

Sediment and Stormwater Program
Regulatory Advisory Committee

Meeting Notes

February 25, 2010

9:00 am, DelDOT Felton-Farmington Conference Room

Meeting Attendees:

First Name	Last Name	Organization Name	Membership Status
Charles	Adams	Delaware Association of Surveyors	Voting Member
Jeff	Bross	Duffield Associates (rep. Clean Water Council)	Voting Member
Vince	Davis	DeIDOT	Voting Member
Jennifer	Mihills	Delaware Nature Society	Voting Member
George	Haggerty	New Castle County Dept. of Land Use	Voting Member
Hans	Medlarz	Kent County Dept. of Public Works	Voting Member
Doug	Seavey	JCM Environmental (rep HBA/DE)	Voting Member
Matthew	Spong	Landscape Architectural Services	Voting Member
Jennifer	Volk	DNREC Division of Water Resources	Voting Member
Lee Ann	Walling	DNREC Office of the Secretary	Voting Member
Jessica	Watson	Sussex Conservation District (representing DACD)	Voting Member
Cheryl	Gmuer	DNREC Sediment & Stormwater Program	Staff
Randell	Greer	DNREC Sediment & Stormwater Program	Staff
Jamie	Rutherford	DNREC Sediment & Stormwater Program	Staff
Jeff	Vance	DNREC Sediment & Stormwater Program	Staff
Elaine	Webb	DNREC Sediment & Stormwater Program	Staff
Steve	Wright	DNREC Division of Soil & Water Conservation	Staff
Jared	Adkins	Kent Conservation District	Interested Party
J. Wesley	Allen	Envirotech	Interested Party
David	Athey	URS Corporation	Interested Party
Sharon	Cruz	DC Group	Interested Party
Kelly	Dinsmore	City of Newark Public Works	Interested Party
Jim	Elliott	Sussex Conservation District	Interested Party
Joe	Farrell	UD SeaGrant / NEMO	Interested Party
Sally	Ford	Land Design, Inc.	Interested Party
Charlotte	Herbert	Delaware Association of Realtors	Interested Party
Jane	Kirby	Brightfields, Inc.	Interested Party
Melissa	Koenig	Landmark Engineering Inc.	Interested Party
David M.	Kuklish	Element	Interested Party
Ring	Lardner	Davis, Bowen & Friedel, Inc	Interested Party
J. Solomon	McCloskey	Landmark Engineering, Inc.	Interested Party
Anne	Mundel	DNREC Sourcewater Protection	Interested Party
Salvador	Palalay	McCormick Taylor Inc	Interested Party
Wendy	Polasko	DeIDOT	Interested Party
Amy	Reed	Landmark Engineering	Interested Party
Ryan	Shockley	GMB	Interested Party
Mike	Sistek	City of Newark Public Works	Interested Party
Daniel	Speakman	McCrone, Inc.	Interested Party
Larry	Trout	JMT	Interested Party
Jennifer	Walls	DNREC Office of the Secretary	Interested Party

The RAC meeting was called to order at 9:05am by Elaine Webb. Attending RAC members approved the meeting agenda. Introductions of all in attendance were made.

Elaine Webb and Randy Greer provided an overview of the Sediment and Stormwater Program's efforts to revise the Sediment and Stormwater Regulations over the past year, including key meetings and regulation language and technical document content development. A section by section overview of the proposed revisions to the first draft of the regulations was presented.

Discussion items:

Effluent Limitation Guidelines (ELGs) – EPA rule effective February 1, 2010 will require sites disturbing greater than 20 acres to comply with numeric ELGs by August 2011, with the threshold dropping to 10 acres of disturbance in February 2014. DNREC will lower the site specific construction site stormwater management plan requirement from 20 acres to 10 acres and the design storm will be increased from 1 year to 2 year to align more closely with these requirements. Monitoring requirements for meeting ELGs will be spelled out in Delaware Construction General Permit, scheduled to be reauthorized in February 2011. Interested parties in attendance at the RAC meeting expressed concern that DNREC follow the EPA implementation schedule, beginning with 20-acre disturbances in 2011 and dropping the threshold to 10 acres in 2014. Staff clarified that monitoring requirements would follow the EPA timetable and would be implemented through the updated General Construction Permit even if State regulations were to lower the threshold for an engineered ESC plan down to 10 acres initially.

TMDLs – The group was brought up-to-date on Federal initiatives to require implementation of TMDLs for all watersheds draining to the Chesapeake Bay, as well as upcoming requirements for implementing TMDLs under the New Castle County/DelDOT Phase I MS4 Permit. When added to the existing Pollution Control Strategies for the Inland Bays, approximately 2/3 of the State will have some sort of TMDL requirement as part of the stormwater management requirements for new development. It was suggested that rather than continue in this piecemeal fashion, it would make more sense at this point to structure the proposed Sediment & Stormwater Regulations such that compliance with these regulations would ensure compliance with any TMDL requirements.

Easements – RAC Members expressed concerns about maintenance of stormwater conveyance systems outside of the stormwater management facilities. DNREC does not have authority in the Sediment & Stormwater Law to require easements on plans; however, DNREC will provide guidance and recommendations in the Technical document which supports the establishment of easements surrounding these conveyances.

Operation and Maintenance Plan – The O&M plan will be required as per the regulations. The O&M Plan requirement will apply only to plans developed under the revised regulations; existing stormwater management facilities will not be required to develop an O&M plan. The format and timing of the O&M Plan development was discussed.

O&M Plan Format - DNREC proposes a plan sheet containing the “as-built” or record construction document of each stormwater management facility and including O&M elements from the technical guidance included on the plan sheet to become the O&M plan. The approval agency will maintain a copy of this O&M plan for use in the agency maintenance inspections and the entity responsible for maintenance will maintain a copy of the O&M plan as well. The members in attendance were accepting of this format.

Timing - O&M plan development timing was discussed because there is concern that the O&M plan be developed prior to project turn-over. The maintenance responsibility should be established on or with the Recordation so that the developer-owner is responsible for maintenance until it is turned over to the new owner (HOA, maintenance corporation, etc.)

Other O&M Plan considerations:

- The O&M Plan or Record Construction Document can be recorded or noted with the Record Plan so that the O&M Plan is somehow tied to the Record plan for the project.
- How would distributed site BMPs such as filter strips, etc. be addressed in the format specified for the O&M plan? As-builts are not typically required for these BMPs but an O&M plan should be. Could a reference be made to the technical document containing the O&M requirements?

Timeline to Promulgation – DNREC will finalize changes to 2nd Draft of the Regulation Revisions in April 2010. Selected subcommittees (Technical, joint Economic Concerns and Urban Considerations, and possibly Maintenance) will meet in late April - early May. Technical Subcommittee is tentatively scheduled to meet on Wednesday, May 5, 2010. The next RAC meeting will be held at the end of May. RAC members requested no Monday or Friday meeting days. Currently, DNREC is considering Thursday May 27, 2010 for the next RAC meeting.

Summer 2010: DNREC will send draft regulations for legal review, hold public workshop and outreach to specific regulated groups.

Fall 2010: DNREC plans to have a public hearing in October 2010 with a hope to have promulgation of new regulations in January 2011.