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From: Ken Nadler [knadler@mackinengineering.com]

Sent: Monday, November 30, 2009 11:29 AM

To: EP, RegComments

Cc: Stephen Knight; Lea Perrego Nadler

Subject: Proposed Rule Making, Environmental Quality Board, 25 PA Code Chapter 102

INDEPENDENT REGULATORY
REVIEW COMMISSION

Ladies & Gentlemen:

Proposed amendments to 25 PA Code Chapter 102 relating to Erosion and Sedimentation Control and Stormwater Management were published in the August 29, 2009 Pennsylvania Bulletin.

I have the following comments:

Section 102.8(k) & (l) - (k) states that a "licensed professional or designee shall be onsite and be responsible during critical stages of implementation..." and (l) requires a licensed professional to certify the construction.

On nearly all Pennsylvania Department of Transportation projects, the design professional is not permitted to perform onsite inspection due to conflict of interest policies. Therefore it will be impossible for the design professional to meet these permit requirements. Provisions should be added to allow PennDOT more flexibility for inspection during construction.

On private work, these requirements add unreasonable risk to the design professional for actions of the owner/permittee and contractor because the design professional has no legal control of the work.

Section 102.15(c)(7) (ii), (iii), & (iv) - These sections require the design professional to provide oversight responsibility during construction, oversee and seal plan modifications, prepare and seal record drawings, and to certify the construction.

Again, on nearly all Pennsylvania Department of Transportation projects, the design professional is not permitted to perform onsite inspection due to conflict of interest policies. Therefore it will be impossible for the design professional to meet these permit requirements. Provisions should be added to allow PennDOT more flexibility for inspection during construction.

On private work, these requirements add unreasonable risk to the design professional for actions of the owner/permittee and contractor because the design professional has no legal control of the work.

Thank you

KENNETH R. NADLER, P.E.

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