Policies Procedures Subcommittee Comments

Theme

Subsection	te Comment Received	Commenter	Comment
	2/9/2009	Mike Sistek, City of Newark	How does blanket delegation of program elements affect agencies that have education and outreach requirements under NPDES permitting?
	2/9/2009	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?
	2/9/2009	Vince Davis, DelDOT	How would regulations address review, approval, and inspection of design-build projects?
	2/13/2009	Ric Kautz, Sussex County Planning	include a procedure to make sure silt fences are removed in a timely manner
	2/13/2009	Ric Kautz, Sussex County Planning	locate silt fences at the upland edge of wetlands and/or required forest or riparian buffers. This is a significant issue because most damage to the natural, existing landscape is done before we get on the site.
1.3.2	2/9/2009	RAC Meeting Attendee	What would be the effective date of the revised regulations? What happens to projects already under design?
3.7.4.3	2/9/2009	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.
6.1.3.1 and 6.1.3.2	2/9/2009	Amy Reed, Landmark	Examples or guidelines for weekly self-inspection log should be developed to avoid confusion on the part of owners.
6.1.6	2/9/2009	Rich Collins	CCRs required on "projects 20 acres or greater" - does this mean parcel size of 20 acres or disturbance of 20 acres?
Pre-application meeting	3/13/2009	Kevin McBride, MRA	"…prior to the PLUS meeting…" -This is a new step in the process up front which will cause delay and significant investment in engineering prior to the customary due diligence and feasibility determinations based on zoning, and local land use input that should come first. It will not matter if the project is not approved locally. the SWM/BMP "concept" will change as the plan is revised and modified through the local planning and engineering review process.

Theme **Additions**

Subsection	te Comment Received	Commenter	Comment
1.1	3/20/2009	SCD	Do you need to reference the Regulations Governing the Pollution Control Strategy?
1.1.1.1	3/11/2009	Jenn Volk, DWR	Insert following sedimentation: ", and delivery of other nonpoint source pollutants such as nutrients, via stormwater runoff"
1.1.1.2	3/11/2009	Jenn Volk, DWR	Insert following sediment deposition: ", and nonpoint source runoff of other pollutants"
1.3.1	3/20/2009	SCD	Section 1.3.1 states that a Sediment and stormwater management Plan shall not be approved for a property unless it is consistent with the following: (Does the PCS Reg. – need to be included?)
1.4.1.2	3/11/2009	Jenn Volk, DWR	Has the concept of also using an impervious cover threshold, which the CWP proposed, been ruled out?
Pre-application	3/13/2009	ACEC	there should be a provision for exempting or allowing this meeting to be waived for small sites and/or minor disturbances.

Theme **Definition**

Subsection	te Comment Received	Commenter	Comment
3.8	3/12/2009	Kevin Burdette, KNB Associates	Through Out Document – ALL references to "qualified design professionals" should read, "Appropriately Licensed Professionals in good standing with the State of Delaware."
6.5.6.3	3/13/2009	New Castle County Special Services	Again the "Final Stabilization" phrase needs to be clearly defined as to make sure at the time of final inspection there is a good stand of vegetation on all the disturbed areas around the stormwater management facilities when is applicable per plan.
As-Built Plans	3/12/2009	Kevin Burdette, KNB Associates	"As-Built Plans" means a set of engineering or site drawings that delineate the specific approved stormwater management system as actually constructed [on a specific date and / or as portrayed to have been constructed by notations that were compiled from the Contractor of Record installing the system.]
As-Built Plans	3/13/2009	ACEC	this should be a set of "surveyed plans" not "engineered plans"
BAT	3/13/2009	Kevin McBride, MRA	delete very best and use "most practical"
Emergency Project	3/12/2009	Kevin Burdette, KNB Associates	"Emergency Project" means a project that is immediately necessary to protect life or property such as bridge, culvert, pipe [and any Utility] repairs.
Final Stabiliza	3/12/2009	Kevin Burdette, KNB Associates	Item currently noted as (3)(c) should be noted as Item #4.

Final Stabilization	3/13/2009	Kevin McBride, MRA	Delete 2a and replace with.."Vegetative cover may be reduced by the percentage of arid areas or beaches existing prior to development since no vegetation or stabilization is required."
Final Stabilization	3/13/2009	Kevin McBride, MRA	Reword 1a to read "a uniform, evenly distributed perennial vegetative cover with a density of 70% established on all unpaved areas and areas not covered by permanent structures, or"
Final Stabilization	3/13/2009	New Castle County Special Services	Criteria 1 (a) needs to be changed to; A uniform (e.g. evenly disturbed) perennial vegetation cover for the area has been established on all the unpaved areas and areas not covered by permanent structures. (Having a percentage makes it more difficult and questionable when it comes to acceptance.)□ □ Criteria 2 (b) needs to be changed to; all the Equivalent permanent stabilization measures (such as riprap and etc.) can be employed Per Approved Plan. □
Final Stabilization	3/13/2009	Jared Adkins, KCD	Final Stabilization – □- (1)(a) Does Kentucky 31 turf grass meet the definition of native background vegetative cover? Should native be taken out? □- (3)(b) Shouldn't this be worded as permanent stabilization (permanent seed mix and mulch applied)?□
Impervious S	3/3/2009	Ernie Sheppe, MRA	Revise as follows, "…contacting the existing soil and does…"
Impervious Surface	3/13/2009	Kevin McBride, MRA	Delete "existing" prior to soil and define "signficant amounts" as more than 5 percent
Inactive	3/11/2009	Jen Mihills, DNS	"Inactive" is referenced several times throughout the regulations;□consider strengthening the definition by adding a time frame.
Permanent Stabilization	3/13/2009	Jared Adkins, KCD	Permanent Stabilization – as worded allows only anchored straw mulch and no other hydraulically applied mulches or erosion control matting.
Pre-applicatio	3/11/2009	Jenn Volk, DWR	Spell out PLUS? Define?
Stabilization	3/11/2009	City of Newark Public Works	What is the difference between final stabilization (page 8) and permanent stabilization (page 9)?
Standard Plan	3/3/2009	Ernie Sheppe, MRA	Revise to read as follows, "…that may preclude the need for the preparation of…"
Tidewater	3/13/2009	Kevin McBride, MRA	why not use current definitions in other DNREC regs for consistency i.e.. Subaqueous lands regs.
Unnecessary Hardship	3/3/2009	Ernie Sheppe, MRA	I question the need to define this term in a regulation. I trust the Delaware Court has already defined this legal term. Let's not create confusion by adopting a different definition in a regulation. I suggest the Court has already defined this and that the term be deleted from the regulations, or that we confirm that the definition provided in the regulations is consistent with existing Delaware law.

