

District Department of the Environment

Stakeholder Meeting on Soil Erosion and Sediment Control and Stormwater Management Regulations Meeting Notes

Summary of Meeting No. 2
July 1, 2009, 1:00 – 3:00 p.m.
City-wide Conference Center, Rm. 1114 South
One Judiciary Square, Washington, DC

I. Disclaimer. On July 1, 2009, from 1:00 to 3:00 p.m., the District Department of the Environment (DDOE) held its second public outreach meeting to consider implementation strategies and seek stakeholder input regarding development of soil erosion and sedimentation control and stormwater management regulations. This document is a summary of a number of issues, challenges, and solutions that were discussed by stakeholders on July 1, 2009. However, these notes do not necessarily reflect the views of DDOE or any one entity; and are not intended as a transcript.

II. Introduction. On July 1, 2009, from 1:00 to 3:00 p.m., the District Department of the Environment (DDOE) held the second in a series of stakeholder meetings to elicit public input from any interested party on DDOE's draft Soil Erosion and Sediment Control and Stormwater Management Regulations. Dr. Hamid Karimi, Deputy Director of DDOE, opened the meeting and explained that DDOE has drafted these regulations under the authority of the Water Pollution Control Act for the purposes of reducing stormwater volume and improving water quality in the District's rivers and streams. He emphasized the importance of this effort and expressed appreciation to those in attendance for coming to offer their perspectives. (See Attachment A for attendance list.) Dr. Karimi further noted that:

- Participants are free to comment on any part of the draft regulations, although staff may suggest questions on which it would be particularly helpful to receive input;
- Detailed comments can be submitted in writing.
(Written comments should be clearly marked "Stormwater Regulations" and mailed to DDOE, Watershed Protection Division, 51 N Street NE, 5th Floor, Washington, DC, 20002, Attention Ms. Sheila Besse. They can also be conveyed to Ms. Besse via email at Sheila.besse@dc.gov or by telephone at (202) 535-2244.)
- DDOE staff seek diverse input during these meetings, and want to listen rather than to engage in discussion, negotiation, or consensus-building;
- A summary of input received at the first stormwater stakeholder meeting (June 15th) meeting has been posted to DDOE's website:
(<http://ddoe.dc.gov/ddoe/cwp/view,a,1209,q,499887.asp>).
- A summary of the input received at this meeting will also be posted to that website shortly after this meeting; if participants see any errors, they may alert Sheila Besse and Marci DuPraw to request corrections;

- DDOE will evaluate the input received, whether to revise the draft regulations, and if so, how; and
- Once the draft rule is formally proposed, there will be an official public comment period.

Dr. Karimi introduced facilitator Marci DuPraw of SRA, International. Ms. DuPraw reviewed the agenda and suggested ground rules (Attachment B). She mentioned that, while attendees were free to comment on any aspect of the draft regulations, she had a few suggestions to give focus to the comment period. In particular, she suggested that attendees focus on: (a) parts of the draft regulations that would result in changes from current stormwater management practices if passed (vs. parts of the existing regulations that stakeholders might not like); and (b) the stormwater management aspects of the draft regulations, as distinct from the erosion and sediment control aspects, since the latter section would not change as much.

Ms. DuPraw also noted that DDOE staff had prepared a handout listing questions on which they would particularly appreciate input, and confirmed that all attendees had a copy (see Attachment C). These questions are broken down into 3 categories – “Technical,” “Cost,” and “Process.” Ms. DuPraw also encouraged those attendees who might be so inclined to send more specific comments in writing to Sheila Besse (see above for contact information). She noted that she would be recording key points from the discussion on flip charts, and invited attendees to speak up if they saw any inaccuracies. She also mentioned that a full range of views was welcome, but encouraged participants who opposed some aspect of the draft regulations to propose an alternative.

