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From: Regina Hott [regina@rhsengineering.com]
Sent: Friday, October 23, 2009 11:35 AM
To: EP, RegComments
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Subject: Pa Code Chapter 102 Revision Comments

INDEPENDENT REGULATORY REVIEW COMMISSION

Good morning –

We at RHS Engineering, Inc. have attached a PDF of our cumulative comments to the proposed revisions of PA Chapter 102.

We believe that the ordinance as it has been revised poses a huge detriment to development and to businesses in this district and throughout the state. If you have any questions or would like to confer on this matter, please, don't hesitate to contact us.

Thank you for your review and consideration of our comments.

Regina E. Hott

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Civil Engineering & Project Management Services

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RHS ENGINEERING, INC.

Civil Engineering & Project Management Services

October 22, 2009

Attached are this company's comments to the proposed revisions to 25 PA Code, Chapter 102

Summary

The current (existing) regulations are already more than adequate to minimize Erosion from land use activities, in fact, a detailed review should be made to determine how they could be streamlined. The way to enhance and enforce existing regulations is to improve the understanding of current program standards through stakeholder education. The proposed revisions add unnecessary cost and additional regulatory burden on the average citizen and business community.

Here are but a few specifics of the proposed revisions and problems related thereto;

Preamble

Benefits, Costs, and Compliance

It is stated that there is a benefit by increasing permit fees; **however there are no numbers that justify this statement.** Nor is there an evaluation of improving the efficiency of program operations to help control costs.

It is stated that there is a benefit by enhancing delegation of E&S and Storm water management to local districts, **however local districts have never been consistent in enforcement, and these added regulations will make those inconsistencies more pronounced.**

It is stated that these regulatory revisions "should" not result in "significant" increased compliance costs. It only predicts "moderate" cost increases for 1) application fees, 2) PCSM plan licensed professional oversight, 3) and long term O&M operation and maintenance. **As Erosion and Sediment Control Specialists, we can attest that the increased costs for these added tasks will more than double fixed costs of plan preparation and permitting, and add a long term floating cost to every project. As an example, current costs per single family home for preparing an E&S and PCSM plan are in the range of \$4000-\$6000 in Central PA. Doubling this cost (minimum) is significant for the average single family homeowner, and does not include the added permit fees nor the new long term O&M costs they will be incurring.**

Paperwork Requirements

It is stated that this will result in only minor changes to forms and fact sheets. **In fact, over the years the changes to forms and fact sheets have increased the paperwork from approximately 3 pages to present day 25 pages, not counting PCSM and E&S narratives. This trend has not abated and we believe the paperwork will substantially increase as a result of these revisions.**

102.6 Permit Fees

An increase of 10 fold for permit and NPDES fees is unreasonable. The reasoning is that the department never charged enough to cover costs. Mismanagement must be a considered and thoroughly reviewed before such huge increases are implemented. Local Conservation Districts may also charge additional fees, further increasing the cost to consumers and average citizens. Also, this section does not necessarily limit the fees if in the sole judgment of the administrators the submittal package needs to be revised, additional fees may again be assessed.

102.8 PCSM requirements

- Biological and Chemical Qualities - The preamble to this section says it is intended to preserve the integrity of stream channels and protect the physical, biological and chemical qualities of the receiving stream. This implies that these parameters are known, or must be determined. Determining these parameters require specialists in biology and chemistry, which add considerable cost in the preparation of a PCSM report. This preamble needs to be thoroughly discussed and understood before being included.
- Analytical Testing – This requires in all cases a geologist to determine site characteristics, and for many small projects, this isn't necessary.
- PCSM Plan Implementation – This puts the burden of proper construction onto the design professional, where the burden of proper construction should be on the contractor.
- O&M requirements – The requirements should be more detailed and prescriptive on how this function will be carried out.
- Location of surface waters which receive runoff from a project site – How far down stream will surface waters need to be included?
- The PCSM Plan Analysis requires that existing predevelopment non-forested pervious areas be considered meadow in good condition and that 20% of the existing impervious areas be considered meadow in good condition or better. These requirements add undue costs to projects especially when applied at permit renewals when projects are substantially complete and need to be redesigned to meet new 'guidelines.'

102.14 Riparian Forest Buffers

Excessive and extremely costly to implement, needs to be completely revised.

102.41 Governing Body Plan Review

Licensed Professional – Make it necessary for licensed, experienced, and seasoned professionals to be reviewing the submitted designs.