Unnecessary Hardship	3/13/2009	Kevin McBride, MRA	delete definition - courts have determined this standard. to use "impossible" makes this hardship impossible to prove.

Theme **Edits**

Subsection	te Comment Received	Commenter	Comment
3.3.1	3/11/2009	Jenn Volk, DWR	Include "Department or" prior to delegated agency in the first sentence
3.4.1	3/11/2009	Jenn Volk, DWR	Include "Management" in Sediment and Stormwater "Management" Plan
4.5.1	3/13/2009	Jared Adkins, KCD	Should combine second and last sentence to clarify and read better. "Temporary stabilization is required for those areas which…."

Theme **Guidance**

Subsection	te Comment Received	Commenter	Comment
	3/13/2009	NCCDLU	b) We recommend including flexibility to permit delegated agents to invoke and utilize their own enforcement and penalty process. The coordination of enforcement between parent and subordinate agencies is often difficult. We ask that the State consider this option to facilitate a more straight forward and faster response in regulation enforcement; and
	3/13/2009	ACEC	The code seems incomplete. It is difficult to discern the design criteria for stonnwater management and erosion and sediment control. Little to no mention is made of peak rate control, quality control, or the sediment control handbook. The information provided regarding stonnwater volume control in unclear, and there are no criteria or checklists for plan submissions.
	3/13/2009	NCCDLU	c) We request clarification on issues that have long been of debate with stormwater management in this State. Specifically, we are unclear on how the proposed regulations will manage such subjects as regulatory compliance for minor residential subdivisions without open space for post construction stormwater controls and guidance on standardized tolerances for numerical analyses.
	3/23/2009	Vince Davis, DelDOT	Please note that these regulations are mostly written in the context of new developments and how they would interact with the Conservation Districts or other approving authorities. DelDOT follows these regulations fairly closely, but does have their own way of doing things which is not against the law, but just a little different than what is spelled out in these draft regulations.

1.5	3/13/2009	Sally Ford, Land Design	There needs to be a way for a variance to be preliminarily granted earlier in the design phase.
1.5.1	3/12/2009	Kevin Burdette, KNB Associates	Clarify - Exactly who will make the determination on the Variances and what Appeal Process may be utilized by the Applicant.
1.5.1	3/20/2009	SCD	Suggest giving an example or 2 of a reason to justify a variance.
1.6.3	3/13/2009	Sally Ford, Land Design	Stormwater Management Practices are usually one of the first things constructed. A Notice of Completion may not be issued until the last home is built. There needs to be a more finite way to release guarantees, not at the 'discretion' of the delegated agency.
10.3	3/11/2009	City of Newark Public Works	Should include any additional administrative and overheard costs related to the sediment and stormwater and/or NPDES program.
10.5	3/11/2009	City of Newark Public Works	Should include method for issuing stormwater credits.
3.1.1	3/13/2009	NCCDLU	A pre-application meeting for all application may be onerous. Delegated agencies need some consideration for practices & procedures that are currently in place.
3.1.1	3/13/2009	Kevin McBride, MRA	Small projects should be able to waive this requirement.
3.1.1	3/13/2009	Jared Adkins, KCD	"All Owners subject to these regulations are required to hold a pre-application meeting…" This needs to be reworded to exclude projects eligible for standard plans and allow agency discretion to waive the required pre-application in certain cases.
3.1.1	3/18/2009	ACEC	Some criteria should be provided for the size of a project which requires preapplications meetings. Small project and projects only involving erosion control should be exempt.
3.1.1 - 3.6.4	3/13/2009	Jared Adkins, KCD	Need to state these paragraphs apply to detailed sediment and stormwater plans as opposed to those project that are eligible for standard plans. Need to provide a definition or description of detailed plans verses standard plans.
3.7.4	3/18/2009	ACEC	Minor commercial, institutional, and industrial projects which disturbed under one acre were removed from the Standard Plan criteria. They should be reinstated with the additional condition that they do not create any additional impervious cover.
4.3	3/13/2009	NCCDLU	This section establishes the 20 acre disturbance rule, but then in the next section offers automatic relief. The subsections seem to conflict.
5.7	3/11/2009	Jen Mihills, DNS	How will the Department "match" identified watershed projects with proposed construction sites to accommodate fee-in-lieu? The mechanics of this option are quite vague in the draft regulations.
5.7	3/13/2009	NCCDLU	How is the Fee-In-Lieu calculated?

5.7	3/13/2009	Kevin McBride, MRA	"approved watershed plan" - These need to be identified and listed so owners and consultants know ahead of contract negotiations. The method of cost sharing needs to be worked out and any future watersheds subject to fee-in-lieu should be listed.
5.7.1	3/11/2009	Vince Davis, DelDOT	Who is going to control and maintain this operation?
6.1.3.1 & 6.1.3.2	3/11/2009	City of Newark Public Works	It would seem that as a follow-up to the inspections by the Owner that it would be also a requirement to correct any deficiencies. Will there be any time guidelines for the corrections. The CCR's have 5 days to deliver the report. So deficiencies could most likely be included in two reports since the first report noting the deficiency may not be delivered for five days at which time the next weekly inspection would be due. So, is two weeks a reasonable time to allow for corrections?
6.1.3.3	3/11/2009	Jen Mihills, DNS	As was discussed during the last RAC meeting, a template or guidelines should be developed to assist with the reporting of maintenance inspections contemplated in 6.1.3.3.
6.4.2	3/11/2009	City of Newark Public Works	What would DNREC consider as regular? Public Works often requires the inspection of any permanent stormwater facilities to have a third party CCR or some other qualified professional do the inspections, reports and certifications, as Public Works personnel can not devote the time to adequately perform the necessary inspections. On these projects, Public Works personnel will still check in on projects during construction, but rely on the CCR to provide the in depth and critical inspections of any BMP installations with the proper reporting and checklists required to be provided to Public Works.
8.0	3/13/2009	Jared Adkins, KCD	If we are currently having problems with enforcement why is this section not being clarified and strengthen?
8.0	3/13/2009	Jared Adkins, KCD	No provisions are given to address stopping immediate or eminent discharges.
8.0	3/13/2009	Jared Adkins, KCD	This section does not address penalties, cease and desist orders, fines or the withholding of permits currently included in the current regulations. This entire section should be strengthened not weakened.
8.0	3/13/2009	NCCDLU	This section should include penalties, i.e. fines, revoked plans, stop work, etc.
8.0	3/20/2009	SCD	Section 8 appears to be lacking in requirements/guidance. I would recommend that DNREC discuss further with KCD and SCD on how this section could be strengthened.
Final Stabilization	3/3/2009	Ernie Sheppe, MRA	Hard fescues and other typical turf grasses are not native plants. At (1)(a) delete "native" so as to read "…70% of the background vegetative cover…" And the same applies at (2), "When background native vegetation will cover…"

