



Maryland Association of Soil Conservation Districts

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THE ROLE OF MARYLAND'S SOIL CONSERVATION DISTRICTS IN SEDIMENT CONTROL AND STORMWATER MANAGEMENT DURING CONSTRUCTION

Under Maryland State law and regulations, soil conservation districts (SCDs) are responsible for reviewing grading and sediment control plans for compliance with:

1. Erosion and sediment control specifications and standards which have been in place since the 1970's but are in the process of being revised with an expected completion in May of 2010;
2. The new General Permit for stormwater discharges associated with construction activities, which went into effect July 13, 2009; and
3. New stormwater management regulations applicable during construction, which went into effect May 4, 2009.

The soil conservation district's role is to perform the grading and sediment control plan review for projects involving earth disturbance as specified in Environment Article §4-103. Regulations implemented pursuant to this law provide a comprehensive set of standards and specifications and stipulate that plans must be approved by the Districts. With the exception of the Montgomery soil conservation district that has the option under the law to delegate the authority to a municipal authority, no other governmental entity can legitimately exercise this authority.

In addition to State law, there is a requirement under the Federal Clean Water Act for a permit covering discharges during construction. That function has been delegated to the State and is directly tied in with the erosion and sediment control review by the District. The general permit requires District approval of projects meeting the defined requirements—without this approval, a project cannot proceed. Upon completion of the District review, the project applicant can then request coverage under the general permit from Maryland Department of the Environment (MDE), which is referred to as the Notice of Intent or NOI. If MDE is satisfied and there are no challenges, the project is approved under both authorities. If the project is challenged, or if MDE has concerns, MDE must determine whether to accept the District's review, require changes and, if necessary, require that an individual permit be obtained. The more thorough the review the District performs, the more likely the project will be approved in a timely manner.

The third requirement results from the Stormwater Management Act of 2007. A component of this Act requires implementation of Environmental Site Design (ESD). ESD emphasizes the use of small scale stormwater management practices, nonstructural techniques, mimicking natural hydrologic runoff characteristics, minimizing impact of development on water resources, etc., to the maximum extent practicable. The General Permit requires ESD to be considered in construction plans reviewed by the Districts. ESD will also be included in the MDE Sediment and Erosion Control Standards and Specifications now under review.

The Districts must undertake a thorough, complex and detailed evaluation when reviewing a proposed project. While these enabling authorities were written over a span of many years, they all have the common objective of protecting the quality of our State waters during and after construction. All of it is conducted in a very visible process with ample opportunity for public involvement. In fact, most of the public review process takes place after the proposed plans have been submitted to the Districts. The thoroughness of the District review is key to project approval. It also means that to be responsive to the regulated community, District staff must be capable of fully evaluating the complete and complex array of requirements within a reasonable time frame. Slow response time that causes delay is costly to the development community.

The review function carried out by Districts is based solely on detailed technical guidance, which is continuously being expanded upon by new laws and regulations. From the very outset of the Districts' urban program, every effort was made to keep the review function separate from any political considerations—the guidance documents address only soil and water management procedures and techniques. Plan reviewers are provided extensive training in project review and many hold professional certification. The Maryland Association of Soil Conservation Districts has established a program for certification as a Sediment and Erosion Control and Stormwater Management Plan Review Professional, which is available to District and MDE staff. Districts are supported in their technical review by staff from the Natural Resources Conservation Service (NRCS), an agency under the US Department of Agriculture. The guidance documents, training, certification and professional support from other agencies, including MDE and the Department of Agriculture, are all intended to allow the Districts to carry out their technical review activity most effectively.

New laws and regulations have expanded the role of Districts in carrying out their sediment control and stormwater management responsibilities and still more requirements are expected to be received from EPA before the end of 2009. By law and regulation, Districts are statutorily required to play an integral role in the processing of construction permits, which means they must be adequately staffed to fulfill their responsibilities within a reasonable time period. To address the staffing of the review process, State law allows Districts to implement a fee schedule that will “cover the cost of reviewing the grading and sediment control plans.” These plans must incorporate applicable provisions in the State erosion and sediment control law, the State stormwater law and the federal/state general permit; if these reviews do not adequately address all of the provisions, the proposed regulated construction activity will not be permitted.

Soil conservation districts are attempting to estimate the time necessary to undertake these new requirements as part of their review of erosion and sediment control plan review and approval to support the fee schedules submitted in the upcoming months. Until more experience is obtained, it will be difficult to make an accurate assessment as to the additional time necessary to implementing these activities. The best that can be done at this time is to make an educated guess on the needs and be prepared to modify the estimates with more experience.

The soil conservation districts embrace their role in Maryland's sediment control and stormwater management activities. This program fits well with their agricultural natural resource protection programs using the technical expertise of district staff to provide an independent review. The soil conservation districts have a strong history of working closely with their local governments to provide builders and developers with sound technical and timely reviews and we look forward to the expanded role under the new state and federal guidelines.