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Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 17 WATER MANAGEMENT

Chapter 01 Erosion and Sediment Control

Authority: Environment Article, § 4-101, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated. Terms not defined below [shall] have the meanings given to them in the relevant statutes, or if not defined in statutes, the meanings attributed by common use. The terms "Administration", "person", "pollution", "responsible personnel", "waters of the State", are defined in Environment Article, § 4-101.1, 4-104, or 5-101, Annotated Code of Maryland. The meanings for these specific terms are provided as a convenience, but persons affected by the Administration's regulations should be aware that these meanings are subject to amendment by the General Assembly.

B. Terms Defined.

(1) "Administration" means the Water Management Administration.

(2) "Agricultural land management practices" means [those methods and procedures used in the cultivation of land in order to further crop and livestock production, and conservation of related soil and water resources. Logging and timber removal operations may not be considered a part of this definition.

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(3) "Approval authority" means any soil conservation district, a municipal corporation that has been designated approval authority in lieu of a soil conservation district, the specified agency named in a municipality not within a soil conservation district, the Commission, or the Administration.

(4) "Clear" means [any activity which] to remove[s] the vegetative ground cover while leaving the rootmat intact.

(5) "Commission" means the Washington Suburban Sanitary Commission.

(6) "Department" means the Maryland Department of the Environment.

(7) "Developer" means a person undertaking, or for whose benefit any or all the activities covered by the Sediment Control Subtitle, or regulations promulgated under it, are carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.]

(8) "Erosion" means the process by which the land surface is worn away by the action of wind, water, ice, or gravity.

(9) "Erosion and [S]ediment [C]ontrol [P]lan" means an erosion and sediment control strategy or plan to minimize erosion and prevent off-site sedimentation, [by containing sediment on-site or passing sediment laden runoff through a sediment control measure prepared and approved in accordance with the specific requirements of an approval authority, and designed]designed in accordance with the handbook, "[1994] 2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control", which is incorporated by reference in Regulation .11 of this chapter.

(10) "Erosion and [S]ediment [C]ontrol [P]rogram" means any program administered by a State unit, county, municipality, or the Commission under an erosion

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and sediment control ordinance or regulations approved by the Administration, which provides for erosion and sediment control plan review, permit issuance, site inspection, and enforcement activity in accordance with the requirements of these regulations[and which results in continuous control of the extent of earth disturbance on projects required by ordinance or other authority to control erosion and sedimentation].

(11)10) "Federal project" means any project [on federally owned land] undertaken by a federal unit that [involves grading, or any project that involves grading and is administered by a federal agency] requires an erosion and sediment control plan in accordance with Regulation .05 of this chapter and for which the federal unit is named as the owner/developer.

(11) "Federal unit" means any federal agency that intends to or does clear, grade, transport, or otherwise disturb the land or soil surface in the course of its activities.

(12) "Grade" means to cause the disturbance of the earth. This [shall] includes but is not [be] limited to [any] excavating, filling, stockpiling of earth materials, grubbing, or root mat or top soil disturbance[, or any combination of them].

(13) "Grading unit" means the maximum surface area allowed to be graded at a given time. For the purposes of this chapter, a grading unit is 20 acres.

(14) "Owner/Developer" means a person undertaking, or for whose benefit, activities covered by the Sediment Control Subtitle, or regulations promulgated under it, are carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.

(13)5) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an

DRAFT

individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

(1[4]6) "Pollution" means the contamination or other alteration of the physical, chemical, or biological properties of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters, or the discharge or deposit of any organic matter, harmful organisms, liquid, gaseous, solid, radioactive, or other substance into any waters of the State that will render the waters harmful[,]or detrimental[,or injurious]to:

(a) Public health, safety or welfare;

(b) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; [or]

(c) Livestock, wild animals, or birds; or [,fish, or other aquatic life.]

(d) Fish or other aquatic life.

(1[5]7) "Professional architect" means an architect duly registered by the State to practice architecture in accordance with the provisions of Business Occupations and Professions Article, Title 3, Annotated Code of Maryland.

(1[6]8) "Professional engineer" means an engineer duly registered by the State to practice engineering in accordance with the provisions of Business Occupations and Professions Article, Title 14, Annotated Code of Maryland.

(19) "Professional forester" means a forester who is duly registered by the State to practice forestry in accordance with the provisions of Business Occupations and Professions Article, Title 7, Annotated Code of Maryland.

DRAFT

([17]20) "Professional landscape architect" means a landscape architect duly registered by the State to practice landscape architecture in accordance with the provisions of Business Occupations and Professions Article, Title 9, Annotated Code of Maryland.

([18]21) "Professional land surveyor" means a land surveyor duly registered by the State to practice land surveying in accordance with the provisions of Business Occupations and Professions Article, Title 15, Annotated Code of Maryland.

([19]22) "Responsible personnel" means any foreman, superintendent, or project engineer who is in charge of on-site clearing and grading operations or [sediment control associated with earth changes or disturbances] the implementation and maintenance of an erosion and sediment control plan.