General Comment	3/3/2009	Ernie Sheppe, MRA	I invite those who work on these matters on a daily basis to expand on this, as you are far more familiar with the process than I am, but as a general comment, the overall process outlined in this Section appears to be a "do loop" that will have the developer and his consultant going in circles.
Impervious Surface	3/13/2009	Amy Reed, Landmark Engineering	Address compacted gravel and bare earth conditions that are effectively impervious due to years of surface compaction.
Impervious Surface	3/13/2009	ACEC	address compacted gravel and bare earth conditions that are effectively impervious due to years of surface compaction
Notice of Completion	3/13/2009	NCCDLU	Will a copy of a form or checklist for contents of this notice be□developed as part of the regulations?
Pre-application meeting	3/13/2009	Kevin McBride, MRA	The idea of a "conceptual" approach using BMP's and "green techniques" is generally understood by the design community. However, as we move forward in planning and engineering other constraints will necessitate modification of the agreed upon approach. Flexibility is needed and appears absent from this document with variances coming from DNREC rather than the district. And with the requirement for written justification for any modification to the plan per 3.2.2.

Theme **Law/Legal**

Subsection	te Comment Received	Commenter	Comment
1.1	3/13/2009	Sally Ford, Land Design	What specifically in the existing regulations is not working? Are the problems the same Up State as they are Down State? The difference in topography and depth to seasonal high water table varies, especially when comparing Up State to Down State, thus making it difficult to treat stormwater management consistently throughout the state.
1.1.1.2	3/13/2009	Kevin McBride, MRA	Cite specific damages to ag and industry due to development. Ag owners preference to sell property for development is not a damage it is his right.
1.1.1.2	3/13/2009	Kevin McBride, MRA	"decrease in the infiltration capacity of soils" - Provide documentation that this is happening in sandy coastal soils of Sussex Co.
3.2.1	3/12/2009	Kevin Burdette, KNB Associates	Who will own the information contained on this document?? There is substantial information that the Owner has paid to have generated, that should remain his intellectual properties if the project does not proceed forward.

5.1.7	3/3/2009 Ernie Sheppe, MRA	"Concentrated discharges from land development, including permanent stormwater management systems, shall not be discharged onto adjacent property without adequate conveyance in accordance with Department guidance."First, without reviewing the "Department guidance" it is impossible to know what this really means. Second, but perhaps more important, this could create serious problems for a landowner who must discharge the water where it has historically gone – Aqua currit et debet currere solebat (Water runs, and ought to run, as it has used to run) – but is prohibited from doing so by these regulations simply because the downstream landowner has not properly maintained the conveyance on his property, a situation made all the worse when the landowner has no right to enter the adjacent property in order to make the necessary improvements or perform the necessary maintenance. Lastly, I note that this applies to "land development," suggesting that anyone who concentrates the discharge, resulting in damage to his neighbor's land, is apparently free to do so without fear of interference from the Department so long as the offending party is not a developer.I am familiar with the common law as it applies to drainage in Maryland, but not in Delaware. Drainage law in Maryland is well settled. More than a century ago the Maryland Court adopted the Civil Law Rule, which prescribes that the lower land is subject to a servitude of receiving the runoff from the higher land and may not through any erection or construction prohibit the natural flow thereon. Whether we realize it or not, we are applying this Rule in Maryland when we design a new culvert and verify that the backwater caused by its construction will not increase flood elevations on uphill properties. Drainage law in Maryland is more complicated than the simple expression of this one Rule and I won't go into all of its complexities here. Does Delaware follow the same common law doctrine? I suggest a bit of research by an attorney. I also suggest we get a much better idea of what "guidance" the Department is considering and what perceived problem it hopes to solve with this language. And finally, I suggest that this Section may need to be completely rewritten to make sure its intent is clear and to ensure that it does not contradict established law in Delaware.
6.1.7	3/11/2009 City of Newark Public Works	Public Works prefers third party CCRs (that are not a part of the developer or site contractor's payroll) for projects. Public Works feels that the inspections would more accurately reflect site conditions.

6.1.7.3	3/3/2009	Ernie Sheppe, MRA	Requires, among other things, that the CCR report "any inconsistencies with or inadequacies of the approved plan." (Emphasis added).I suggest the bold type above be deleted. With all due respect, I don't believe the CCR, having completed some short training course offered by the Department, is in any position to question the adequacy of the approved plan, a plan prepared by a licensed design professional and then carefully reviewed and approved by the appropriate agency. As stated previously, the approved SWPPP should be followed…Period. Only in rare instances should the approved plan be revisited, and this determination should always be made by the Department or by another appropriate agency having both the expertise and the authority to do so.
6.1.7.4	3/11/2009	City of Newark Public Works	It sounds as if on every site where there are deficiencies that have not been corrected, as noted in the CCR report, the delegated agency will have to notify DNREC verbally within 2 days or 5 days with written notification. Is this the intent? The City has a hierarchy of options that we typically exercise first. What happens where there is no CCR? It seems the Department or delegated agency should be included in all references.
6.1.7.4	3/20/2009	John Garcia, Karins	The Certified Construction Reviewer should not be responsible for enforcement action referral.
6.3.1	3/13/2009	Chuck Adams, PLS	There are problems that I have heard about with CCR inspection or lack of, and believe The State law should have included Registered Professional Surveyors ,currently licensed and Tested by State agencies, to oversee CCR inspectors if they were the Design Professional for the project. The State Board of Surveyors oversees complaints ,etc. and can fine or remove licenses.□
7.4.1	3/13/2009	New Castle County Special Services	Should be;" The Department and or Delegated Agency may seek enforcement action against any owner deemed negligent in fulfilling the requirements of section 7 of these regulations.
Responsible Personnel	3/13/2009	NCCDLU	Responsible personnel should be written to include "Responsible person"