Rebecca Stack, DDOE Environmental Engineer, provided a brief summary of the content of the draft stormwater regulations, and Dr. Karimi summarized the feedback received during the first stormwater stakeholder meeting (June 15th). Themes he had heard in the June 15th meeting included encouragement to:

- ✓ Include more detail and technical clarifications within the draft regulations to enable the development community to develop plans for compliance;
- ✓ Specify the timeline for approvals;
- ✓ Engage in effective interagency coordination;
- ✓ Allow use of public space for stormwater management activities;
- ✓ Consider the potential impact of stormwater management activities in existing areas with groundwater and/or soil contamination;
- ✓ Provide information about the effectiveness of various stormwater “best management practices” (BMPs) and associated costs;
- ✓ Look at how similar jurisdictions have handled stormwater management challenges;

Dr. Karimi assured attendees that DDOE will be looking at the stormwater management methods being used by various jurisdictions suggested by participants (e.g., Montgomery County and Philadelphia). He also indicated that DDOE understands that stakeholders have found the description of the Anacostia Waterfront Development Zone in the draft regulations confusing, and assured them that DDOE will work on developing a map to clearly delineate this zone. In addition, Dr. Karimi said that DDOE will be working on a parallel track to update its stormwater management handbook to complement the draft regulations.

Finally, Dr. Karimi mentioned that DDOE is evaluating whether or not to proceed with the 3rd and 4th stormwater stakeholder meetings originally scheduled for Thursday, July 16 (1 pm to 3 pm) and Wednesday, July 29 (1 pm to 3 pm), or to delay them until after the next revision of the draft regulations. (Each meeting is intended to encompass the same topics of conversation; multiple meetings were scheduled to ensure all interested parties would have a chance to comment.) DDOE's interest in this matter is making productive use of participants' valuable time. Once a decision has been made on whether to keep the original dates, Agency personnel will send a follow-up communication to interested parties to let them know. He then turned over the floor to Ms. DuPraw to facilitate the remainder of the meeting.

III. Input. Participants provided the following questions and comments for DDOE consideration:

A. Technical

1. Need for More Detail:

- Please provide more detail about how the off-site mitigation program would work.
- Please identify appropriate BMPs for untreated areas such as sidewalks.
- For BMPs designed for flow rates, please provide a conversion formula for water quality flow rates and volume reduction.
- Many participants voiced that they would like to see more specific numbers for the pollutants of concern and minimum control guidelines (e.g., the level of petroleum reduction sought).
- Please provide standards in the form of minimum effluent concentration instead of percent reduction.
- Clarify expectations for treatment of remaining discharges (after the volume requirement is met).

2. Need for Guidance on Managing Stormwater for a Variety of Development Scenarios:

- Please leave options as to the type of BMPs to use, due to the variety of building and soil types.

3. Inconsistencies:

- Regarding Section 529, the percents don't add up correctly; they sum to over 100%.

4. Best Management Practices:

- The 1" minimum volume reduction requirement is a good city-wide minimum (for all water bodies). In certain situations, DDOE should require additional volume control (beyond 1") because many DC water bodies are impaired.
- DDOE should consider setting a higher bar than 1". In this regard, please consider standards set by other jurisdictions. For example, Montgomery County enforces a 2.6" standard for channel protection, with an across-the-board minimum of 1".
- A 2.76" standard would be too costly for developers.

