

Regulatory Advisory Committee
February 9, 2009 Meeting Notes

RAC Members in Attendance:

Charles	Adams	Delaware Association of Surveyors
Martha	Corrozi Narvaez	Water Resources Agency
Vince	Davis	DeIDOT
Jennifer	Gochenaur Mihills	Delaware Nature Society
George	Haggerty	New Castle County Dept. of Land Use
Bruce	Jones	Greenstone Engineering (representing ACEC)
Hans	Medlarz	Kent County Dept. of Public Works
Robert	Phillips	State of Delaware Dept. Of Justice
Doug	Seavey	JCM Environmental (rep HBA/DE)
Jennifer	Volk	DNREC Division of Water Resources
Jessica	Watson	Sussex Conservation District (representing DACD)

RAC Members not in Attendance:

Jeff	Bross	Duffield Associates (rep. Clean Water Council)
John	Casey	Delaware Contractors Association
Constance	Holland	Office of State Planning Coordination
John	Marinucci	Dept. of Education
Donald H.	Mulrine, Jr.	Town of Camden (rep League of Local Govts)
Rodney W.	Smith	Sussex County Planning & Zoning
Deborah	VanDermark	De State Board of Landscape Architects
Lee Ann	Walling	DNREC Office of the Secretary

Staff Members in Attendance:

Randell	Greer	DNREC Sediment & Stormwater Program
Frank	Piorko	DNREC Drainage & Stormwater Section
Jamie	Rutherford	DNREC Sediment & Stormwater Program
David	Twing	DNREC DSWC
Elaine	Webb	DNREC Sediment & Stormwater Program
Steve	Wright	DNREC Division of Soil & Water Conservation

Interested Parties in Attendance:

Jared	Adkins	Kent Conservation District
J. Wesley	Allen	Envirotech
David	Athey	URS Corporation
Bill	Carson	Town of Middletown
Richard	Collins	Positive Growth Alliance
Mark	Davidson	DC Group
Colm	DeAscanis	CDA Engineering
Mark	DeVore	Division of Facilities Management
Kelly	Dinsmore	City of Newark Public Works
Joe	Farrell	UD SeaGrant / NEMO
Scott	Figurski	DNREC Division of Water Resources
Sally	Ford	Land Design, Inc.

Joe	Gordon	JCM Environmental
Roger A.	Gross	Merestone Consultants, Inc.
Charlotte	Herbert	Delaware Association of Realtors
Greg	Hoffmann	Center for Watershed Protection
Steve	Hutchins	Morris Ritchie Associates (representing HBA/DE)
Richard	Kautz	Sussex County Planning and Zoning
C. Scott	Kidner	Representing HBADE & others
Ring	Lardner	Davis, Bowen & Friedel, Inc
Steve	Marsh	George Miles & Buhr
Kevin	McBride	Morris Ritchie Associates
J. Solomon	McCloskey	Landmark Engineering, Inc.
Jason D.	McNew	EA Engineering, Science, and Technology
Charles	Miller	ECSI
Ellie	Mortazavi	New Castle County Special Services
Anne	Mundel	DNREC Sourcewater Protection
Salvador	Palalay	McCormick Taylor Inc
Mike	Pennington	Scott Engineering
Don	Pogwist	McCrone, Inc.
Douglas E.	Potts	ECSI
Amy	Reed	Landmark Engineering
Keith	Rudy	McCrone, Inc.
Neil	Sander	ESE
Terry	Scanlon	Davis, Bowen & Friedel, Inc.
Greg	Scott	Scott Engineering, Inc.
Ernie	Sheppe	Morris Ritchie Associates (rep HBA/DE)
Mike	Sistek	City of Newark Public Works
Jen	Smith	Davis, Bowen & Friedel, Inc.
Jennifer	Steffens	CONTECH Stormwater Solutions, Inc.
Larry	Trout	JMT
Marianne	Walch	DeIDOT/NPDES

Meeting Notes:

Frank Piorko opened the meeting with approval of the agenda and introduction of RAC Members present, as well as staff and interested parties in attendance. Several RAC members were not in attendance; staff will contact those RAC members to verify their future involvement with the committee. A brief review of the regulatory development process to date was provided. RAC and Subcommittees have met for a total of 43 hours since beginning this process approximately 16 months ago.

Prior to the RAC meeting the first working draft of the proposed revised Sediment and Stormwater Regulations was distributed to RAC members and interested parties. The draft regulations were also posted on the Sediment and Stormwater Program website.