(23) "Secretary" means the Secretary of the Environment or designee.

(2[0]4) "Sediment" means soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or [by other] artificial means.

(2[1]5) "Sediment Control Subtitle" means Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland.

[(2[2]6) "State unit" means any State agency that intends to or does clear, grade, transport, or otherwise disturb the land or soil surface in the course of its activities.]

(2[2]7) "State project" means any project [on State-owned land] undertaken by a State unit that [involves grading] requires an erosion and sediment control plan in accordance with Regulation .05 of this chapter and for which the State unit is named as the owner/developer. [Use of State funds does not necessarily qualify an activity as a State project.]

DRAFT

(28) "State unit" means any State agency that intends to or does clear, grade, transport, or otherwise disturb the land or soil surface in the course of its activities.

(2[4]9) "Training program" means an Administration approved educational program for training responsible personnel to:

(a) Properly implement and maintain erosion and sediment controls associated with grading; and

(b) Better understand the necessity of minimizing the pollution of the waters of the State that may result from grading.

([25]30) "Waters of the State" includes:

(a) Both surface and underground waters within the boundaries of the State subject to its jurisdiction, including that portion of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, storm drain systems, public ditches, tax ditches, and public drainage systems within the State, other than those designated and used to collect, convey, or dispose of sanitary sewage[.]; and

(b) The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency[is included as waters of the State].

.02 General Provisions.

A. The Administration shall be [is] responsible for the implementation and supervision of the erosion and sediment control program established by the Sediment Control Subtitle.

This responsibility [shall] includes but is not limited to:

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- (1) Establishment of policies, procedures, standards, and criteria relating to erosion and sediment control;
- (2) The review and approval of:
 - (a) County erosion and sediment control ordinances,
 - (b) Municipal erosion and sediment control ordinances,
 - (c) The Commission's erosion and sediment control regulations,
 - (d) Erosion and sediment control programs,
 - (e) [All plans for grading of]State projects [or]and [any]federal projects,
 - (f) [Major] Other erosion and sediment control plans, as necessary, and
 - (g) Training programs [for erosion and sediment control];
- (3) Inspection and enforcement in accordance with this chapter;
- (4) Determinations on the delegation of enforcement authority in accordance with Regulation .03 of this chapter [granting or denial of inspection and enforcement responsibility to counties or municipalities which request delegation of that authority; and
- (5) Determinations on whether previously delegated inspection and enforcement responsibilities should be suspended].

B. The Administration shall establish [M]matters of policy, procedures, standards, criteria, approvals, or enforcement related to the Sediment Control Subtitle [shall be established by the Administration]. The practices adopted and used by the soil conservation districts, the Commission, the counties, the municipalities, and [or] State units [shall]are to be consistent with the guidelines and regulations adopted by the Administration.

C. Review and Evaluation.

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(1) The Administration shall periodically conduct a comprehensive review and evaluation [to ensure the acceptability] of [all] erosion and sediment control programs operating under the Sediment Control Subtitle and this chapter.

(2) [In conducting the review and evaluation of] Requirements for an acceptable erosion and sediment control programs[, the Administration will use the following guidelines for determining the acceptability of the program.] include:

(a) An [effective] erosion and sediment control ordinance or [an effective] set of erosion and sediment control regulations, which has been approved by the Administration, is in effect;

(b)[Approved e] Erosion and sediment control plans [and permits] are reviewed and approved in accordance with the handbook “2010 Maryland Standards and Specification for Soil Erosion and Sediment Control”;[and provide:]

(c) Approved erosion and sediment control plans provide:

(i) Effective erosion and sediment control strategies, [for sites,] and

(ii) The information necessary to [ensure] enable the proper installation and maintenance of these strategies [by the field personnel];

([c]d) [If] In delegated jurisdictions, inspection and enforcement procedures that ensure:

(i)Compliance with [the proper and timely installation and maintenance of the practices specified in] the approved erosion and sediment control plan₂[s] and

(ii) T[t]imely responses to citizen complaints.

(d) Erosion and sediment control principles, methods, and practices are implemented and maintained in accordance with the handbook "1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control".; and

DRAFT

(e) A field review of active construction sites.;

(3) Upon completion of this review and evaluation, the Administration shall submit the findings of the review and evaluation to the appropriate authority.

.03 Delegation of Enforcement Authority.

A. A [C]county[ies], municipality[ies], or [and]the Commission may seek delegation of enforcement authority from the Secretary [or his designee] to enforce compliance with the provisions of [the following]:

- (1) This chapter;
- (2) An approved erosion control ordinance or regulations; and
- (3) [Approved erosion and sediment control regulations; and
- (4)] Approved erosion and sediment control plans.

B. Delegation.

(1) The Secretary [or his designee] shall grant delegation of enforcement authority to a[ny] county, municipality, or the Commission which seeks delegation and is found capable of enforcing compliance with the provisions of Regulation .09 of this chapter.