- Rock Creek (east of the fall line) offers lots of opportunity for groundwater injection.
- Montgomery County also offers a waiver option, which is granted about 40% of the time. Waivers should be an option in DC, too, depending on property type and project.
- Please clarify if and when the stormwater design manual will be updated. (Rebecca Stack clarified that the manual will be updated with standards for BMPs, pollutant removal rates, etc., on a parallel track with finalization of the stormwater management regulations.)
- Please provide a step-wise process for compliance. For example: the standard is set at 2” volume reduction, but if the full 2” cannot be reached, then the remaining stormwater can be mitigated off-site. Thus, the developer would not have to pay the full “fee-in-lieu-of” for non-compliance – just a portion of the fee, since there was already some work to curb stormwater.
- The Anacostia Waterfront and the rest of the city should all be subject to the same standards.
- Off-site projects would be preferable to a fee.
- Regarding Section 529, the stormwater management regulations need to address run-off and treatment requirements.
- We need the option of off-site regional facilities for achieving volume control.
- Regional stormwater facilities do not seem very viable due to limited land availability in the DC metro area; consequently, it would be good to be able to use public spaces (i.e., parking lots) as sites for mitigation projects and bio-retention as a BMP.
- A “fee-in-lieu-of” option would be good in case alternative mitigation projects are too expensive for the amount of stormwater being reduced.
- There is no reason to include a waiver option if developers can use BMPs on-site, off-site, and have the “fee-in-lieu-of” option for compliance. “Maximum extent practicable” is the norm for stormwater, so feasibility is already considered.
- The “fee-in-lieu-of” option should be equivalent to twice the required volume reduction.
- Off-site projects should focus on restoring rivers and minimizing pollution.
- Stream restoration should not be an option for mitigation, since the stormwater problem concerns volume and stream restoration does not. Off-site mitigation projects should be related to volume reduction.
- Stream restoration has not worked; Maryland allows stream restoration, but those projects have not been fully successful.
- Many participants endorsed green roofs and stormwater injection as BMPs.
- A tax credit should be available for green roofs.
- Green roofs are good for volume control, but not very effective for reducing pollution.
- Please do not force developers to use green roofs, since they are expensive and not the best option for all projects.
- Consider the benefits Philadelphia has been able to attain through use of stormwater retention.

- The City of Jessup has a Green Building Center, which could be a good resource for stormwater guidance and research. The contact person is Stan Sersen.
- Developers should be able to fund a low-impact development project on public lands as a mitigation option.
- Credits and off-site projects should allow the use of public space, such as right-of-ways.

5. Interagency Coordination:

- DDOE and WASA should work together on fees and credits.
- The Energy Independence and Security Act established a standard of 1.7” for federal facilities. Thirty percent of DC buildings are owned by the federal government, so about 30% of developments will have to meet the 1.7’ standard. Why should this be different for other properties?
- DC and WASA should encourage green infrastructure through these stormwater regulations.
- Please encourage public/private partnerships to utilize public space for stormwater management. For example, there could be many benefits from creating bio-retention facilities that train people to run the facility. This could help the facilities to function and meet stormwater regulation requirements, with economic benefits.
- Look at Tyson’s Corner and its underground detention system. This was costly, and may not be the best use of funds. It may be preferable to use the funds to clean up a stream.
- DDOE should try to work cooperatively with neighboring jurisdictions.
- There is a new tax on vacant lands, which is having the unintended consequence of spurring the conversion of vacant lands to parking lots to avoid the tax. (This tax should be changed to encourage vacant lands’ use for stormwater meadows or community gardens.) Eric Seagull is the point of contact for information on this tax.
- DDOE should consider the interaction of these regulations with the Attorney General’s “Declaration of Covenants” requirements.
- Clarify which stormwater and erosion control components are subject to federal regulation and which are subject to DDOE regulation.
- Clarify if there is a difference in the process for those who do LEED programs?

6. Other Technical Issues:

- These regulations should look how retention can contribute to compliance with total maximum daily loads (TMDLs).
- Please consider whether it is possible to make the Anacostia, Potomac and Rock Creek tunnels smaller as a result of these stormwater management regulations.
- The regulations should be based on sound science (especially hydrology).
- The regulations should look at the possibility that retention rates could help with load reduction as well.