Theme **Metrics**

Subsection	te Comment Received	Commenter	Comment

3.11	3/13/2009	Sally Ford, Land Design	20′ easement for a small pipe is excessive. Sussex County has a standard drainage easement on all subdivision property lines, 10′ from external property lines and right of ways, 5′ from all internal lines (which would combine with the adjacent lot for a 10′ easement. On a commercial development or a development with open space (or condominium ownership) drainage features are outside of the building footprints, therefore accessible for maintenance. Easements need to be site specific not set by regulation. Perhaps the regulation should require access but leave the particulars to the stormwater management review.
3.4.2	3/12/2009	Kevin Burdette, KNB Associates	The 30 days should be changed to 10 days.
3.4.2	3/13/2009	Kevin McBride, MRA	This may be perceived as a delay tactic should funding and staff cutbacks occur. Why can't a cursory review for completeness be done in 5 days with a full review in the remaining 25. Generally we have not had our plans returned as incomplete except once in Kent CD for not sealing the plans on the first submittal. Now that seems a little petty and unwarranted.
3.4.2	3/18/2009	ACEC	Incomplete applications should be rejected within a week or ten days of submission.
3.7.4.3	3/13/2009	Jared Adkins, KCD	Old regs put no limit on the size of modification or reconstruction of a tax ditch. As word this paragraph limits size of tax ditch project eligible for a standard plan to 1 acre.
6.1.6	3/11/2009	City of Newark Public Works	Since DNREC requires all projects with a detailed SWPPP to have a CCR, why wouldn’t the delegated agencies do the same? Even though the Owner’s or Owner’s rep is required to do the weekly inspections, unless someone like a CCR or the delegated agencies oversees their inspections, the quality of the inspections would be suspect.

Theme **Misc.**

Subsection	te Comment Received	Commenter	Comment
	3/11/2009	Jen Mihills, DNS	The Delaware Nature Society supports the Department's guiding principles of□transitioning from peak-management to volume-management and from sitemanagement to watershed-management, as well as efforts to streamline the plan review/approval process while ensuring water quality goals are met.

	3/13/2009 NCCDLU	We understand that the primary purpose of this draft is to establish the content to be regulated within a coarse framework and that the specific methods of compliance will be determined in the coming months through the subcommittee process. Having been through a similar project in recent years, we also fully appreciate that in order to maintain progress through this venture the initial draft may be proportionally complete in areas of content. That being stated, we have provided some significant examples where this stage of the process has left us with uncertainity of how the regulations will progess in achieving the original objectives. We have highlighted these issues so that they will not be inadvertently disregarded as this project moves into the more detailed and intensive phase of development. We request that following issues be considered in the coming months of work:
	3/13/2009 Chuck Adams, PLS	The current regulations (Amended Title 7 Code as of Oct. 11, 2006) are working well in Sussex and Kent Counties as well as the newer projects in New Castle and believe the designated agencies would respond similarly.
	3/13/2009 NCCDLU	We support you on the progressive effort that is evident in this initial draft. The inclusion of objectives such as drainage infrastructure and the advancement of post construction responsibilities is a great step forward in the management of stormwater. We are also enthusiastic with regard to the State's movement toward stormwater regulations that fully recognize the impacts of runoff volume.
1.2	3/13/2009 Sally Ford, Land Design	No mention is made of the benefits of the Sediment Control and Stormwater Management practices already in place. If the construction is done per approved plans (as they exist today) there should be minimal sediment leaving the site. The plans and reviews are very thorough, plus there is a note that allows the reviewing agencies to request additional practices if needed.
3.3.5	3/11/2009 Jared Adkins, KCD	Does not mention or include erosion and sediment control measures.
6.1.6	3/11/2009 Jen Mihills, DNS	The requirement for CCR inspections on all sites greater than 20 acres is a positive revision from the 50 acre site requirement in the previous regulations.
6.5.1	3/11/2009 City of Newark Public Works	What is the application for the Certification Construction Reviewer?
Add 5.6.3	3/12/2009 Kevin Burdette, KNB Associates	ADD SECTION - To cover the conveyance of ALL or a portion of an Approved Project to another Owner.
Add 5.6.3.1	3/12/2009 Kevin Burdette, KNB Associates	ADD SECTION – The NEW Owner will be responsible obtaining either an Approved Sediment & Stormwater Plan OR a Standard Plan, as appropriate, prior to any additional construction activities or issuance of any Building Permits.

Add 5.6.3.2	3/12/2009	Kevin Burdette, KNB Associates	ADD SECTION – The Original Owner will be allowed to reduce the original Finance Guarantee proportionally to the amount of work required to be undertaken by the New Owner, and provided by the New Owner's Financial Guarantee.

Theme **Process**

Subsection	te Comment Received	Commenter	Comment
1.3	3/13/2009	Sally Ford, Land Design	Many project take 2-4 years to get a stormwater management plan to the submittal point (due to a variety of issues, i.e. size, regulatory, market…), a change in the regulation is very costly to these projects that were preliminarily designed under one set of regulation and whose final design will be under a different set of regulations. The effective date to comply with any new regulations needs to adequately reflect this. Grandfather clause needed and defined.
1.3.1.1	3/13/2009	Kevin McBride, MRA	Must allow enough time to move from PLUS to final plat which is 3 years. Without a sufficient phase in period projects will incur huge investments in engineering only to be redesigned with loss of value and or usable open space.
1.8.1	3/13/2009	Kevin McBride, MRA	There is conflict already with the PCS regarding grand fathering, process and design standards such as treatment trains, irreducible levels and open space & buffer credit options negotiated in that regulation.
3.0	3/13/2009	NCCDLU	b) If the State deems it imperative that the plan approval process must remain in the Regulations, provide an exception in the Regulations that exempts a delegated agent of the specified plan approval process where the delegated agent already contains a process which accomplishes the intent of proposed process.
3.0	3/13/2009	NCCDLU	a) Revise the subsequent draft to require that all delegated agents have a plan approval process in place that accomplishes the intent provided in the current draft and relocate the current plan approval process into a policy or model ordinance that can be adopted by any of the delegated agents that lack such a process. In essence, the regulation would create the requirement and act as a place holder referring to a model ordinance that can be adopted in full, or modified as needed, by individual municipalities; or
3.0	3/13/2009	NCCDLU	Second, initiating process within the regulations poses the risk of conflicting with existing processes already in place. Certainly, all of the State's delegated agents will need to conform to the new regulations, and some program changes at the municipal level can be expected. Nevertheless, modifying existing land use subdivision processes in entirety is no small task. In light of this concern, we ask that the following recommendations be considered:

