

Webb, Elaine Z. (DNREC)

From: Shannon Argo <shannon@bluehendisposal.com>
Sent: Thursday, December 15, 2022 11:51 AM
To: Garvin, Shawn M. (DNREC)
Cc: Webb, Elaine Z. (DNREC); Robert Tunnell III; Willis@thewillisgroupllc.com; Mike Stang; Schwartzkopf, Peter (LegHall); Hocker, Gerald (LegHall)
Subject: Delaware Erosion and Sediment Control Handbook
Attachments: Blue Hen Hearing Request Letter 12.15.22.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Secretary Garvin:

Please see the attached letter requesting a hearing on the proposed revisions to the Delaware Erosion and Sediment Control Handbook. I look forward to providing testimony at the public hearing.

Sincerely,

Shannon Argo
President
Blue Hen Disposal
302.249.2781



December 15, 2022

via email

The Honorable Shawn P. Garvin
Secretary
Delaware Department of Natural Resources & Environmental Control
89 Kings Hwy.
Dover, Delaware 19901

RE: Revisions to Delaware Erosion and Sediment Control Handbook

Dear Secretary Garvin:

I am writing on behalf of Blue Hen Dispose-All, Inc. with respect to the above-referenced matter respectfully requesting a hearing pursuant to 7 Del. C. §6004. The Delaware Department of Natural Resources and Environmental Control ("DNREC") posted notice of proposed revisions to the Delaware Erosion and Sediment Control Handbook (the "DESCH"), specifically those pertaining to Section 3.6.1 "*Standards and Specifications for Construction Site Pollution Prevention.*" The proposed revisions to this section of the DESCH contain various changes well beyond those advertised by DNREC, which changes differ both descriptively and in context to the current language.

Blue Hen Dispose-All, Inc. has reviewed the current and proposed changes is familiar with them, and understands that there can be a potential and wide-ranging impact as a result of the amended Section 3.6.1, including but not limited to: overly burdensome costs; potential job losses and force reduction; and a chilling effect on future economic development opportunities.

Given: (i) the potential wide-ranging impact of the various proposed changes to Section 3.6.1, and (ii) that promulgation of such changes will have the *de facto* effect of creating a regulation and thus the force of law, a hearing on this matter is necessary to allow the public and parties-in-interest to fully inform the Secretary of the impact caused to Delawareans resulting from the changed Section 3.6.1.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shannon Argo", with a long horizontal flourish extending to the right.

Shannon Argo
President
Blue Hen Dispose-All, Inc.

Webb, Elaine Z. (DNREC)

From: David Steele <david.steele@lennar.com>
Sent: Thursday, December 15, 2022 2:00 PM
To: Webb, Elaine Z. (DNREC)
Subject: Proposed Revisions
Attachments: 2023 DNREC Public Hearing Request.pdf

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Good Afternoon Elaine,
I hope you are doing well. I wanted to send this letter over to you in regards to the Revised Sediment and Stormwater Regulatory Guidance Documents. While I understand that what I am sending you is not currently up for revision and is tied to the CGP, the "water tight lidded dumpster" is an issue that at some point will need to be revised in order to make it attainable. We work very hard to make sure that our projects abide by the program, but we have struggled with this one. Please take a minute to review the attached, again I understand that this may not be the appropriate time for this revision, but I feel it is important that we discuss it and make this change in the near future. Thank you for your time and consideration and I hope you have a great day.

Sincerely,

David Steele

Sr. Land Development Manager
Lennar Maryland/ Delaware
7035 Albert Einstein Dr,
Columbia, Md 21046
Cell: [302.258.7271](tel:302.258.7271)
Email: David.Steele@lennar.com



Dear Ms. Elaine Webb,

I am formally requesting a public hearing regarding the Section 3.6.1 Construction Site Pollution Prevention. Specifically, the section on Practices, section 1. Construction Site Wastes – General, subsection C. “watertight lids”. I understand that this policy has been in place but is being updated with the recent revisions and to be implemented January 1st, 2023. While I understand the reasoning behind “watertight lids”, the feasibility of accomplishing this goal is unattainable. I would like to offer and alternate solution.