(2) [If a]A county, municipality, or the Commission [wishes to] seeking or renewing delegation of enforcement authority[, it] shall submit a written request to the Secretary [or his designee] on or before [January] October 1 immediately preceding the State fiscal year for which delegation or renewal of delegation is sought.

(3) The Secretary [or his designee] shall make a determination in writing [grant or deny] regarding a delegation request on or before January [April]1 immediately preceding [of] the fiscal year for [during]which delegation is sought. [The Secretary or his designee

DRAFT

may not deny a requested delegation unless opportunity has been afforded to the appropriate officials of the affected local jurisdiction to present arguments before the Secretary or his designee.]

(4) Delegation [shall be] is effective July 1 [of that calendar year] and for not more than 2 years, unless renewed by the Secretary [or his designee].

([4]5) [If t]The Secretary may suspend delegation[or his designee determines that a delegated county's, municipality's, or Commission's] if a program falls below the standard of effectiveness established in Regulation .09 of this chapter[, the Secretary or his designee may suspend delegation after opportunity is afforded for a hearing]. During a period of suspension, the Department shall enforce compliance in the jurisdiction.

.04 Erosion and Sediment Control Ordinances.

A. Each county and municipality shall adopt an erosion and sediment control ordinance in compliance with the intent and requirements of the Sediment Control Subtitle.

Counties and municipalities shall submit ordinances and amendments to the Administration for review and approval. Municipalities may adopt the erosion and sediment control ordinance of their respective county.

B. The Commission shall adopt erosion and sediment control regulations covering utility operations in Prince George's and Montgomery counties. These [erosion and sediment control] regulations are to be developed in consultation with and subject to the review and approval of the Administration, the Prince George's Soil Conservation District, and the Montgomery Soil Conservation District as appropriate. [The Commission's erosion and sediment control regulations shall ensure that i]In addition to meeting the

DRAFT

requirements of § D[C] of this regulation, the Commission's erosion and sediment control regulations[the following shall] must ensure that for all utility projects in Prince George's and Montgomery counties[be included]:

(1) [For all utility projects in Montgomery County:

(a) The erosion and sediment control plans shall be approved by the Commission and the County before the Commission's issuance of a permit; and

(b) Montgomery County shall have the primary responsibility for inspection and enforcement of utility construction, if delegation of enforcement authority is granted to the County.

(2) For all utility projects in Prince George's County:

(a) The] An erosion and sediment control plan[s shall be] is approved by the Commission before the issuance of a permit; and

(b)](2) The Commission shall have the primary responsibility for inspection and enforcement of utility construction, if delegation of enforcement authority is granted to the Commission.

C. After reviewing a county's [and]or municipality's erosion and sediment control ordinance[s] and amendments or the Commission's erosion and sediment control regulations and amendments, the Administration shall notify the county, municipality, or Commission in writing of the acceptability of the ordinance or the regulations.

(D) In determining the acceptability of an erosion and sediment control ordinance or regulations, t[T]he Administration shall consider, but not limit itself to, the following:

(1) Scope of activities requiring grading and building permits and erosion and sediment control plans;

DRAFT

(2) Permit and plan requirements including:

(a) [a]Application procedure,

(b) [p]Plan design requirements, and

(c) [t]Time limitations;

(3) Procedures to ensure that a [Approval of the] required erosion and sediment control plan is approved by the appropriate approval authority [before] prior to the issuance of a building or grading permit[, procedures for referral of plans from the designated county or municipal agency to the appropriate approval authority for approval];

(4) Specific inspection and enforcement procedures and options available[used] to ensure compliance with [the]an approved erosion and sediment control plan, if the Administration has granted delegation of enforcement authority[.];

(5) Right of entry for inspection and enforcement activities associated with an approved erosion and sediment control plan; and

(6) Stabilization requirements in accordance with the provisions of Regulation .07 of this chapter. These requirements are to be binding regardless of whether an approved erosion and sediment control plan has been issued.

.05 Activities Requiring [for Which Approved] Erosion and Sediment Control Plan[s] Approval [areRequired].

A. [Any land clearing, g]Grading activities[, or other earth disturbances shall] require an erosion and sediment control plan approved by the appropriate [soil conservation district or municipality not within a soil conservation district,]approval authority except for [that the following activities are exempt from this requirement]:

DRAFT

- (1) Agricultural land management practices and the construction of agricultural structures, including those regulated under COMAR 26.17.03;
- (2) The construction of single-family residences or their accessory buildings on lots of 2 acres or more as exempted by Environment Article, §4—102, Annotated Code of Maryland (this exception does not apply in Calvert County);
- (3) [Clearing and g]Grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth_[];
- (4) Any State project;
- (5) Any federal project;
- (6) Any project on State-owned land; and
- (7) Any utility project in Prince George's and Montgomery counties under jurisdiction of the sediment control regulations of the Commission.

B. The Administration, under procedures established by this chapter, shall require and approve an erosion and sediment control plan for land clearing, grading, or other earth disturbance for § A(4), (5), and (6) of this regulation with the exception of the following:

- (1) Any project involving less than 100 cubic yards of grading; and
- (2) Any project involving less than 5,000 square feet of grading.