B. Process:

- The approval process needs to be fast and streamlined so that we can implement these stormwater management techniques and reduce the stormwater run-off problem.
- The regulations should encourage smart growth and low impact development projects.
- The regulations should contain a grandfather clause.
- DDOE should provide compliance incentives and help with fees, such as impervious surface fees and credits for on-site retention.
- Please make it cost-effective to do the right thing the first time, rather than retrofit.
- When DDOE accepts a “fee-in-lieu-of,” DDOE then bears the responsibility to meet the standards (per Rockville example).
- Some jurisdictions move development applications to the “front of the line” in certain circumstances (e.g., if they include green roofs, low-impact development, LEED Silver components, etc.). It is worth considering here. More specifically:
 - LEED certification is not focused on stormwater; such incentives should explicitly link to stormwater reductions.
 - Green roofs would be a good criterion, since they represent a high bar to reach.
 - However, green roofs reward developers that have a lot of money and do not recognize those others using other valuable techniques such as bioremediation. Some structure cannot support green roofs.
 - Priority should be decided by volume of stormwater mitigated.
- Participants praised DDOE for their hard work and swift turnaround time.

IV. Conclusion. DDOE Deputy Director Dr. Karimi thanked attendees for coming and for their participation. He again asked participants to contact Sheila Besse if any comments were recorded incorrectly (see “Introduction” for her contact information). Dr. Karimi then summarized some of the themes articulated during this meeting, including:

- Stakeholders would like to see the rationale for the draft regulations (e.g., for the one inch volume reduction requirement), and to ensure that they are based on a sound scientific foundation.
- Developers need specific values for BMPs, and attendees would like to see metrics in minimum effluent concentration reductions instead of percent volume reduction.
- DDOE should consider other jurisdictions’ regulations.
- DDOE should clarify what the “fee-in-lieu-of” will be used for, as well as types of acceptable mitigation projects, on-site and off-site.
- Developers want flexibility in how they reach compliance with the standards, including using the “fee-in-lieu-of” as a last resort after other viable measures have been taken.
- DDOE should coordinate closely with other District agencies.

Dr. Karimi also encouraged attendees to watch for information on the schedule for future meetings. He again thanked everyone for coming and emphasized that the meeting was very productive.

Attachment A

Attendance List

July 1 2009, Stakeholder Meeting on Soil Erosion and Sediment Control and Stormwater Management Regulations Meeting

Name, Agency	Email	Phone	Address
Vahid Bilvardi	vahid.bilvardi@dcwasa.com	301-552-6110	
Jim Connelly, AWS	jim@anacostiaws.org	301-699-6204	4302 Baltimore Ave, Bladenburg, MD
Alma Gates	ahg71139@aol.com	202-338-2218	4911 Ashbury St. NW
Steve Goley	sgoley@lsassociates.net	301-948-2150	2 Research Ct. Rockville, MD
Ted Harris Eddie Isaac; Greenhorne & O'Mara Eng.	Sharris366@aol.com	703-689-4848	8181 Jameson Alexandria, VA
Jennifer Langoski, Langan Engineering	jlangoski@langan.com	571-366-6800	2300 Clarendon Blvd Suite 711, Arlington, VA
Brian McDermott WASA			
Brian McLaughlin	bmclaughlin@gmail.com	(703-896-6499	1100 New Jersey Ave SE
Dana Minerva	dminerva@mwcof.org	202-962-3322	
Kyle Oliver	lover@vikacapitol.com	202-244-4140	4900 Mass Ace NW 20016
Jennifer Steffens Nancy Stower; NRDC	steffensj@contechepi.com	443-610-7033	521 Progress Dr. Linthicum, MD
	nstower@nrdc.org	202-289-2394	1200 New York Ave NW DC 20005
Terry Sueher, PBSJ	tasuehr@dc.gov	703-471-7275	3859 Centerview Dr. Suite 160 Chantilly, VA 20151
Christopher Wright	christ.wright@dc.gov	202-727-4913	901 G St NW Rm 443 WDC 20001
DDOE Staff:			
Name	Email	Phone	Address
Sheila Besse, Associate Director	sheila.besse@dc.gov	202-535-2244	51 N St., NE
Jonathan Champion	jonathan.champion@dc.gov		51 N St., NE
Bicky Corman	bicky.corman@dc.gov		51 N St., NE
Shane Farthing	shane.farthing@dc.gov		51 N St., NE
Hamid Karimi, Deputy Director	hamid.karimi@dc.gov	202-535-227	51 N St., NE
Rebecca Stack	rebecca.stack@dc.gov	202-727-5160	51 N St., NE
Barry Weiss	barry.weiss@dc.gov		51 N St., NE

