Management, Inc.
Andrew	Ford	Century Engineering
Pat	Gleason	EPA
Scott	Kidner	WRA
Maddy	Lauria	Cape Gazette
Charles S.	Postles, Jr.	Farmer
Ethan	Robinson	City of Newark
Valerie	Thompson	Sussex Conservation District
Bob	Thornton	silverstock.com
Robert	Tunnell	Tunnell Co.
Richard	Wilkins	Farmer

The meeting was called to order at 1:00pm by Bob Palmer. Introductions were made and the agenda was approved by vote of the RAC members. Bob Palmer provided an update on House Joint Resolution No. 11. The resolution has not moved from committee but the Department is moving forward as if it has and intends to prepare the June 1, 2016 report in accordance with the resolution.

Bob Palmer reviewed the Department's proposed regulatory adoption schedule. Following the Supreme Court ruling of April 15, 2016, the Department enacted emergency regulations adopting the Technical Document by reference. The emergency regulations will expire in October 2016. In order to have final regulations in place prior to expiration of the emergency regulations, the Department must submit proposed regulations for publication in the State Register on June 15, 2016. The Department proposes a two-phase approach. Phase 1 would include submitting regulations and technical document in an "adoptable" format that the RAC can agree to prior to June 15, 2016 for adoption prior to expiration of the emergency regulations. Phase 2 would be to continue to work within the RAC process following the June 15, 2016 submittal to correct the Technical Documents and formally adopt them in the spring of 2017. The Regulatory Flexibility Act/Regulatory Impact Statement will be required with all submittals of proposed regulations to the State Registrar.

Discussion ensued with regard to the need for more time to make the necessary changes to the regulations and technical document. Bobby Horsey made a motion that was ultimately seconded by Phil

McGinnis to allow Secretary Small to pursue options, both legal and legislative, to extend the timeframe for the RAC to review and propose changes to the Regulations and Technical Document to June 30, 2017. Consensus was reached by the RAC members on this motion.

In the course of discussion the motion to pursue an extension, the applicable regulations in absence of emergency regulations was discussed. Hans Medlarz suggested that the Department seek third-party independent counsel on this topic as has been done by hiring third-party engineers to facilitate the technical discussions. Secretary Small indicated that the process for state agencies to hire 3rd party counsel requires approval of the Governor and Attorney General. Bob Palmer suggested that the agenda for the May 18 RAC meeting include an item for discussion of 2006 regulations and 2013/14 regulations.

Jared Adkins presented some actual project scenarios for redevelopment, including six sites in the Dover area. Proposed redevelopment regulatory language revisions were discussed. The redevelopment category is proposed to be broken into four subcategories: (1) contaminated/brownfields, (2) post 1991 redevelopment, (3) pre-1991 redevelopment of <1ac, and (4) pre-1991 redevelopment of >1ac.

1. Brownfields projects should have an incentive for redevelopment. Proposed 5.6.2.2 can be updated to require a 30% reduction in effective impervious rather than requiring a 0% effective impervious. Language will also be added to allow SIRS to eliminate infiltration on a site due to known contaminants and allow that site to comply with Rpv requirements.
2. For post-1991 redevelopment, the language "drainage patterns are not altered" will be reviewed to determine if it is redundant or if it can be removed. The word "onsite" will be removed to allow for regional facilities. In this section and others, "stormwater management measures" will be changed to "stormwater management system" because that term is already in 2.0 Definitions.
3. For pre-1991 redevelopment of <1ac, these projects should fit in Standard Plan categories. The Standard Plan for Non-Residential Construction of <1ac disturbed will be reviewed by Dean Holden to proposed special conditions as has been completed for the Residential Standard Plan.
4. For pre-1991 redevelopment of >1ac, it was decided that at 15% decrease in impervious surface would comply, and proposed section 5.6.6.2 could be eliminated. If a straight impervious reduction of 15% cannot be met, then a 15% reduction in effective impervious would be required.

The proposed redevelopment regulatory language will be revised by Dave Athey and Dean Holden and presented to RAC members for consideration at the May 18, 2016 RAC meeting.

Two alternative computational methods that have previously been presented to the Technical Subcommittee were covered by Dean Holden. The first method to reduce the Ia/S value to 0.05 allows HydroCAD to be used in the computations rather than DURMM. The second method of using a tabular approach for reduction values for surface recharge BMPs also allows HydroCAD to be used rather than DURMM. Both methods are viewed as conservative alternatives to the DURMM method that will

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contribute to a time-savings in the design. Prior to the May 18, 2016 RAC meeting Dean Holden will incorporate these methods into the appropriate sections of Technical Document Article 3.04.

Randy Greer explained to the RAC the alternative to accept 48-hour detention in a wet pond as full compliance for the RPv. This is a reasonable alternative design for sites that are unable to recharge. The outlet structures on ponds would need to be designed using skimmers or seepage outlets to extend the discharge of the RPv volume over 48 hours. This would be applicable to all sites, including those that do have ability to recharge. Full RPv credit can be applied to bioretention with underdrain as well. A revision to regulatory language and text for the Technical Document will be proposed and distributed to the RAC for review prior to the May 18, 2016 RAC meeting.

Steve Wright provided an overview of a modified sheet flow to filter strip BMP standard and specification to allow for partial RPv credit to be applied to filter strips that are less than 25' wide but decrease sheet flow velocity to below 0.5 fps. This will be a discussion topic at the May 12, 2016 Technical Subcommittee meeting with the goal of having final Technical Document revisions ready for review by the RAC at the May 18, 2016 meeting.

David Athey reviewed the two-page offset narrative that had been distributed to the RAC members prior to the meeting. The narrative breaks down the development of the offset approach into three time frames: short term, long term, and interim period. A new subcommittee, an Offset Working Group (OWG), will be established to further develop the offset approach. RAC members will be asked to volunteer for the OWG with the understanding that this group will continue to meet after the June 1, 2016 report to the General Assembly.

Frank Kea led a discussion on RPv alternatives, including options such as reducing the RPv amount and decoupling the quality and quantity RPv requirements. Funding cover crops with a fee applied to each building permit issued was discussed as a method to address both quality and quantity. Another option would be reforestation of conserved lands.

Priority topics for the upcoming Technical Subcommittee on May 12, 2016 and full RAC meeting on May 18, 2016 were discussed. Public comment regarding poultry house construction was presented. Bob Palmer provided a brief synopsis of the poultry house construction standardized approach that was developed by the Department with consultant help. Following public comment, the meeting adjourned at 4:05pm.