C. The Commission in accordance with its erosion and sediment control regulations and this chapter shall require and approve an erosion and sediment control plan for utility projects requiring land clearing, grading, or earth disturbance within Prince George's and Montgomery counties.

D. Approval.

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DRAFT

B. A project [which] that involves [both]a combination of private lands, [and]county lands, State lands, or federal lands, such as a utility right-of-way, [shall] requires the approval of [both]the appropriate approval authority [and the Administration]determined by identifying the entity undertaking the activity or for whose benefit the activity is being undertaken. Ownership of the land or lands upon which the activity is occurring is not to be the sole determining factor of the appropriate approval authority.

[(2) If State or federal lands, or both, comprise 10 percent or less of the total project area, the Administration shall defer its approval to the other approval authority.]

C. [E]. A[ny] soil conservation district, or municipality not within a soil conservation district, or the Commission may make a written request to the Administration for a joint review of an [the] erosion and sediment control plan [s for any grading not previously exempted under § A or C of this regulation.

F. A building or grading permit may not be issued by a county, municipality, or the Commission until the erosion and sediment control plan has been approved by the appropriate soil conservation district, a municipality not within a soil conservation district, or the Commission unless specifically exempted by the ordinance, regulation, or this chapter.]

.06 Training and Certification Program.

A. Certification of Responsible Personnel.

(1) The Administration shall require certification of responsible personnel as established by the Sediment Control Subtitle and in accordance with this regulation.

DRAFT

(2) [Responsible personnel shall obtain c]Certification is obtained by completing [an Administration-approved] a training program. [Enrollment of existing and future responsible personnel is the responsibility of employers. Response to an Administration notice of training and certification in accordance with the provisions of § B of this regulation shall serve as an application for training. The Administration shall notify employers of responsible personnel as to the date and location of training programs for attendance by responsible personnel and other interested persons.]

(3) Certification is valid for 3 years and is automatically renewed unless the Administration notifies the certificate holder that additional training is required.

(4) Responsible personnel certified by the Administration retain their certification status when changing employment.

B. Interim Certification of Responsible Personnel.

(1) [After July 1, 1983, employers of responsible]Responsible personnel may receive interim certification [for responsible personnel during the period before] prior to the completion of [an Administration-approved] a training program by submitting [the enrollment form]a request to the Administration.

(2) Interim certification [shall be] is valid until the scheduled date of attendance at a training program [for training of responsible personnel].[These enrollment forms are available from the Administration and the soil conservation districts. Employers shall submit the enrollment form to the Administration within 30 days of receipt of the notice of training. At a minimum, the following items of information are to be submitted:

(1) Employer's name;

DRAFT

- (2) Employer's address;
- (3) Employer's telephone number;
- (4) Name of responsible personnel; and
- (5) The most advantageous location (county or Baltimore City) for each responsible personnel to attend a training program.]

C. Training programs.

(1) The Administration may approve training programs other than those developed by the Administration. [Unless otherwise approved by the Administration, a] An acceptable training program [shall] is to include [the following]:

([1]a) Educational materials covering the following topics:

([a]i) Ecological and resource values of the waters of the State[;],

([b]ii) The benefits of proper and effective erosion and sediment control implementation and maintenance[;],

([c]iii) The purpose and provisions of State and local erosion and sediment control laws, ordinances, and regulations[;], and

([d]iiii) A description of sediment as a pollutant;

([e]b) The process of:

(i) Erosion,

(ii) Sediment transport, and

(iii) Sediment deposition;

(c) An overview of the handbook "2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control" including:

([f]i) Proper implementation of erosion and sediment control practices,[;]

DRAFT

([g]ii) Recognition and correction of improperly implemented erosion and sediment control[s] practices;] and

([h]iii) Proper maintenance of erosion and sediment control[s] practices; and

([i]d) Responsibilities of supervisory and enforcement personnel[;].

(2) [Criteria for qualifying as a training] An instructor of a training program shall have [include] a knowledge of the principles of:

(a) Erosion;[,]

(b) Sediment transport;[,]

(c) Sediment deposition;[,]

(d) Erosion and sediment control technology;[,]

(e) Erosion and sediment control implementation;[,]

(f) Erosion and sediment control maintenance;[,]

(g) [Local government e]Erosion and sediment control ordinances and regulations;[,] and

(h) The Sediment Control Subtitle and this chapter.

[D.] (3) An i[I]nstructor[s] of a training program[s] shall submit the [following information to the Administration:

1 N] names, addresses, and telephone numbers of responsible personnel who attended

[completed] the [a] training program to the Administration.

(2) Card certification numbers issued to responsible personnel; and

(3) Employer's name and address.E.]

(4) Responsible personnel who complete a[n Administration-approved] training program

[shall] receive [the Administration's] a Certificate[ion] of Training [from the instructor.

DRAFT

This Certificate of Training is a card] with a certification number [to be carried by the responsible personnel].

