

Economic Impacts Subcommittee Comments

Theme

Subsection	Date Comment Received	Commenter	Comment
1.6.1.1	3/11/2009	City of Newark	Are plan review, program administration and inspection fees to be separate or just the inspection fees? Should all the fees or just the plan review fees be collected at time of the preliminary Sediment and Stormwater Management Plan submittal? Are inspection fees to include both construction and future maintenance inspections?
1.6.1.1	3/13/2009	Sally Ford, Land Design	The fee structure is an issue that needs to be resolved. Per this section the fees can be different in different parts of the State, at the discretion of the delegated agency, yet we are all under the same regulations. The fees are substantially more than \$80 per acre, so this portion of the regulation misrepresents to the legislators what the fees truly are. <input type="checkbox"/> (Also as a secondary note on policy, requiring the construction inspection fees and stormwater maintenance inspection fees prior to approving permit drawings, is a request for funds much sooner than is justified and is a financial burden. A better scenario would be that the construction inspection fee be due with the letter of notification, 5 days prior to the commencement of construction, and the maintenance fee due after the as-builts are approved. Also if you are requesting these funds upfront, how can you have a limitation on approvals? Section 1.3.2.1) <input type="checkbox"/>
1.6.1.1	3/13/2009	Kevin McBride, MRA	This fee seems high compared to current fees and you are reducing work effort according to the PP presentation. Fees should come down if you are going to be more efficient in the review and delegating more of inspection portion.
1.6.1.2.1- 3	3/11/2009	City of Newark	Since the City's program has no outside funding, it does not seem possible to recoup the cost of the program with fees alone.
1.6.1.2.2 & 1.6.1.2.3	3/12/2009	Kevin Burdette, KNB Associates	Clarify – Who & How will the accountability be determined for these Agency costs. Will they be available for public review and comment?
1.6.1.2.3	3/13/2009	Kevin McBride, MRA	Seems rather open ended. The additional submittals makes me think that more work during review will be required not less. the delegation of inspection monitoring to the developer with DNREC still conducting their oversight adds cost in fees and construction costs.
1.6.1.2.4	3/13/2009	Kevin McBride, MRA	"may not eliminate that inspection requirement or fees" - This should most definitely go down! This doesn't belong in the regs however.

1.6.2	3/11/2009	City of Newark	Will there be a sample document with the preferred language provided as a guide?
1.6.2	3/20/2009	SCD	Define financial guarantee and in what form this should be: bond, escrow, pro-rata, etc. Also describe how these funds would be held and disbursed.
1.6.2.1	3/12/2009	Kevin Burdette, KNB Associates	Add Word "reasonable" - The financial guarantee will ensure that action can be taken by the Department or delegated agency to make corrections, at the owner's expense, should the owner fail to initiate or maintain those measures identified in the approved Sediment and Stormwater Management Plan after being given proper notice and within a [reasonable] time specified by the Department or delegated agency. <input type="checkbox"/>
1.6.2.1	3/12/2009	Kevin Burdette, KNB Associates	Correction Through Out – Financial Guarantee should be capitalized, as it relates to a specific definition
1.6.2.1	3/13/2009	Sally Ford, Land Design	The size of the project should be taken into consideration. Does a 1 acre disturbance need to be bonded? The financial guarantee is added time and expense for the smaller jobs.
1.6.2.1	3/13/2009	Kevin McBride, MRA	Bonds are already required by Sussex Co. Engineering for 125%. Must clearly state that only one bond is required and that both agencies are not inspecting the work twice resulting in additional fees and delay in release of the bonds.
1.6.2.1	3/20/2009	John Garcia, Karins	What form can the financial guarantee be in? (bond, letter of credit, other)
1.6.2.2	3/13/2009	Jared Adkins, KCD	The previous paragraph states "...financial guarantee will ensure that action can be taken by the department or delegated agency ...those measures identified in the approved Sediment and Stormwater Management Plan..." However, 1.6.2.2 limits the guarantee to just the cost of the stormwater management systems and not all Sediment and Stormwater measures. <input type="checkbox"/> <input type="checkbox"/> If the intent is just to cover the stormwater facilities 1.6.2.1 should be changed. If the intent is to cover E&S controls and Stormwater facility construction, 1.6.2.2 should be changed. <input type="checkbox"/> <input type="checkbox"/> Additionally, limiting the guarantee to 100% of cost at the beginning of a project may encourage developer to forfeit the guarantee if construction and material costs rise over the course of the project above the initial estimated cost. This has happened to DelDOT. <input type="checkbox"/>
1.6.2.2	3/20/2009	SCD	Under section 1.6.2.2 which states the following: "The amount of the financial guarantee shall not exceed 100% of the total estimated construction cost of all stormwater management systems combined." Typically, financial guarantees are collected at 125% – 150% of the estimated construction cost.
1.6.2.2	3/20/2009	John Garcia, Karins	Please clarify limits of Stormwater management system for estimated construction cost. Does this include inlet pipes and culverts?

