

Attachment C



COMMENTS OF GRANT GULIBON
REGULATORY SPECIALIST, PENNSYLVANIA BUILDERS ASSOCIATION
BEFORE THE INDEPENDENT REGULATORY REVIEW COMMISSION
JUNE 17, 2010

Good morning, Commissioners. My name is Grant Gulibon, and I serve as regulatory specialist with the Pennsylvania Builders Association, a statewide trade association representing the interests of more than 255,000 members and employees involved in Pennsylvania's housing industry.

I wish to make two brief comments this morning regarding the content of the Chapter 102 regulations. The first deals with the mandatory 150-foot buffer or setback requirement for projects in exceptional value and high quality waters, while the second pertains to the need for additional options and alternatives under these regulations to help project applicants meet stormwater management requirements in the most environmentally efficient and cost-effective fashion possible.

First of all, with regard to the mandatory riparian buffer requirements in the regulation, let me acknowledge both the Department's willingness to discuss PBA's continuing concerns regarding such a requirement throughout the regulatory development process, as well as its efforts to narrow and more clearly define the circumstances under which applicants would be obligated to install and maintain them. At the same time, as my second comment will make clear, PBA understands the environmental benefits that properly sited riparian forest buffers can provide.

We do, however, believe that there are several outstanding issues related to this requirement. One of the most important of those is the question of whether or not a "one-size-fits-all" requirement, which the 150-foot buffer certainly is within the universe that it would be applicable, is truly the right solution for every affected potential development site in the Commonwealth. As our written comments indicate, a review of the literature on buffers indicates that other, often much narrower buffer widths provide the same or better water quality benefits—especially when used in combination with other stormwater management practices (as is quite frequently the case in Pennsylvania). Furthermore, much of the new development taking place in the Commonwealth is required to manage a great deal of a site's stormwater on-site and prevent it from exiting the site—raising the question of just how much stormwater the buffer is itself managing. Finally, we would argue that in some cases, the inclusion of a 150-foot buffer could result in the non-viability of projects that would bring desperately needed jobs and economic

activity to Pennsylvania—a result noted in other written comments submitted to the Commission on this regulation.

My second and final comment today concerns the need for options to be available under Chapter 102 to allow Pennsylvania to realize the greatest environmental benefit at the lowest possible cost, and to do so by allowing for affected sectors to work together to install the right best management practices in the right places. One of the greatest challenges for Pennsylvania's housing industry in managing stormwater on some development sites is meeting infiltration requirements. On such sites, due to sub-optimal soil conditions, infiltration best management practices at times do not work as designed and are costly to install and maintain, creating problems for homeowners and developers alike. At the same time, many of Pennsylvania's farmers are in need of funding and technical support to address water quality issues of their own, particularly in the Chesapeake Bay watershed, in which agriculture is the largest source of nutrient and sediment pollution.

Over the past eight months, PBA has developed and promoted what we are calling a "stormwater BMP offset" option for use under the Chapter 102 regulations. Under this option, an eligible project applicant would, while installing all necessary erosion and sedimentation controls and appropriate stormwater controls, be able to forgo installing certain infiltration areas and instead fund the installation of conservation measures, such as riparian forest buffers, on agricultural lands. A project applicant could make a payment to a county conservation district, which would in turn use the funds to implement a conservation project on a farm that would provide environmental benefit to the affected watershed.

We have discussed this concept over the past several months with the Department. Last week, we and they agreed to work together to ensure that such an option will be available under the Chapter 102 regulations, and we expect to receive details on how the Department envisions that process developing in the near future.

In closing, we thank the Commission for its work and for the opportunity to provide comments on this important regulatory package.