[F. Responsible personnel certified by the Administration [shall] retain their certification status when changing employment.

G. A Certificate of Training is valid for [a] 3[-]years [period] and is automatically renewed unless the Administration notifies the certificate[ion] holder that additional training is required.]

.07 [Application for]Approval of Erosion and Sediment Control Plans.

A. When an approved erosion and sediment control plan is required, an applicant shall make a submittal to the appropriate approval authority [the review and approval of the appropriate soil conservation district, a municipality not within a soil conservation district, the Commission, or the Administration is required, applicants shall submit erosion and sediment control plans] in accordance with procedures established by [these] the appropriate jurisdiction[s] and this [charter] chapter, and shall be subject to [any] fees established under Environment Article, §4-103(c), Annotated Code of Maryland.

B.[When erosion and sediment control plans are required applicants shall, a]At a minimum, a submittal must include [submit the following information]:

(1) A letter of transmittal;[.]

(2) Name, address, and telephone number of:

(a) The owner of the property where the grading is proposed,

(b) The developer, and

(c) The applicant;

DRAFT

(2) 3) [A vicinity sketch indicating north arrow, scale, and other information necessary to easily locate the property;.]

(3) A plan at an appropriate scale and indicating at least:

(a) Name, address, and telephone number of:

(i) The owner of the property where the grading is proposed;

(ii) The developer; and

(iii) The applicant.]

(4) The location of resource areas and sensitive areas such as wetlands, floodplains, highly erodible soils, steep slopes, and any other areas required on a concept plan as described in COMAR 26.17.02; and

(5) An erosion and sediment control plan.

C. Unless otherwise noted in this chapter, the following is to be included on an erosion and sediment control plan:

(b) 1) [The existing and proposed topography;.]

(c) 2) [The proposed grading and earth disturbance including:

(i) a) Surface area involved;.]

(ii) b) Volume of spoil material;.]

(iii) c) Volume of borrow material;.] and

(iv) d) Limits of grading including proposed grading units, limits of clearing, and limits of grading;[limitation of mass clearing, and grading whenever possible.]

(d) 3) Storm drainage provisions[,] including:

(i) a) Velocities and quantities of flow at outfalls;.] and

(ii) b) Site conditions around points of all surface water discharge from the site;.]

DRAFT

([e]4) Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation including:

([i]a) Provisions to preserve top soil,

(b) Provisions to [and]limit disturbance,[:]

([ii]c) Details of grading practices including phasing of grading units,[:] and

([iii]c) Design details for non-structural and structural controls;

(5) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the soil conservation district from the U.S. Soil Conservation Service; [and]

([iv]c) Details of temporary and permanent stabilization measures including [placement of] the following statement[on the plan]:

“Following initial soil disturbance or redisturbance, permanent or temporary stabilization is required [shall be completed] within [seven] three calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1); and [fourteen] seven days as to all other disturbed [or graded] areas [on the project site] unless otherwise identified as an area requiring accelerated stabilization. These requirements [of this subparagraph] do not apply to [those areas which are shown on the plan and are currently being used for material storage, or for] those areas [on which actual construction] under active grading [activities are currently being performed] or to interior areas of a surface mine site where stabilization material would contaminate the recoverable resource. Maintenance is required [shall be performed] as necessary to ensure that stabilized areas continuously

DRAFT

meet the appropriate requirements of the "[1994]2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control".

([f]7) Sequence of construction describing the relationship between the implementation and maintenance of erosion and sediment control[s] practices, including permanent and temporary stabilization, grading units, and the various stages or phases of earth disturbance and construction. [The sequence of construction shall, a]As a minimum, a sequence of construction is to include a schedule and time frame for the following activities:

([i]a) Notification of the appropriate enforcement authority prior to the start of earth disturbance,[:]

([i]b) Clearing and grubbing as [for those areas] necessary for the installation of perimeter controls,[:]

([ii]c) Construction of perimeter controls,[:]

([iii]d) Remaining clearing and grubbing within installed perimeter controls,[:]

([iv]e) Road grading,[:]

([v]f) Grading for the remainder of the site,[:]

([vi]g) Utility installation and connections to existing structures,[whether storm drains will be used or blocked after construction;]

([vii]h) Final grading, landscaping, and[or] stabilization, and

([viii]i) Removal of controls and final stabilization of remaining disturbed soil,[:]

([g]8) A statement [placed on the plan] indicating the owner/developer shall notify [request that] the appropriate enforcement authority [inspection agency approve work completed]at the following stages of construction[specified below in accordance with the

DRAFT

approved erosion and sediment control plan, the grading or building permit, and this chapter]:

([i]a) Prior to the start of earth disturbance, [On all sites with disturbed areas in excess of 2 acres, approval of the inspection agency shall be requested]

([ii]b) U[u]pon completion of the installation of perimeter erosion and sediment control[s] practices, but before proceeding with any other earth disturbance or grading, [;other building or grading inspection approvals may not be authorized until this initial approval by the inspection agency is made;] and

([ii]c) [Approval shall be requested upon final stabilization of all sites with disturbed areas in excess of 2 acres before]Prior to the removal of sediment controls;[.]