In the summer of 2022, we pursued options for dumpster coverings. We first started by reaching out to our dumpster vendors in order to see what products they carried that could provide a watertight lid. Currently, both Waste Management and Republic Services, two of the larger dumpster vendors, do not carry a product that has a watertight lid for a 30-40yd dumpster, which are the standard sizes used in residential construction. We shopped many online services to see if there was something we could purchase and would remain onsite to be transferred from dumpster to dumpster as they were pulled and replaced. We came up short and were unable to find any such product that could be installed, removed and reinstalled without the use of heavy machinery and hours of install time. Our third option was to purchase tarps, bungies and straps and to task our Construction Managers with installing and removing the tarps every day. We purchased roughly \$10,000 worth of material and within 2 weeks, 80% of the tarps being used were trashed or found blowing through communities. We did not have the ability to cover the dumpsters in a timely fashion during the pop-up summer storms and the tarps would turn into swimming pools on tops of the dumpsters making it impossible to remove the tarps without sending massive amounts of water into the dumpster. We also struggled with the feasibility of removing and reinstalling 30-40 covers daily, sharp objects puncturing holes in the tarps making them useless, not to mention the “weekend illegal dumpers” who we deal with that would load their household trash on top of the tarps without any regard for what we were trying to accomplish.

While going through this exploratory process, we started looking at smaller dumpsters typically used for commercial operations that have watertight lids. These are generally 3CY dumpsters up to 8CY and are stored in a location close to the commercial operation and dumped in a truck as needed, whether it's once a day or once a week. We discussed using these for the residential lots, but the capacity of these dumpsters for our use was too small. This past spring we participated in a workshop with SCD. The goal at the time was to discuss material issues we were having within our current environment and to discuss multiple BMPs and how we could improve on them. One item that came up was the use of watertight dumpster lids. We expressed our concern and the trials and tribulations that we experienced the summer prior and started to ask what items are the major concern that we could try to manage best. We were directed to the Standard Detail and Specifications document as guidance and in review, found that the specific items of concern to be Concrete, Detergents, Paints(enamel and latex), Cleaning Solvents, Pesticides, Fertilizers and Petroleum Based Products. Since Concrete is already managed by a concrete washout area, we decided to focus on the remaining items listed.

Finally, here is our alternate solution. The remaining products that need to remain under a watertight lid generally revolve around paint and other chemicals used in construction. This is beneficial knowledge as these products are typically used by only a few vendors which means that communication and management is attainable. We have since instituted the use of an 8CY dumpster with a watertight lid to be located next to our concrete washout area in all of our communities. This dumpster will remain

in the same location during the duration of the project and clearly labeled with the products that are to be disposed of. The feasibility of this works, because as the painters are cleaning out their materials in the concrete washout per the BMPs, they can throw their contaminated materials in the covered dumpster easily with little management and oversight. This dumpster can be dumped into a truck as often as needed and remain on site at all times providing constant access to a disposal system. Not only is this able to be managed, it is not a huge economic burden which means that more builders will be able to follow this program without a hit to their bottom line. While I understand that may not be a DNREC concern, you have to understand that is a consideration by the builders and if the cost is minimal, they will be more accepting of the practice.

In conclusion, I would like to reiterate that we are requesting a public hearing in which to discuss Section 3.6.1 Construction Site Pollution Prevention. I can list many more pros for our process and cons for the blanket "covering of dumpsters", but feel it would better received in a back and forth open discussion in the public forum. I look forward to your response and the opportunity to work with the state to implement attainable BMPs to keep our great state environmentally healthy for future generations.

Webb, Elaine Z. (DNREC)

From: LINCOLN WILLIS <Lincoln.Willis@thewillisgroupllc.com>
Sent: Thursday, December 15, 2022 2:35 PM
To: Garvin, Shawn M. (DNREC)
Cc: Webb, Elaine Z. (DNREC)
Subject: DE Hauler's Association--Hearing Request
Attachments: Haulers DNREC letter.pdf

Follow Up Flag: Follow up
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Secretary Garvin,

Please see the attached letter from Mike Stang, President of the Delaware Hauler's Association.

Regards,
Lincoln

Lincoln D. Willis, Principal
[302-632-9898](tel:302-632-9898)
4 The Green
Dover, DE 19901
Lincoln.Willis@TheWillisGroupLLC.com

"Advancing Your Cause in Delaware."

