

Environmental Quality Board,
P.O. Box 8477, Harrisburg, PA
17105-8477

Comments re CH 102

NOV 20 2009

ENVIRONMENTAL QUALITY BOARD

"Permit-by-Rule" is an interesting term. I had assumed that it would be a limited option, granted only for the simplest of projects and restricted to only the most trusted of developers – those with a proven record of professionalism.

At the public hearing in Harrisburg on 10/01/09 I asked two questions:

- What percentage of your permits will be eligible for PBR?
- What percentage of last year's permits would have qualified for PBR?

No DEP representatives present could answer those queries.

If DEP has no idea of the effect of enacting a PBR regulation – no idea whether it would affect 5% or 85% of earth-disturbance activities, that regulation should not even be considered.

DEP should not open Pandora's Box by enacting PBR.

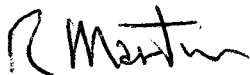
OTHER CONCERNS:

- We deplore the lack of opportunities for public participation. Public notification and a month-long comment period should be provided.
- There should be assurance of technical review of E&S plans and post-construction stormwater management plans.
- We feel that DEP should work with County Conservation District staff to conduct the needed technical reviews of the E&S and stormwater management plans to ensure that our waterways are protected.
- We are concerned because PBR would not guarantee a combination of buffers, a good stormwater management plan and upslope BMPs. Technical review is a must to ensure that streams are protected. Without requiring technical review of such plans, DEP cannot ensure that the development will use the BMPs to control runoff and prevent pollution.
- We fear that PBR could be abused by large developers. . . By working 15 acres or less at a time, they could receive expedited permit approval for each phase of their development. We disapprove of any regulations which could be circumvented.

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- We question the use of an engineer, hydrologist or landscaper hired by the developer to certify their own E&S and PCSM plans.
- This seems more like a regulation that would be suggested by developers rather than this regulating agency. This not in the best interests of environmental protection. We all know that E&S and PCSM plans submitted to DEP by developers are seldom perfect. Review by DEP and CCD professionals is a must.
- We feel that it is not a good idea to trade PBR for stream buffers; Riparian buffers should be mandatory for all earth disturbances requiring an NPDES permit.
- Since streams flow between areas of jurisdiction, protection of our watersheds must be a concerted effort among all our local governments within a watershed – or better yet, statewide. And for the best stewardship, a buffer of at least 300 feet is needed for any development in our EV watersheds.
- The regulations should require a minimum 100 foot forested buffer along both sides of all streams and rivers for any new earth disturbance requiring an NPDES permit. Minimum 100 foot forested buffers are a key part of a good stormwater management plan.

Pennsylvania has more miles of polluted waterways than any other state in the nation. Buffer zones along streams have been proven to protect our waterways. but – sadly - Pennsylvania has no statewide stream buffer requirement. Even much-maligned New Jersey has mandatory buffer protections throughout their state. We urge DEP to set a similar Gold Standard in Pennsylvania and require stream buffers as a BMP to preserve water quality on all streams. Anything less, including a voluntary buffer program is inadequate and ineffectual.



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