

Regulatory Advisory Committee Meeting of 1/22/08

Meeting Notes

Attendees:

First Name	Last Name	Organization Name	Status
Jessica	Watson	Sussex Conservation District (representing DACD)	Voting Member
Constance	Holland	Office of State Planning Coordination	Voting Member
Lee Ann	Walling	DNREC Office of the Secretary	Voting Member
Keith A.	Trostle	DNREC Legal Counsel	Voting Member
Bruce	Jones	Greenstone Engineering (representing ACEC)	Voting Member
Hans	Medlarz	Kent County Dept. of Public Works	Voting Member
Jeff	Bross	Duffield Associates (rep. Clean Water Council)	Voting Member
Charles	Adams	Delaware Association of Surveyors	Voting Member
Jennifer	Gochenaur	Delaware Nature Society	Voting Member
George	Haggerty	New Castle County Dept. of Land Use	Voting Member
Martha	Corrozi	Water Resources Agency	Voting Member
Vince	Davis	DeIDOT	Voting Member
Deborah	VanDermark	De State Board of Landscape Architects	Voting Member
John	Marinucci	Dept. of Education	Voting Member
Ernie	Sheppe	Morris Ritchie Associates (rep HBA/DE)	Voting Member
Donald H.	Mulrine, Jr.	Town of Camden (rep League of Local Govts)	Voting Member
Jennifer	Volk	DNREC Division of Water Resources	Voting Member
Larry	Trout	JMT	Staff
David	Hirschman	Center for Watershed Protection	Staff
Karen	Cappiella	Center for Watershed Protection	Staff
David	Twing	DNREC DSWC	Staff
Jennifer	Campagnini	DNREC Sediment & Stormwater Program	Staff
Elaine	Webb	DNREC Sediment & Stormwater Program	Staff
Jamie	Rutherford	DNREC Sediment & Stormwater Program	Staff
Randell	Greer	DNREC Sediment & Stormwater Program	Staff
Frank	Piorko	DNREC Drainage & Stormwater Section	Staff
Cheryl	Gmuer	DNREC Sediment & Stormwater Program	Staff
J. Wesley	Allen	Envirotech	Interested Party
Lowell	Jacobs	New Castle Conservation District	Interested Party
Kelly	Crumpley	Kent County Planning	Interested Party
Robert	Enright	DNREC DSWC Drainage Program	Interested Party
Richard	Collins	Positive Growth Alliance	Interested Party
Michelle	Devillers	City of Wilmington	Interested Party
Lawrence	Carson	City of Wilmington	Interested Party
C. Scott	Kidner	Representing HBADE & others	Interested Party
Steve	Sisson	DeIDOT	Interested Party
Terry	Scanlon	Davis, Bowen & Friedel, Inc.	Interested Party
Salvador	Palalay	McCormick Taylor Inc	Interested Party
Sharon	Cruz	DC Group	Interested Party
Wendy	Polasko	DeIDOT	Interested Party
James	Sullivan	DNREC DSWC Drainage Program	Interested Party
Erika	Farris	UD - Water Resources Agency	Interested Party
Maureen	Seymour	UD - Water Resources Agency	Interested Party
Ellie	Mortazavi	New Castle County Special Services	Interested Party
Nick	DiPasquale	Duffield Associates	Interested Party
Jared	Adkins	Kent Conservation District	Interested Party

The second meeting of the RAC for revisions to the Delaware Sediment and Stormwater Regulations was held on 1/22/08 from 10am-noon in the Felton-Farmington Conference Room at the DelDOT Administration Building.

Frank Piorko made some opening remarks about the RAC process and separation of comments from the RAC members versus interested parties. The attendees list provided above separates voting members of the RAC from interested parties. At future meetings RAC members will be invited to sit at the table while interested parties will be seated in a gallery.

