



## Lancaster County Conservation District

1383 Arcadia Road, Room 200 • Lancaster, Pennsylvania 17601-3149

Telephone (717) 299-5361 Ext. 5 • FAX (717) 299-9459

www.lancasterconservation.org

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DEPARTMENT OF ENVIRONMENTAL PROTECTION  
HARRISBURG, PA

October 5, 2009

Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8477

RE: Public Comments for Proposed Chapter 102 Regulations

To Whom It May Concern:

The following comments are suggested by the Lancaster County Conservation District in regards to the proposed changes to the Commonwealth's Chapter 102 regulations. The Lancaster County Conservation District appreciates the opportunity to comments and also appreciates the efforts put forth by the Department of Environmental Protection during the revision process.

Respectfully Submitted for your review,

Rebecca Buchanan  
E&S Program Manager  
Lancaster County Conservation District

C: County Conservation District Managers

The following comments regarding the Chapter 102 revisions are submitted by the Lancaster County Conservation District:

**General Comments:**

- Several times in the draft regulations, the phrase "...after consultation with the Department..." is made in reference to additional information being required or revisions made to plans. This requirement should be removed from the regulations, as it will add a significant amount of time to plan reviews and necessary field revisions to the plans. Lengthy delays are already apparent in the Individual NPDES Permit process. With the proposed language, additional delays will be added to all aspects of the 102 program.

**Definitions-**

*Operator-* Add the term "Conservation Plan" to the definition

**102.4(a)(4)-** Remove the term "cost effective" from the definition, as this could lead to arguments, against the installation of recommended Best Management Practice recommended by the DEP or Conservation Districts, that cannot be supported and can potentially undermine sound reasoning for recommending the BMPs.

**102.4(a) (4) (ii) –** This may be redundant as (a) (4) (ii) has already required that "limit soil loss for accelerated erosion". This may not be redundant if your reason for (a) (4) (ii) is to reduce soil loss from accelerated erosion in these sensitive areas to the soil loss tolerance (T) each year. If this is so, just say so.

**102.4(4) (iii) –** Act 38 allows ACA's (Animal Concentrated Areas) or animal heavy use areas. Specialist are trained to identify, limit area of ACA, locate ACA to a suitable area and manage the greater area to minimize accelerated erosion and sedimentation with such BMP's outlined in this section. The ACA will most probably have runoff and sedimentation, but when ideally situated and treated, there are no surface water pollution concerns. This section may be seen as even limiting this strategy to deal with these ACA's.

**102.4(b) (5) (ii) -** Define the time frame for which the 25% cover is required. When will "25% cover" be measured? Is 25% cover 365 days per year? One could work a field after corn silage to have less than 25% cover, drill a cover crop of rye and in 3-4 weeks have greater than 25% cover. Please define 25% cover.

**102.4. (b) (8) -** Can Conservation Districts assume review fees can be charged under this scenario? Most Districts require a review or submission fee to review and approve plans.

**102.4(a) (5)** – 5 foot contour maps should be included. Both plan map and contour should be to a scale that a person can define contours, buildings, storages, fields, roads and lanes.

**102.4(a) (6)** – There should be a reasonable time limit to the implementation schedule. One could schedule BMP's for 20 years from today.

**102.4(a) (8)** – Strike (project site during each stage of plowing and tilling activity) and add .....for review and inspection at [all times. The plan shall be located on site at the] agriculture operation.

**102.6-** Proposed fee increase for NPDES Permits, E&S Permits, and new PBR: The Lancaster County Conservation District does support a fee increase. However, the fee increase proposed appears to be somewhat excessive, especially for smaller projects that may require one of the above mentioned permits. A simple tiered fee schedule should be developed. The Lancaster Conservation County District recommends a permit fee for projects disturbing 1-5 acres (with a point-source discharge) and projects 5 acres or more.

**102.8(f) (4)** - Clarify the level of detail for the drainage area to be reviewed.

**102.8. g.5** If this section is intended to prescribe construction methods could DEP or the Conservation Districts require an explanation of the construction methods used to excavate infiltration facilities? Once an infiltration area has been compacted, the damage can not be undone.

**102.8.1** Please define "redline drawings". Notices of Termination are not always submitted after project completion. With this added requirement for a certificate of conformity, even fewer will be submitted. The regulations should contain a method to encourage that Notices of Termination are always filed. Perhaps a bonding of the project would provide the necessary incentive.

**102.14** This section speaks to riparian buffer requirements. Unfortunately, the regulations do not specify at which point in time the buffer standards must be achieved. Is it before permit issuance? Prior to permit expiration?

**102.15** Why does the Permit by Rule not contain requirements similar to those in 102.8.l and 102.8.m wherein requirements for final certification and deed recordation of the PCSM plan are a requirement?

**102.15(b) (4)** - This needs better definition. Is this standard for anyone who has had a violation noted on an inspection report, received a Field Order, settled under a CACP, COA...?

**102.15- Permit By Rule-** Who receives the fee for a PBR- Clean Water Fund, Conservation District, DEP?