Randy Greer and Elaine Webb provided an overview of the proposed revisions to the regulations. Randy covered the process and the technical requirements of Sections 3, 4, and 5 of the proposed regulations. Elaine covered the highlights of the remaining sections. The overview presentation will be posted on the Sediment and Stormwater Program website. Comments and questions were taking during and following the overview presentation. A summary of comments and questions received is below, listed in Section order in the proposed regulations, with the commenter noted as well as a comment response if applicable.

2-9-09 RAC meeting comments

Section Number	Commenter	Comment	Comment Response
Section 1 General Provisions	RAC Meeting Discussion	Consideration should be given to projects that have started under the current regs and have stopped - how will they fit under the proposed requirements? Need to address in regulations what to do with projects that stop construction prior to completion.	
Section 1 General Provisions	RAC Meeting Attendee	What would be the effective date of the revised regulations? What happens to projects already under design?	Expected that implementation will follow the procedures set forth in the Inland Bays Pollution Control Strategy
Section 1 General Provisions	George Haggerty, NCC DLU	When regulations are incorporated by reference into local ordinances, what legal mechanism is necessary for local agencies to enforce those regulations?	Bob Phillips will work on this with NCC.
Section 3 Plan Approval Procedures	Frank Pioroko	Need to think about "roads only" plans as we move forward with regulations	
Section 3 Plan Approval Procedures	Sal Palalay, McCormick Taylor	O&M Plan should be developed at the same time as the S&S Plan so that cost of future maintenance would be considered in the material selection and design of permanent stormwater management systems.	
Section 3 Plan Approval Procedures	Hans Medlarz, Kent County	Utility projects that currently fall under Standard Plan category may not be less than 1 acre disturbed. Suggest Standard Plan specify that no greater than one acre disturbed at any one time, in a phased approach. <i>(Note that this comment was provided following the meeting)</i>	
Section 5 Post-Const SWM	Neil Sander, Eastern States Engineering	100% probability of occurrence for 1-year storm is not accurate	Should be 99.99% probability
Section 5 Post-Const SWM	Jen Smith, DBF	What about discharges to DeIDOT ROW when unit peak discharge approach is used? Will DeIDOT accept or will analysis have to follow current methodology?	
Section 6 Inspections	Rich Collins	CCRs required on "projects 20 acres or greater" - does this mean parcel size of 20 acres or disturbance of 20 acres?	Valid comment; language of 6.1.6 should be revised to clarify intent
Section 6 Inspections	Amy Reed, Landmark	Examples or guidelines for weekly self-inspection log should be developed to avoid confusion on the part of owners.	Valid comment; Look to EPA guidance for help in developing these guidelines or examples
Section 6 Inspections	Vince Davis, DeIDOT	How would regulations address review, approval, and inspection of design-build projects?	
Section 7 Maintenance	Charlie Miller	Enforcement of maintenance in residential projects will be directed toward HOA; this will result in no one wanting to serve in HOA leadership and no maintenance will get done	

Section Number	Commenter	Comment	Comment Response
Section 7 Maintenance	Charlie Miller	Private sector could take a role in routine maintenance inspection of stormwater management facilities but this is currently not allowed in New Castle County.	
Section 7 Maintenance	Ellie Mortazavi, NCC Special Services	Why are maintenance inspections only required every two years?	
Section 9 Delegation	Mike Sistik, City of Newark	How does blanket delegation of program elements affect agencies that have education and outreach requirements under NPDES permitting?	

During the discussion, Bruce Jones, representing ACEC and chair of the Technical Subcommittee encouraged the designers in attendance to participate in the Technical Subcommittee. Bruce also noted that ACEC will be completing a line-by-line review of the entire document.

Path Forward

Staff expects three levels of documents that need to be created:

1. The “what” of the requirements would be in the regulatory language.
2. The “how” to accomplish those requirements would be in a technical guidance document.
3. Finally, examples would be created to assist the regulated community in implementation.

It is expected that the “what” and “how” levels will be developed prior to promulgation of these revised regulations.

At this time, anyone is welcomed to provide comments on the draft document. The draft regulation is posted on the Sediment and Stormwater Program website and will be e-mailed to all in attendance. Staff will contact missing RAC members to see if they still want to be involved with the committee, and subcommittee chairs will also be contacted about their continued service. Individuals not currently serving on a subcommittee may choose to sign up, or those wishing to be removed from the subcommittee may request that as well.

The individuals in attendance were asked to refrain from submitting comments for 5 days while DNREC staff develops an implementation time frame and e-mails it out to those in attendance. Over the next 30 days, written comments may be submitted to DNREC. Subcommittee meetings will be scheduled following the 30-day comment period. Over the next three to six months, it is expected that the subcommittees will help to develop guidance documents to support their specific parts of the revised regulations.