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**Chambers, Laura M.**

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**From:** Orr, John C. [JOrr@dauphinc.org]  
**Sent:** Monday, November 30, 2009 9:09 AM  
**To:** EP, RegComments  
**Subject:** Erosion and Sediment Control and Stormwater Management

DEC 7 REC'D

INDEPENDENT REGULATORY REVIEW COMMISSION

**Date:** November 30, 2009

**Memo to:** Environmental Quality Board

**From:** Dauphin County Conservation District  
1451 Peters Mountain Road  
Dauphin, Pa. 17018  
Attention – John Orr, District Manager  
717-921-8100

**Subject:** Comments on Proposed Rulemaking for  
Erosion and Sediment Control and Stormwater Management

**To Whom It May Concern:**

Please accept the attachment as our formal comments on the Proposed Rulemaking for the Erosion and Sediment Control and Stormwater Management Program. We trust that our comments will be given just consideration.

Thank you for the opportunity to comment.

**John C. Orr, District Manager**

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## Comments of the Dauphin County Conservation District for Proposed Rulemaking – Erosion and Sediment Control and Stormwater Management

### 102.6 Permit applications and fees

102.6 (b) (1), (2) & (3) Permit Fees: A one size fits all approach to the fee schedule is not equitable or justifiable.

- There needs to be an understanding of what expenses are expected to be covered by the permit fee. Item (3) specifically allows conservation districts to charge additional fees. Additional fees will most likely be necessary in order to adequately fund this program. Conservation districts must be able to have adequate funding without any appearance of a double dip.
- How can it be fair to charge the same permitting fee to a small site with minimal earth disturbance and a 500 lot subdivision?
- Item (2) states that the “Department will review the adequacy of the fees established in this section at least once every 3 years”. What criteria will be used to determine the adequacy? Was this criteria applied to the establishment of the proposed fees?

### 102.8 PCSM Requirements

**General:** While we strongly believe in and support the inclusion of PCSM Bmp’s when land development occurs, as is evidenced by the installation of a demonstration BMP Stormwater Park on our property, we believe that implementation process has many short-falls. Pennsylvania’s governmental structure is not currently equipped for oversight and management of PCSM as outlined in the proposed regulations. The PCSM regulations have significant gaps in oversight during the construction process and even greater gaps in the long term Operation & Maintenance provisions. Furthermore, there are no provisions or guidance on how to tie the four levels of government with an interest in stormwater (Federal, State, County and Local) together into a collaborative and coordinated stormwater management program. Historically in Pennsylvania, local governments have been the lead regulatory agency in relation to stormwater management. With the implementation of these regulations there is confusion with layered sets of regulatory controls. Do the local regulations mesh with the PCSM regulations? Who is responsible for inspections? Who is responsible for follow-up and enforcement with failed BMP’s? All of these are unanswered questions. Local government has been left out of this process but down the road when problems occur with PCSM Bmp’s, they will in all probability be the ones called upon to remedy the concerns. These proposed PCSM regulations are not ready for implementation. Our specific comments are as follows:

- 102.8 (b) & (f) The management of post construction stormwater shall be planned and conducted to the “**extent practicable**”. The term “extent practicable” negates the integrity of the 9 bullet statements under this category. This term will have a totally different meaning and definition to the developer than it will to the Chesapeake Bay activist, the municipal official, the property