3.0	3/13/2009	NCCDLU	However, we do have some concern with the extent of process that is embedded into the proposed regulations. Although process is necessary for successful regulation, the inclusion of detailed processes within regulations poses some concerns. First, it removes flexibility when a process or a portion of a process needs to be revised. Initial processes are seldom perfect and require adjustment to achieve the intended objective. This can be difficult and slow to make perpetual improvements when the process is in a regulation instead of policy.
3.4.3	3/12/2009	Kevin Burdette, KNB Associates	Add Verbiage - If the 30-day time frame cannot be met, the Department or delegated agency shall notify the owner of the reasons for delay [in writing and request a justifiable time frame for an extension] not to exceed an additional 30 days, when that review will be accomplished.
3.5	3/11/2009	Jen Mihills, DNW	If a project is not initiated within three years and the applicant requests an extension, does the Department or the Delegated Agency conduct an updated review of the plan/require compliance with any new/revised regulations prior to granting the extension?
3.6	3/11/2009	Jen Mihills, DNW	An appeals process for variance requests should be added to the regulations. Is the variance review/appeals process intended to allow for public review and comment prior to the Department's approval?
3.8.1	3/13/2009	Jared Adkins, KCD	First sentence - Does this include standard plans? If not should specify this applies only to detailed plans. Second sentence – what about other applicable requirements, such as small pond code 378? What makes someone qualified to submit plans?
3.8.1	3/18/2009	ACEC	Preliminary Plans should not be signed and sealed as by their very nature they are not□complete.
Add 3.6.5	3/12/2009	Kevin Burdette, KNB Associates	APPEAL PROCESS for Variance
General Comment	3/13/2009	Rich Collins, PGA	The current pre-application meetings don't work. Agencies routinely change their requirements after they've signed off on a concept. Business plans and financial arrangements have been totally disrupted because government employees can't get their act together. This was a huge complaint at the DelDOT meeting. We can't add another layer in another department that actually has veto power before the local government gets to see a project.

Theme **Rationale**

Subsection	te Comment Received	Commenter	Comment
1.1.1.1	3/20/2009	John Garcia, Karins	Are serious problem still associated with Construction activities? I do not generally agree

1.2	3/13/2009	Kevin McBride, MRA	Current regs only adopted in '05. Have they been accessed for effectiveness. Provide documentation
1.4	3/13/2009	ACEC	There is no exemption for individual residential lots. Does this mean we will need to get a separate stormwater plan approved for every residential house that disturbs over 5,000 square feet? Including management facilities on every lot? How do we manage maintenance of these facilities?
1.6	3/11/2009	Steve Sisson, DelDOT	Making the performance and Maintenance Bonds Mandatory
10.0	3/11/2009	Steve Sisson, DelDOT	Better establishment of Stormwater Utility
3.11.5 & 3.11.7	3/20/2009	John Garcia, Karins	Offsite easements should not be required, as they can hold up a project.
3.11.7	3/13/2009	Sally Ford, Land Design	Easements need to be limited to the stormwater feature only. If the feature is no longer needed or another land use is established the easements need to expire.
3.2.3	3/13/2009	Kevin McBride, MRA	This entire requirement will only cause unnecessary delays. Review times already take too long why put another formal step in the process. Every time it becomes a required step rather than a informal meeting or e-mail exchange it requires a certain amount of finality and formal documentation that seems to take a long time to get the approval letter out. How many times have we heard "I've finished my review but the letter is being typed up" and then it comes weeks later.
3.4.1	3/13/2009	Kevin McBride, MRA	This time frame is seldom achieved now and very few projects are moving through the system. How will this new process result in less overall time if there are more steps, especially when the number of project submittals increase in the future.
3.4.4	3/12/2009	Kevin Burdette, KNB Associates	Add Verbiage - In cases where modifications are required to approve the plan, the delegated agency shall have an additional thirty (30) days to review the revised plan from the initial and any subsequent resubmission dates [as long as the review and comments are associated to items that had previously been noted on the submissions plans by the Agency, but were not adequately addressed by the Owner. The Agency shall NOT be able to add new items for review or discussion that had previously been submitted on the plans.] If the plan is approved, a minimum of one (1) copy bearing the signed approval stamp shall be returned to the owner. If the plan is disapproved, the owner shall be notified in writing of the reasons.☐
3.5.1	3/12/2009	Kevin Burdette, KNB Associates	Add Verbiage – To allow a plan to be valid for 3 years from the date of an Approval [OR anticipated Construction Starting Date provided by the Owner at the time of the Approval, whichever is longer.]

3.6	3/13/2009	Jared Adkins, KCD	Does this section address only variances of items contained in the regulations or does it address any variance from technical requirements that may come up in the formal review of the plan? If the later is the case, limiting variance request to the preliminary plan submittal stage could be an issue.
4.1.1	3/13/2009	Kevin McBride, MRA	"Revisions and/or updates to any of these documents shall be subject to public review and comment prior to their adoption" - delete from final version.
6.1.3 - 6.1.5	3/13/2009	Kevin McBride, MRA	Is this an entirely separate requirement from the CCR, and the certification required of the superintendant of the clearing and grading contractor, both of which are agents of the owner. Are you saying that another layer has been added?
6.1.3.1 - 6.1.3.4	3/3/2009	Ernie Sheppe, MRA	It is unnecessary to have the owner/developer perform regular inspections, in addition to those provided by the CCR, when the developer has hired a CCR for just that purpose. I understand that a CCR is not required for smaller sites and I would have no objection to the language provided here if it is made clear that a CCR can act as the "owner's representative" for purposes of compliance with this section. But this option should also be made clear in the regulations on larger sites that do require a CCR. Under such circumstances, having both the owner and the CCR playing identical roles is redundant, wasteful and pointless.
6.1.3.1 & 6.1.3.3	3/13/2009	Sally Ford, Land Design	If the Construction Reviewer makes inspections once a week why does the owner also have to. Also when there is no activity on the site why a need for weekly inspections?
6.1.8	3/3/2009	Ernie Sheppe, MRA	"Upon documentation by the Department or delegated agency of deficiencies in the performance of the [CCR], and upon notification by the Department or delegated agency, the owner shall employ a new [CCR]. The owner shall employ a new [CCR] during any time of probation or suspension or upon revocation of [CCR] certification."I think I understand the Department's intent here, but nevertheless, respectfully suggest that the language be amended. I don't know that the Department can really dictate who someone chooses to hire or fire and I don't know that it was really the Department's intent to go there. I think it is sufficient for the Department to dictate when a CCR is required, and at the risk of stating the obvious, any CCR who has lost his/her certification is no longer a CCR, at least not during the period of probation or suspension, leaving the developer no choice but to find another CCR during that period.One last thought. Both the word "probation" and the word "suspension" indicate a temporary condition. The word "revoked" typically indicates a permanent condition, not a temporary one.
6.5.3	3/13/2009	NCCDLU	Requiring that the pre-construction meeting be held on-site is burdensome.
9.7	3/13/2009	New Castle County Special Services	This comment needs to be either deleted or modified.