Karen Capiella from the Center for Watershed Protection provided an overview of the Outline for Sediment and Stormwater Regulation Revisions developed by CWP. CWP presented a proposed timeline for reg development which includes a working draft of the regulations in March 08, comments from DNREC in April 08, and public workshop in June 08. It was determined following the meeting that this schedule is very aggressive and with RAC subcommittee work, the timeline may need to be pushed back.

Following the overview of the outline, Dave Hirschman of CWP facilitated discussion and comments on each section of the outline. Comments/questions are as follows:

Section 1

- Exemption for area of disturbance also includes “<2,000 sf impervious cover”; should include “new” impervious cover. CWP is looking for feedback over whether this should be an “and/or” exemption and whether 2,000 sf is an acceptable threshold value.
- Need to include an appellate process for denied variances; will look at other regulations to review their appellate processes.
- It is not expected that individual home lots be handled any differently in the reg revisions that they are currently handled.
- In Standard Plan criteria, one acre or less should be specified so as to comply with local subdivision codes.

Section 3

- LID plan techniques are often prohibited by subdivision codes, DelDOT, Fire Marshall, etc.; CWP has a code and ordinance worksheet that can help with resolving those issues; this is a topic to be handled by the **Planning & Land Use Subcommittee**
- The pre-application meeting requirement needs to be flexible by delegated agency. It has been found by KCD to be valuable in saving review time.
- The timing of the pre-application meeting with respect to PLUS and other land use processes is a topic to be covered by the **Planning & Land Use Subcommittee**
- Coordination between DelDOT and local delegated agencies for S&S review needs to be facilitated
- Maintenance requirements need to be documented up front; Section 3.7 should specify permanent stormwater management facilities.
- Will need legal interpretation of items of Section 3.8 regarding easements
- The fee-in-lieu option is an option of last resort and best implemented if there is a stormwater utility or similar structure already in place in the watershed.

Section 4

- Land use questions related to clearing were discussed in the section on performance criteria for construction site stormwater management

Section 5

- This section is very different from the current regs with a focus on recharge and discharge based on watershed position of the development.
- 5.5 is an optional section to address designated watersheds
- The redevelopment % impervious is impractical for small sites; a matrix is suggested based upon site size. This is a topic of discussion for the **Urban Considerations Subcommittee**.
- The 100 year storm is now being considered for management below the C&D Canal; management will be based upon impact. This is a topic for discussion by the **Technical Subcommittee**.

Section 6

- Certified inspectors for maintenance inspections is a new idea
- This section is similar to the existing regs with more specificity in required inspection steps

Section 7

- Responsible parties for maintenance of permanent SWM facilities needs to be defined
- Escrow account may be most controversial item of this section
- CWP has no model for this proposal and this section will need to work through the subcommittees including **Maintenance** and **Economic Impacts**.

Section 8

- Not a lot of details on enforcement in the current outline
- Enforcement is limited to what is in current statute unless Ch. 60 is invoked
- We need to be mindful of EPA's criteria in developing this section of the regs

Written comments on the outline should be submitted to Elaine Webb at Elaine.Webb@state.de.us by Friday, February 8th to be forwarded to CWP.

Following discussion of the outline, subcommittees were discussed. The Planning & Land Use subcommittee responsibilities were amended to include reviewing local codes that may conflict with proposed regulations. The Subcommittees' responsibilities may be found in a separate document: Subcommittee List.doc.

RAC members selected subcommittees upon which to serve, and interested parties in the room signed up for subcommittees as well. Staff will be assigned to each subcommittee and will schedule the first meeting. At the first subcommittee meeting an RAC voting member will be selected to chair each committee, and the committee's meeting schedule will be set. The Subcommittee members list can be found in a separate document: Subcommittee Members.doc

DNREC will develop a web portal to all things related to the Sediment and Stormwater Reg revisions that will link from the DNREC Sediment & Stormwater Program website: <http://www.swc.dnrec.delaware.gov/SedimentStormwater.htm>