([h]9) An Owner/Developer [Certification by the owner or developer that]Certification stating:

([i]a)[any]All clearing, grading, construction, and [or] development[, or all of these,] will be done pursuant to this plan, and

([ii]b) [that responsible]Responsible personnel involved in the construction project will have a Certificate[ion] of Training [at a Department-approved training program for the control of sediment and erosion] before beginning the project, unless waived in accordance with COMAR 26.17.01; and[subparagraph (iv) of this paragraph.]

(i) The appropriate approval authority may require certification by a professional engineer, land surveyor, landscape architect, architect, or forester registered in the State that the plans have been designed in accordance with approved erosion and sediment control ordinances, regulations, standards, and criteria.

DRAFT

(j) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the soil conservation district from the U.S. Soil Conservation Service.]

([4]10) [Any a]Additional information or data [deemed appropriate] requested by the appropriate approval authority.

D. The appropriate approval authority may require certification by a professional engineer, land surveyor, landscape architect, architect, or forester that an erosion and sediment control plan has been designed in accordance with the appropriate erosion and sediment control ordinance or regulations, standards, and criteria.

[C]E. Standard erosion and sediment control plans.

(1) An approval authority may adopt a standard erosion and sediment control plan for minor grading[, earth disturbance,] and construction activities, such as a single-family residence not in a developing subdivision [on lots less than 2 acres], small commercial and other similar building sites, minor maintenance grading, and minor utility construction.], may be adopted by the soil conservation districts, the Commission, a municipality not within a soil conservation district, or the Administration]

(2) A standard erosion and sediment control plan [provided these standard plans are] must be consistent with the appropriate county or municipal erosion and sediment control ordinance, the Commission's erosion and sediment control regulations, and this chapter.], and are approved by]

(3) [t]The Administration[. In reviewing these standard plans, the Administration] shall review and approve a standard plan prior to adoption.

DRAFT

(4) The following is to be considered during the Administration's review and approval [at least the following]:

([1]a) Maximum v[V]olume of grading allowed [or earth disturbances involved];

([2]b) Maximum d[D]isturbed surface area allowed [involved];

([3]c) Staging of the clearing and grading operation;

([4]d) Maximum d[D]epth or height of cut and fill allowed[involved];

([5]e) Maximum d[D]egree of steepness of [any] existing slopes [upon which fill is placed];

([6]f) Maximum d [D]egree of steepness of final graded slopes;

([7]g) Proposed manner of handling storm water runoff;

([8]h) Proposed manner and timing of[providing] temporary and permanent stabilization[such as with vegetation, concrete, blacktop, retaining walls, etc.];

([9]i) Proposed erosion and sediment control principles, methods, and practices to be employed;

([10]j) Proposed applications and restricted use [manner] of[using this] the standard plan[, that is, appropriate restrictions covering their use in lots subdivided developments, restrictions on use in contiguous or adjacent areas, etc].

[D.](5) The Administration shall conduct the review of the standard plan in a timely manner and notify the appropriate approval authority in writing of the Administration's findings.

.08 Approval or Denial of Erosion and Sediment Control Plans.

A. Review of Plans.

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(1) The appropriate approval authority [Approval of erosion and sediment control plans by the Administration, the soil conservation districts, the Commission, or a municipality not within a soil conservation district] shall [be based on the] review and approve or deny an erosion and sediment control plan in accordance with the [compliance of the plans with erosion and sediment control] criteria [as] contained in the handbook "[1994] 2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control".

(2) [Further,] The appropriate approval authority [the plans] shall [be reviewed considering] assess the adequacy of the proposed erosion and sediment control measures to minimize erosion and keep sediment on-site. [When appropriate, a]

(3) An on-site evaluation is necessary[shall be conducted] as part of the review process in order to provide proper consideration of existing conditions and proposed control measures.

B. The appropriate approval authority [Administration, a soil conservation district, a municipality not within a soil conservation district, or the Commission reserves the right to] may impose conditions necessary to:

(1) P[p]revent creation of a nuisance or dangerous condition;[, to]

(2) A[a]void sediment pollution;[,and to] or

(3) D[d]eny the issuance of an approval where the proposed project would adversely affect the public safety and welfare.

C. The appropriate approval authority [Administration, a soil conservation district, a municipality not within a soil conservation district, or the Commission shall] may withhold approval when: [it determines that]

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(1) An owner/developer has not complied with the provisions of an[y] outstanding order [affecting the owner/developer have not been complied with,]; or

(2) T[here is a violation of the terms of an existing:

([1]a) Grading permit₂;

([2]b) Building permit₂; or

([3]c) Erosion and sediment control plan or related approval, permit, or license.

D. [Approval under § C of this regulation may be issued when [the owner/developer achieves] compliance with the provisions of the order, permits, licenses, or plan mentioned above.