Facilitation Team:

Name	Email	Phone	Address
Marci DuPraw, SRA Senior Facilitator	Marci_dupraw@sra.com	703-284- 6920	3434 WA Blvd., Arlington, VA
Brittany Patton, SRA Facilitation Support	Brittany_Patton@sra.com	703-284- 5000	3434 WA Blvd., Arlington, VA

Attachment B

Agenda

**District Department of the Environment
Stakeholder Meeting on Soil Erosion and Sediment Control
And Stormwater Management Regulations**

Wednesday, July 1, 2009,

1:00 – 3:00 p.m.

Facilitator: Marci DuPraw, SRA

*City-wide Conference Center, One Judiciary Square
441-4th Street, NW, Washington, DC*

-- MEETING AGENDA --

Purpose of Meeting:

Receive comments and answer questions from stakeholders on DDOE's draft proposed Soil Erosion and Sediment Control and Stormwater Management Regulations.

<u>Timing</u>	<u>Topic</u>	<u>Lead</u>
12:45	Sign In	
1:00	Opening Remarks <ul style="list-style-type: none">✓ Welcome<ul style="list-style-type: none">▪ <i>Meeting purpose</i>▪ <i>Policy context</i>▪ <i>How input will be used</i>✓ Review proposed meeting agenda✓ Self-introductions	Dr. Hamid Karimi DDOE Deputy Director Facilitator All
1:15	Overview of Draft Proposed Regulations	Rebecca Stack, DDOE Environmental Engineer
1:20	Summary / Overview of First Stakeholder Meeting	Dr. Hamid Karimi DDOE Deputy Director

1:30	Stakeholder Comments and Questions	All (facilitated)
2:55	Closing Comments	Dr. Hamid Karimi DDOE Deputy Director
3:00	Adjourn	

Suggested Ground Rules:

1. Stand your tent card on end to be recognized.
2. When recognized, please speak into the mike and give your name and affiliation.
3. Share the floor by being succinct (1 or 2 points, or a couple of minutes, per turn); let everyone speak once before taking another turn.
4. No need to repeat earlier comments – just note desire to reinforce them.
5. Please send more detailed comments in writing.

Attachment C

Questions Upon Which DDOE Especially Seeks Input

Technical

- Some say the requirement to achieve 1 inch reduction in the Anacostia Waterfront Development Zone is too harsh while others believe it should be a requirement District-wide. Please provide us input into examples of the hardships and benefits for implementing this requirement.
- What is an appropriate retention volume requirement?
- What would constitute acceptable reasons water could not be retained onsite?
- We have heard complaints that, on the one hand, these regulations put a disproportionate burden on the development community; while on the other hand, we have heard complaints that these regulations do not do enough to solve our stormwater pollution problem. Please provide us with those aspects of the regulations that appear overly burdensome and those that must be included to address water quality and EPA stormwater requirements.
- Provide your vision of how an off-site mitigation program would work.
- Should the regulations include a fee-in-lieu provision?

Cost

- Because space is limited in the District, it is very important to be able to have the option to use public space to treat stormwater running off of private property). Could DDOE establish mechanisms to support public / private partnerships for this purpose, including the maintenance component?
- Given that amounts of review fees must be sufficient to cover staffing and administrative costs associated with permitting, please comment on how those fees should be structured.
- Are the proposed performance bond requirements appropriate? If not, how else could DDOE assure that stormwater work is completed correctly?

Process

- Please provide us with ways that can increase the efficiency in obtaining a stormwater or erosion and sediment control permit?
- Are there any procedural improvements that should be adopted to make the process more efficient? Are there innovative practices in stormwater or permit review in other jurisdictions that DDOE should consider?
- How much time should be given for final regulations to become effective?
- What is an appropriate mechanism for ensuring long-term maintenance of the stormwater system? Does the covenant system need to be changed?