Add 3.13	3/12/2009	Kevin Burdette, KNB Associates	ADD SECTON – To cover the conveyance of ALL or a portion of an Approved Project to another Owner.
General Comment	3/13/2009	Jared Adkins, KCD	Why are all of the procedural steps being added to the regulations instead of outlined in a separate policy document? If it is found that the procedure needs to be changed or modified in the future, does this now mean another regulation change to change procedural steps? As Section 3.0 is written it will add and complicate the review process without adding benefit except in the limited cases.

Theme **Terminology**

Subsection	te Comment Received	Commenter	Comment
	3/13/2009	NCCDLU	a) While navigating through the Regulations is straightforward, the degree of compliance is unclear. The use of terms such as 'minimize' (Sec. 5.2.1) and 'reduce' (Sec. 5.2.3.2) are subjective in nature. Further, we have found that the use of the term 'may' versus 'shall' is significant in the ability to enforce standards instead of just suggesting a course of action. We believe that this issue ultimately resides on whether a code is based on minimum or performance standards. We experienced the same challenge in our own Chapter 12 revisions and we respectfully recommend that in the next stage of the regulatory creation process that all areas requiring enforcement to compliance be established in a distinguishable and clear manner for those regulating and those subject to these regulations;
1.2.1	3/3/2009	Ernie Sheppe, MRA	In the last sentence, strike "possible" and replace with "practicable."
1.2.1	3/13/2009	Kevin McBride, MRA	replace possible w/ practical
1.3.1.1 & oth	3/11/2009	Jenn Volk, DWR	Should be "Del.C." bold, no underline throughout document
1.3.1.2	3/13/2009	NCCDLU	Section statement should end with ", and;" so that section 1.3.1.3 is included in the list.
1.4.1.3	3/13/2009	Jared Adkins, KCD	Why would a project not be required to meet sediment control requirements during construction under this regulation regardless of a post-construction NPDES permit?
1.6.1.2.2	3/11/2009	City of Newark	Public Works feels education and training should be removed from this section.
1.6.3	3/13/2009	New Castle County Special Services	One more subsection should be added to this section in reference to the vegetation at the time of transferring the stormwater management facility. In order to release the financial guarantee to the owner, the permanent stormwater management systems should be stabilized with vegetation per their original stormwater plans. (We have encountered so many problems with sites not having an adequate vegetation cover during the acceptance process).☐

1.6.4	3/20/2009	John Garcia, Karins	Fee in lieu - Will delegated agencies also have this option?
1.6.4	3/23/2009	Vince Davis, DelDOT	Who is going to maintain and control the Fee-In-Lieu program?
1.6.4.1	3/11/2009	City of Newark	Per section 1.5.1, if the Delegated agency can grant a variance, why can't they accept a Fee In Lieu of? There are many small urbanized sites that some of the proposed BMP's (particularly water quality) may not be very effective or meet the intent of the regulations, where a cash in lieu of fee could provide better benefits elsewhere in the sub-watershed. It seems as if the Fee-In-Lieu program is only for DNREC approved watershed plans. Public Works feels this section should include the delegated agency.
1.6.4.2	3/13/2009	NCCDLU	There is an extra tab at the beginning of this section that needs removed.
1.6.4.2.1	3/23/2009	Vince Davis, DelDOT	Who is going to approve a variance of this type?
10.3.2	3/13/2009	New Castle County Special Services	This explains that per the utility, the inspection of the stormwater management facilities will be annual. It contradicts with subsection 7.3.1.2.; page # 31 if it goes through. I still think the inspection should be performed annually.
10.3.2 & 10.7	3/11/2009	City of Newark Public Works	Both items refer to annual inspection of stormwater facilities if there is a stormwater utility totally administered by someone other than DNREC, but biennially in Sec. 7.3.1.2.
3.1	3/20/2009	John Garcia, Karins	Pre Applications Meeting:☐What happens when the designer/engineer and the department/delegated agency do not agree on a course of action?
3.1.5	3/11/2009	City of Newark Public Works	What does authorization will be provided with the issuance of the Stormwater Impact Study Findings Report mean? What information is to be provided with this report? It sounds like authorization is guaranteed as long as the Stormwater Impact Study Findings Report is issued.
3.1.5	3/12/2009	Kevin Burdette, KNB Associates	How can the DNREC even ask an Owner to enter into an authorization & agreement prior to hearing the comments from the other Agencies at PLUS. Delete this requirement.
3.1.5	3/13/2009	Kevin McBride, MRA	"…authorization, as well as an agreement…" -Is this agreement binding and will it serve to satisfy the PCS "consistency" requirement in "section 5.3 Compliance". What if a better less costly approach is discovered during the site planning and approval process with the local land use "governing" bodies. They will play an important role in the final outcome of the site plan which will affect the SWM concept.
3.1.5	3/18/2009	ACEC	Some criteria should be provided for the size of a project which requires Preliminary applications. Small project and projects only involving erosion control should be exempt. ☐Specific criteria for the Stormwater Impact Findings Report should be developed. It is broadly defined in Article 2.

3.1.6	3/3/2009	Ernie Sheppe, MRA	"The results of the pre-application meeting will be subject to review by the local land use approval agency." (Emphasis added).This could easily result in multiple agency reviews and conflicting requirements. This language could easily be read as bestowing what amounts to SWM plan approval authority to an agency other than the "delegated" agency. I don't know what the Department is attempting to achieve here, or what perceived problem it hopes to address with this language, but I suggest that the phrase "subject to review by" be replaced with "shared with" – I see no reason to withhold federal or state agency comments from local governments.
3.1.6	3/3/2009	Ernie Sheppe, MRA	"The results of the pre-application meeting will be subject to review by the local land use approval agency." (Emphasis added).This could easily result in multiple agency reviews and conflicting requirements. This language could easily be read as bestowing what amounts to SWM plan approval authority to an agency other than the "delegated" agency. I don't know what the Department is attempting to achieve here, or what perceived problem it hopes to address with this language, but I suggest that the phrase "subject to review by" be replaced with "shared with" – I see no reason to withhold federal or state agency comments from local governments.
3.1.6	3/3/2009	Ernie Sheppe, MRA	"The pre-application meeting shall be held prior to submittal of the preliminary plan to the local land use approval agency."I am not convinced that this is appropriate. Until the developer has some assurance that the basic plan of development meets all local land use requirements, the preparation of any SWM assessment would be premature and pointless. There may be instances in which simultaneous submittals would be appropriate.
3.1.6	3/11/2009	City of Newark Public Works	It seems the pre-application meeting is required prior to sketch plan or subdivision plan. It would seem the City would have to require this at the same time as a preliminary subdivision plan to get feedback from all the departments as to the feasibility of the project to move forward or it would be another step in the approval process.
3.1.7	3/3/2009	Ernie Sheppe, MRA	Same concerns as expressed above regarding multiple reviews, conflicting requirements and running in circles. In addition, having the results of the pre-application meeting subject to another review at PLUS flies in the face of delegating the review authority to other agencies – if the Department has so little trust in other agencies to properly enforce the regulations that it feels it necessary to second guess their decisions on every project that comes before PLUS, then the Department should not delegate authority in the first place.
3.10.2	3/12/2009	Kevin Burdette, KNB Associates	Clarify – How and What does it mean to have the Tax Ditch Organization "included"?
3.11.6	3/13/2009	Sally Ford, Land Design	This requirement is now the 4th submittal to the Delegated Agency, again, additional time and cost to both the Agency and the Owner.