E.] The appropriate approval authority [When the county, municipality, or Commission is not delegated enforcement authority, the soil conservation district, a municipality not within a soil conservation district, or the Commission] shall forward one copy of each approved plan, upon its approval, to the Administration [upon plan approval] where the Administration is the appropriate enforcement authority.

E. For plans approved by the Administration:

(a) Approved plans will be stamped approved;

(b) The Administration shall send a letter of approval to the owner/developer; and

(c) A copy of the approved plan will be kept by the Administration.

F. Expiration of Approved Erosion and Sediment Control Plans.

(1) Approved erosions and sediment control plans remain valid for 2 years from the date of approval, except surface mines and landfill plans which remain valid for 5 years from the date of approval[, unless specifically extended or renewed by the erosion and sediment control plan approval authority].

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(2) Erosion and sediment control plan approvals may be extended or renewed by the appropriate approval authority.

[G. When the Administration's approval is required and the application and plans are found acceptable, the Administration shall stamp the plan approved, and also submit a letter of approval to the owner/developer. The Administration shall require one copy of the plan for its files.]

.09 Inspection and Enforcement.

A. [For grading which requires the approval of the appropriate soil conservation district, a municipality not within a soil conservation district, the Commission, or the Administration, after April 1, 1985, inspection and enforcement shall be the responsibility of t]The Administration shall be responsible for the inspection and enforcement of all grading which requires an approved erosion and sediment control plan as [designated] outlined [with]in this chapter.

B. When the Administration has delegated enforcement authority to a county, municipality, or the Commission, the county, municipality or the Commission shall have the primary responsibility for the [is delegated enforcement authority,] inspection and enforcement [shall be the responsibility of the county or municipal authority]of approved erosion and sediment control plans as designated by an [the] approved erosion and sediment control ordinance or [the Commission as designated by its] erosion and sediment control regulations.

C. An approved erosion and sediment control plan for an active site is to be on-site and available to the appropriate enforcement authority and the Administration.

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D. The appropriate enforcement authority shall inspect all sites with an approved erosion and sediment control plan an average of once every 2 weeks for compliance with the approved plan.

[A soil conservation district, a municipality not within a soil conservation district, the Commission or the Administration by written notice, may suspend approval of the erosion and sediment control plan. Whenever an approval authority suspends its approval of a plan the designated county, municipality, or Commission shall also suspend the grading or building permit related to it.]

[D]E. When conducting an inspection, the appropriate enforcement authority

[Administration, county, municipality, or Commission responsible for inspection and enforcement of the erosion and sediment control program] shall [for inspection purposes do all of the following]:

(1) Ensure that an approved erosion and sediment control plan [and permits are] is on the site as required; [and are complied with.]

(2) Conduct a complete inspection of the site unless otherwise noted in the inspection report; [Ensure that every active site having a designed erosion and sediment control plan is inspected for compliance with the approved plan on the average of once every 2 weeks.]

(3) Determine if the approved erosion and sediment control plan is properly implemented;

(4) Determine if erosion and sediment control practices are properly installed;

(5) Determine if erosion and sediment control practices are properly maintained;

(6) Determine if sediment deposition has occurred off-site or is likely to occur off-site;

DRAFT

(7) Determine if the approved erosion and sediment control plan appears adequate for the site conditions;

([3]8) Prepare a written inspection report[s after every inspection] that includes [describe]:

(a) The date and location of this site inspection,[:]

(b) A brief description of current activities on site,

(c) Whether the site is in compliance with the approved erosion and sediment control plan, [has been properly implemented and maintained;]

([c]d) Corrective actions taken in response to a previous inspection report or violation notice,

(e) A description of site conditions including improperly implemented and maintained erosion and sediment control p[P]ractices, [deficiencies or erosion and sediment control plan deficiencies;]

(f) If applicable, a description of plan deficiencies and required minor or major modification as described in this Regulation, and

([d]g) [If a violation exists, t] The [type of] enforcement action taken when a violation exists;[.]

([4]9) Notify the on-site personnel and [or] the owner/developer in writing when violations are observed, describing the:

(a) Nature of the violation,[:]

(b) Required corrective action,[:] and

(c) Time period in which to have the violation corrected.

[(5)]F. Complaints

DRAFT

(1) The appropriate enforcement authority [Administration, the county, municipality, or the Commission] shall [investigate or] accept complaints regarding erosion and sediment control concerns from [any] interested parties [y and apply their enforcement procedure when violations are confirmed.]and shall:

[(6)a) Conduct an initial investigation [Any erosion and sediment control complaints received shall be acted upon, routinely] within 3 working days of receipt [, and the complainant shall be notified of any findings, action or proposed action routinely within 7 working days after receipt] of the complaint₂[.]

(b) Notify the complainant of the initial investigation with 7 days of receipt of the complaint.

(c) Take appropriate enforcement action when violations are discovered during the course of the complaint investigation.