1.6.2.3	3/20/2009	John Garcia, Karins	Please clarify the procedure for forfeiture of the financial guarantee
1.6.2.4	3/20/2009	John Garcia, Karins	How is collection of the forfeiture to be done?
1.6.2.4	3/20/2009	SCD	how would the delegated agency collect any additional costs from the developer?
1.6.3.2	3/12/2009	Kevin Burdette, KNB Associates	Add Wording - At the discretion of the Department or delegated agency, [with a substantial reasonable cause a portion of] the financial guarantee may be extended beyond the time period specified above to cover a reasonable period of time for testing the practices during storm events and for initial maintenance activities.
1.6.3.2	3/13/2009	Kevin McBride, MRA	"financial guarantee may be extended ..." - This is ridiculous if designed and approved with your BMP's and constructed properly there should be no testing or monitoring. Should the facility not work as anticipated but as designed what would you do start over or make trial and error adjustments. As-built info and engineers certification should suffice. Maintenance work is continuous and needs to be specified as to what "initial" means.
1.6.3.2	3/20/2009	SCD	Add an establishment period for certain vegetation to take hold and how long it should be monitored. With bio-retention facilities, this type of plant cover needs special care and the period may be longer than 1 year.
1.6.3.3	3/11/2009	Jenn Volk, DWR	Include the following: "Examples of warranted releases include but are not limited to: ..."
1.6.3.3	3/20/2009	John Garcia, Karins	Provisions for partial pro-rata release should be in place with the adoption of the new regulations, not after.
1.6.3.6	3/12/2009	Kevin Burdette, KNB Associates	Reduce Days from 60 days to 30 days. This is an ample amount of time to be able to release an Owners Financial Guarantee, and there is no reason to place any additional hardship on the Owner.
1.6.4	3/13/2009	Kevin McBride, MRA	Fee in Lieu Program - Based on what criteria? Acres, volume, cost of construction and design? Number of participating land owners.
1.6.4	3/13/2009	Sally Ford, Land Design	'Fee-In-Lieu' could be a good idea but could also be misused – some sort of structured fee should be established, or a cost not to exceed per acre
1.6.4.2.2	3/13/2009	Kevin McBride, MRA	Full or partial compliance - What if only a few of the watershed participants build their share of the facilities, would the remaining be responsible for cost sharing and be subject to a recoupment agreement based on their percent?
3.1.2	3/13/2009	Kevin McBride, MRA	very expensive up front cost

3.1.5	3/13/2009 Kevin McBride, MRA	"SIS Findings Report" - This will add addition time and cost to the review process to prepare a findings report which most likely will need to be negotiated with the consultant, owner and DNREC before agreement can be reached.
3.2	3/13/2009 Sally Ford, Land Design	It appears that there are 3 reviews – Concept/Impact Study, Preliminary Sediment and Stormwater Management Plan, and Final Sediment and Stormwater Management Plan – this adds time and expense to the owner as well as for the delegated agencies (thus they will need additional fees as well)
4.3	3/11/2009 City of Newark Public Works	As a practical matter, due to topographical changes and infrastructure requirements, the efficiency, costs and potential marketing of the projects could be negatively impacted, if required in all cases to finish one phase before the next.
General Comment	2/9/2009 Frank Piorko	Need to think about "roads only" plans as we move forward with regulations
General Comment	2/9/2009 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.
General Comment	2/17/2009 Chip Hazel, P.E.	Current regulations associated with agency inspections are generating high costs for owners as agencies seek funding for long-term annual inspection programs. These programs likely arose out of poor inspection and maintenance of sediment and stormwater facilities by owners and HOA's. The cure in the form of high long-term annual inspection funding requirements (paid for by facility owners) may be worse than the malady. A management-by-exception approach avoids the need to punish all for the misdeeds of some and, puts the owners and HOA's on notice that failing to do the required inspection and maintenance will have expensive consequences.
General Comment	3/13/2009 Chuck Adams, PLS	In this time of protracted economic downturn it seems like specific problems should be discussed in all of the categories and then addressed , one by one, to see what the best response is, instead of a all encompassing Change to Stormwater Regulation. (Possible Future Amended 7 Code). □
General Comment	3/13/2009 Rich Collins, PGA	Most of Section 3 should be deleted. Bureaucratic delays and indecision already in the system are making it impossible for new businesses to respond to changing economic conditions in a timely fashion. For example, just yesterday (March 10), the Secretary of Transportation agreed that DelDOT must shorten their reponse times dramatically for this reason.

General Comment	3/13/2009 Rich Collins, PGA	This is not acceptable. Ways must be found to make development less expensive, not more. If a way is not found to get tax revenue flowing again, a lot of laid-off state employees will likely need to find new jobs in a very hostile economic environment. Making building more expensive won't help!
General Comment	3/13/2009 Rich Collins, PGA	Development of these regulations should be put on hold! The economic environment has drastically changed. All assumptions about the pace of development should be discarded for the time being. We must wait and see what the future holds in the way of government funding, jobs and declines in standard of living before making large changes in existing government requirements. <input type="checkbox"/> <input type="checkbox"/> Sussex County single family home building permits issued: <input type="checkbox"/> 1996 - 1281 <input type="checkbox"/> 1997 - 1354 <input type="checkbox"/> 1998 - 1594 <input type="checkbox"/> 1999 - 1815 <input type="checkbox"/> 2000 - 1579 <input type="checkbox"/> 2001 - 1797 <input type="checkbox"/> 2002 - 2276 <input type="checkbox"/> 2003 - 2373 <input type="checkbox"/> 2004 - 2664 <input type="checkbox"/> 2005 - 2864 <input type="checkbox"/> 2006 - 2467 <input type="checkbox"/> 2007 - 1968 <input type="checkbox"/> 2008 - 1250 <input type="checkbox"/> <input type="checkbox"/> The stormwater regs were just updated in 2005. Virtually none of the projects built under those regulations would even be fully developed yet. We should properly evaluate those changes before making major new changes. <input type="checkbox"/>
General Comment	3/20/2009 John Garcia, Karins	The new requirements will increase design, engineering and construction costs. Time needed to acquire final approvals will increase by the additional layer of approval required.
Operation and Maintenance Plan	3/13/2009 Kevin McBride, MRA	We need the guidance to determine the cost implications to engineers and homeowners responsible for maintenance. Provide documentation of how lack of maintenance has been more costly than the proposed requirements.
Stormwater Utility	3/13/2009 Kevin McBride, MRA	how is this to be funded-by taxes, impact fees, HOA annual contributions?