3.2.2	3/3/2009	Ernie Sheppe, MRA	I believe it is already well established that plan approval is an evolutionary process – the plan evolves as it moves through the process of concept, then preliminary and then final. There is nothing to be gained by making the developer provide "written justification of changes"…the plan will change, it is inevitable. Only when the changes are so dramatic that the "refined plan" bears little or no resemblance to the "previous plan" would an explanation be useful. In such circumstances, "written justification" may not be sufficient and a new pre-application meeting may be justified.
3.3.3	3/3/2009	Ernie Sheppe, MRA	While I don't really object to submitting a copy of an approved plan – it's only paper – I fail to understand why the developer would need to send a copy of an approved plan to the very agency that approved it – the agency should already have in its files a copy of every plan it has approved. In addition, I repeat the same comments as above regarding the evolutionary nature of the process. The plan will change and it is unnecessary to force the developer to explain every change to the plan as it evolves, except in those instances where the changes are dramatic, resulting in a new plan that bears little or no resemblance to the previous plan.
3.3.3	3/11/2009	City of Newark Public Works	Public Works rarely ever receives a preliminary plan and report that we can approve. Comments for changes are requested and it is not until the final plan and report have incorporated our concerns or comments that we can approve the plan. Approving the preliminary plan would be redundant.
3.3.3	3/13/2009	Kevin McBride, MRA	This is unnecessary control. Can't the reviewer see that the current plan achieves the goal of the concept simply by applying other better or equal acceptable means. This need for change is generally the result of subsequent input from other agencies that perhaps have equal or greater weight than DNREC. A simple note in the narrative of the SWM report should be all that is necessary. Pleading for departure from a concept should not be required.
3.4.1 & 3.7.1	3/13/2009	NCCDLU	All reviewtimeframes should be couched in terms of working days to account for holidays or closures due to a state of emergency.
3.5.2	3/13/2009	Jared Adkins, KCD	The word "will" should be replaced with "may."
3.7.4.1	3/12/2009	Kevin Burdette, KNB Associates	Delete Verbiage – DELETE the word NOT so that the section reads, "Smaller Sites that are a part of a larger, common plan of development or sale that is greater than one acre in size shall be eligible for the Standard Plan."
3.7.4.7	3/11/2009	Jen Mihills, DNW	Does the 20% impervious coverage threshold referenced in 3.7.4.7 refer to new impervious coverage resulting from the construction activity or to the total impervious coverage·for the site?

3.7.4.7	3/13/2009	NCCDLU	I have trouble envisioning the construction of non-residential structure without any other site development (access road, parking, etc.) Would you provide clarification on the application and intent of this section?
3.7.4.7	3/13/2009	Jared Adkins, KCD	As worded, any minor commercial project is no longer eligible for a general permit once the site exceeds 20% impervious regardless of project size. This paragraph also prohibits minor parking lot additions by using the words "non-residential structures."
3.7.4.8	3/12/2009	Kevin Burdette, KNB Associates	Delete Word – " Natural Disaster" and replace it with "Disaster". If a car runs off the road and destroys a SWM Structure it should be able to be replaced under the Emergency Clause, even though the car is NOT a Natural Disaster.
4.2.2	3/3/2009	Ernie Sheppe, MRA	It is my understanding that Delaware employs a BMP standard, much like that used in Maryland, to control pollutants in construction site runoff. In other words, a plan is prepared by a licensed design professional based on the criteria published in the state's design manual, the plan is reviewed and ultimately approved by the appropriate agency, and compliance with the approved plan during construction constitutes compliance with the law. While I understand the Department's duty to protect the environment and that there may be rare instances in which the approved SWPPP is found to be inadequate, it is also important that the regulated community have a predictable process. The language used in this section is too open ended, creating an unpredictable regulatory process, and should be revised.
4.2.2	3/13/2009	Kevin McBride, MRA	Once the plan has been approved and protective measures have been installed the only modifications should be corrective due to a specific event that may render the approved BMP permanently ineffective. This provision should not be used to endlessly increase the efficiency to a point of diminishing returns. I would add if this is good for development project then shouldn't the same practice be applied to agriculture when the buffers are not functioning to the degree they could.
4.2.2	3/18/2009	ACEC	Does this section apply to only when stormwater management facilities (such as stormwater/sediment basins) are used for sediment control?
4.2.2	3/20/2009	John Garcia, Karins	Turbid discharges needs to be defined (It is open to interpretation), and what are the regulatory requirements for the quality of runoff? Is it still 80% suspended solids removal?

4.5.2	3/13/2009	Jared Adkins, KCD	Can a developer/contractor argue that this paragraph allows them to not address poor stabilization until after 60 days? The way this is worded it prevents the delegated agency from requesting stabilization in the cases where seed germinates and then dies off resulting in insufficient stabilization after the 60 day timeframe. ☐☐Need to simplify and simply state that the delegated agency can require soils testing and additional stabilization anytime there is insufficient stabilization after an appropriate germination period for the seed mix used. ☐
4.5.3	3/13/2009	Sally Ford, Land Design	Again, this section needs to reflect section 1.6.3 and the ability for partial release of guarantee for work completed and approved
4.5.3	3/13/2009	New Castle County Special Services	If the definition of final stabilization gets changed, it makes more sense.
4.5.3	3/20/2009	SCD	Does section 4.5.3 contradicts section 1.6.3.3., which states that "the Department or delegated agency shall have the discretion to adopt provisions for a partial pro-rata release of the financial guarantee upon the completion of the following stages or phases of development. A partial release of the financial guarantee shall be allowed only to the extent that the work already accomplished would warrant such release." Section 4.5.3 states that the financial guarantee cannot occur until final stabilization of all exposed areas is achieved.
5.1.8	3/13/2009	Kevin McBride, MRA	Why do these systems need to be in open space when you are allowing an easement in section 3.11.3 & 4? Does this apply to storm drain systems that convey treated water from one BMP to another. This will make for a difficult situation in rears where no one will assume maintenance for the system. This is because everyone wants to keep common area fees low and frequency is less than what an owner would do on a regular basis. You would still have the easement for periodic inspections and remedial work.
5.1.9	3/3/2009	Ernie Sheppe, MRA	First, the language here is confusing and I suggest that this section read as follows, "If runoff from a land development will flow to a municipal separate storm sewer system (MS4) or other publicly-owned storm sewer system, then the owner developer shall obtain authorization from the system's owner to discharge into the system. The Department, delegated agency, or system owner may require the owner developer to demonstrate that the system has adequate capacity for any increases in peak flow rates and velocities."