[(7)2) The Administration may investigate complaints received and take appropriate enforcement action or refer [any] complaints received to the appropriate enforcement [local] authority₂ [if the activity is located in a jurisdiction that has received delegation of enforcement authority]

[In conjunction with a referral, the Administration may also initiate an on-site investigation in order to properly evaluate the complaint.]

(3) The Administration shall [take enforcement action when appropriate and so] notify the appropriate [local] enforcement authority in a timely manner when investigating a complaint in a delegated jurisdiction.

(4) The Administration shall investigate complaints related to a State or federal project.

DRAFT

[(8)] G. When a [n cases where] county[ies], municipality[ies], or the Commission desires enforcement assistance from the Administration on a particular site, a request shall be made by a representative of the county, municipality or Commission [request shall be made to the authorities].

[(9)] H. Plan Modifications

[The appropriate plan approval authority may revise approved plans as necessary to reflect site conditions. If m]

(1) Modifications to an approved erosion and sediment control [the] plan[s] may be requested by the owner/developer or required by the appropriate enforcement authority.

[approved by the Administration, a soil conservation district, a municipality not within a soil conservation district, or the Commission are necessary, they shall]

(2) Modifications must be made in accordance [compliance] with [the erosion and sediment control criteria contained in] the handbook "[1994]2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control"[,] and the criteria for major and minor modifications. [as follows:]

(3) Major modifications.

(a) Major modifications include revisions to sediment control practices involving concentrated flow and the impoundment of storm discharges [to approved erosion and sediment control plans], such as the addition or deletion of a sediment basin[, shall be submitted by the owner/developer to the appropriate plan approval agency authority and processed appropriately]. Major modifications also include significant changes to the sequence of construction or changes to the phasing of grading units. [This processing

DRAFT

includes modifications due to plan inadequacies at controlling erosion and sediment as revealed through inspection.]

(b) Major modifications must be approved by the appropriate approval authority prior to implementation.

[(b)4) Minor Modifications.

[of erosion and sediment control plans may be made in the field if approved by the inspector and documented in a field inspection report.]

(a)The appropriate [plan] approval authority [shall] may, in conjunction with the appropriate enforcement authority, develop a list of minor [allowable field] modifications [for use by the inspector].

(b) The Administration shall review and approve all minor modification lists [This list of allowable field modifications shall be reviewed and approved by the Administration before its use].

(c)The appropriate enforcement authority may allow minor modifications to an approved erosion and sediment control plan to be implemented as field revisions.

(d) The appropriate enforcement authority shall, in writing, approve field revisions prior to implementation.

[E]I. Enforcement. [The Administration, county, municipality or Commission responsible for inspection and enforcement of the erosion and sediment control program shall, for enforcement purposes, use any combination of the following actions:]

(1) The appropriate enforcement authority shall, through the authority of an erosion and sediment control ordinance or regulations, this chapter, and the Sediment Control Subtitle, use enforcement action when erosion and sediment control violations occur.

DRAFT

[If the violation persists after the date specified in the notice of violation, the enforcement agency shall stop work on the site. The enforcement agency shall determine the extent to which work is stopped, which may include all work on the site except that work necessary to correct the violation.]

(2) Enforcement actions may include, but are not limited to:

(a) Issuance of a corrective action order;

(b) Issuance of a stop work order, the extent of which is determined by the appropriate enforcement authority;

(c) Issuance of a penalty or fine as allowed;

(d) Referral for legal action.

[If reasonable efforts to correct the violation are not undertaken, the case may be referred for legal action.]

(3) In addition to any other sanctions, a person in violation of [any provision of] the Sediment Control Subtitle or this chapter is subject to civil action or criminal prosecution as deemed necessary.

(4) Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.

(5) [If a person is working without an approved erosion and sediment control plan, t]The appropriate enforcement authority shall stop work on a [the] site where grading is occurring without a required erosion and sediment control plan.

J. Suspension of Approval.

(1) The appropriate approval authority may suspend approval of an erosion and sediment control plan.

DRAFT

(2) When an erosion and sediment control plan is suspended:

(a) Stabilization of all disturbed areas on the project site will be required; and

(b) Grading, building, and other permits related to the project will also be suspended.

.10 Responsibility of Applicant.

The issuance of an approval by the Administration, a soil conservation district, a municipality not within a soil conservation district, or the Commission does not relieve the applicant of the continuing responsibility to effectively abate sediment pollution, and comply with all other applicable local and State laws.

.11 Sediment Control Design Standards and Specifications.

A. The handbook titled "[1994]2010 Maryland Standards and Specifications for Soil Erosion and Sediment Control" is hereby incorporated by reference by the Administration, and [shall] serve as the official guide for erosion and sediment control principles, methods, and practices.

B. Notwithstanding any other requirement in this chapter, the approval authority may require the use of any standard and specification or best management practice it deems warranted to address an erosion and sediment control violation.

Administrative History

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Regulations .02-1—.10 recodified to Regulations .03—.11

Regulation .07D-1—F recodified to Regulation .08E—G, and Regulation .08A-1—D recodified to Regulation .09B—E

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DRAFT

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