5.1.9	3/3/2009	Ernie Sheppe, MRA	Second, it seems this section could give a municipality what amounts to a veto over a project located outside of the municipality. In addition, while I understand the public safety and property damage implications, if the Department's concern here is public safety and/or property damage, then I believe this section should be rewritten so as to make this apparent and to better reflect this concern. As written, the intent is unclear, leaving us with an ambiguous regulation that could easily be misinterpreted and abused. Lastly, I repeat my comment in the previous section regarding common law doctrine in Delaware as it applies to drainage.
5.1.9	3/13/2009	Jared Adkins, KCD	Should not be limited to "publicly" owned storm sewer systems. Flow into private system should also require the system owner authorization and delegated agency approval. ☐☐ Second paragraph " …owner may require the owner to.." should be clarified as "system" owner may require the "(land developer, plan owner?)"…. ☐
5.7.1	3/11/2009	City of Newark Public Works	Verify that cash in lieu of fees will only be permitted and collected by DNREC and only where there is an approved watershed plan. Public Works feels this section should also apply to municipalities without a watershed plan. The fee shall be applied and received by the municipality for local stormwater project funding.
6.1.2	3/3/2009	Ernie Sheppe, MRA	I suggest the following changes. "The owner developer shall install and maintain all construction site stormwater management BMPs in accordance with the standards and specifications contained in the Delaware Erosion and Sediment Control Handbook, and approved supplements approved SWPPP.A licensed design professional is responsible for preparing a SWPPP that complies with the "standards and specifications contained in the Delaware Erosion and Sediment Control Handbook, and approved supplements." This plan is then reviewed and ultimately approved by the appropriate government agency, confirming compliance with the state's standards. It is then the developer's responsibility to comply with the approved SWPPP. Compliance with the approved plan is compliance with the law.Said another way, you don't ever want to encourage the developer or his designee (i.e., contractor), to ignore the approved SWPPP in favor of their own peculiar interpretation of the standards. The standards are properly interpreted on a case by case basis by experts (the designer and the reviewer), and should not be left open for reinterpretation by onsite construction personnel. A great deal of time and effort is expended on the SWPPP by both the designer and the reviewer. Once construction activity commences the approved plan should be followed…Period.
6.1.3	3/11/2009	City of Newark Public Works	What over and above contained in these regulations would the Owner have to abide by? How many Owners are going to research what is contained within these regulations to make sure they are in compliance?

6.1.3.1 - 6.1.3.4	3/13/2009	NCCDLU	It is not understood how these sections are a sub-set of 6.1.3, if the referenced code in 6.1.3 includes 6.1.3.1- 6.1.3.4, then it should be stated as such in section 6.1.3
6.1.4	3/13/2009	NCCDLU	This section is poorly worded and should not include Department or delegated agency responsibilities as this section only applies to the owner responsibilities.
6.1.6	3/13/2009	Jared Adkins, KCD	Second to last sentence, "or delegated agency" should be added after Department
6.1.6	3/13/2009	NCCDLU	This section requires CCR for all projects greater than 20 acres and for any project where a Sediment and Stormwater Management Plan, since any project of20-□acres would most certainly have a SSMP, is not the single criteria of a plan adequate?
6.2.1 & 6.2.2	3/13/2009	NCCDLU	It is not understood how these sections are different from one another.
6.3.4	3/13/2009	NCCDLU	Section should be reworded to clarify that the performance being evaluated is past-performance. The section could be read that performance during the probation period is under review while not allowing the CCR to perform site review.
6.3.6	3/3/2009	Ernie Sheppe, MRA	As noted above, a "suspension" of 6 months (or for any specified period of time) is a temporary condition. A "revocation" typically is not for a specified period of time, but lasts forever.
6.4.3	3/11/2009	City of Newark Public Works	Per sec. 6.1.7.3, the CCR is to inform the delegated agency, owner and contractor. Why wouldn't the delegated agencies deliver their report to the Owner, Owner's representative, developer or contractor, as well? The Owner is often far removed from the project, (out of state for instance) and relies on their representative, developer and/or contractor to make any necessary corrections. There are many instances through out Section 6.0 that references, just the Owner, or the Owner or Owner's representative. Some include the contractor, as well.
6.4.4	3/13/2009	NCCDLU	Should clarify the requirement to submit a revised plan is at the discretion of the Department or delegated agency.
6.5.5	3/13/2009	NCCDLU	The last sentence says the Department or delegated agency will conduct and document inspections and then that the CCR will conduct this inspection. The section should be re-worded for clarification. Do we want the CCRs to continue to perform this function?

9.0	3/11/2009	City of Newark Public Works	This section does not individually address the program elements as in the past. Public Works has always been delegated for three of the four program elements. They are plan review and approval, inspection during construction, and post construction maintenance inspection. DNREC has always conducted the education and training component. Public Works feels that this program element should be kept with DNREC, especially with the new statewide regulations. Our NPDES permit has a public education and outreach component for construction site storm water runoff only. Through this permit, our educational efforts are focused on water quality only. Public Works does not have the time, money, staff or expertise to educate and train the plan reviewers, consultants, contractors, CCR's, inspectors, and any other individuals involved in stormwater. Rather than have multiple agencies conducting multiple educational and training sessions throughout the state, it would seem more appropriate for DNREC, who, as the authority, all the delegated agencies look to for answers and guidance for their knowledge and expertise, conduct training and education on a state wide level. Additionally, the accuracy, and quality of the education and training is controlled by DNREC, whereby certain standards can be assured. There are also many changes and new technologies adopted by the Department, on an ongoing basis, that could be better disseminated to the stormwater community on a much more timely basis by the Department. The Public Works Department does not want the education and training component of the delegation.
Dedication	3/12/2009	Kevin Burdette, KNB Associates	"Dedication" means transferring ownership of a storm water management system to a delegated agency, [Association] public utility, municipality, or stormwater utility along with all associated easements, escrow funds, and maintenance responsibilities.