The  **Willis Group, LLC**

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DELAWARE HAULERS ASSOCIATION

*Fulfilling Delaware's Residential and Commercial
Waste and Recycling Needs*

4 The Green, Suite 1
Dover, DE 19901

The Honorable Shawn P. Garvin
Secretary
Delaware Department of Natural Resources & Environmental Control
89 Kings Hwy.
Dover, Delaware 19901

RE: Revisions to Delaware Erosion and Sediment Control Handbook

Dear Secretary Garvin:

I am writing on behalf of the Delaware Haulers Association ("DHA") with respect to the above-referenced matter respectfully requesting a hearing pursuant to 7 Del. C. §6004. The Delaware Department of Natural Resources and Environmental Control ("DNREC") has posted notice of proposed revisions to the Delaware Erosion and Sediment Control Handbook (the "DESCH"). The proposed revisions to the DESCH contain assorted changes, which contrast with the current language both in explanation and in framework.

DHA represents over a dozen businesses in the construction hauling industry and has reviewed the current and proposed changes, is familiar with them, and understands that there can be a potential wide-ranging impact as a result of the changes. DHA thus hereby joins in the request for a hearing on the proposed changes submitted by Blue Hen Dispose-All contemporaneous herewith.

Given the potential wide-ranging impact of the various proposed changes and the number of effected businesses and individuals, DHA respectfully makes this request. Public input on a matter of this nature is not only merited but necessitated.

Respectfully,



Mike Stang, President
Delaware Haulers Association

cc: Elaine.Webb@delaware.gov

Webb, Elaine Z. (DNREC)

From: Shannon Easton <seaston@hbade.org>
Sent: Friday, December 16, 2022 2:15 PM
To: Garvin, Shawn M. (DNREC); Webb, Elaine Z. (DNREC)
Subject: Letter from Builders and Remodelers Association President Justin Olear
Attachments: 12-15-22 BRAD Letter Re Sediement and Stormwater Regulatory Guidance Documents.pdf

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Good Afternoon,

Please find attached a letter from Justin Olear, Builders and Remodelers Association of Delaware President, sent on behalf of BRAD members regarding Sediment and Stormwater Regulatory Guidance Documents.

Thank you,

Shannon Easton

Membership and Communications Coordinator
Builders and Remodelers Association of Delaware
109 E. Division Street
Dover, DE 19901
302-678-1520

Office Hours: Monday – Friday 9:00 a.m. – 5:00 p.m.
My Hours: Monday – Thursday 8:30 a.m. – 1:30 p.m.

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December 15, 2022

Via Email

Department of Natural Resources and Environmental Control
Shawn Garvin DNREC Secretary
Elaine Webb
Attn: Secretary Shawn M. Garvin

RE: Sediment and Stormwater Regulatory Guidance Documents

Secretary Garvin,

I am the President of the Builders and Remodelers Association of Delaware, a trade association of businesses and individuals in the housing, development and real estate communities. I am writing you today to raise concerns with and request a public hearing related to the Revised Sediment and Stormwater Regulatory Guidance Documents (collectively, the "Regulations"). The primary issues with the Regulations relate to construction site waste. In 2013 the Regulations were updated to include requirements for, *inter alia*, lidded dumpsters and minimum emptying requirements. At the time, no one could foresee any issues with complying with the proposed regulations. Since then we have dealt with unprecedented supply side pressures and a global pandemic.

First I would like to address the requirements for emptying dumpsters. Here, the Regulations have inherent inconsistencies. Specifically, the regulations require that a builder or contractor, "[s]chedule waste collection to prevent containers from overfilling." However, the NPDES permit states, "[t]he dumpsters shall be emptied a minimum of twice per week, or more if necessary." This inherent inconsistency between the permit language and the regulations should be fixed and should be fixed in favor of the regulations.

The ultimate goal of this specific regulation is to ensure dumpsters are not overflowing so as to allow waste to leave the dumpsters or the site and cause environmental harm. The language in the regulations is sufficient to accomplish this goal. However, the language in the permit is incredibly excessive and costly. For reference, on a typical house it is likely that you

would have around 4 dumpster pulls at a cost of \$600 per pull. Assuming that house took 5 months to build and if the language in the permit rather than the regulation were followed, that would result in a total of approximately 42 or more dumpster pulls at a cost of \$25,200. This results in an increased cost to build the home of approximately \$22,800. This is insanity in any economic situation but even more so with the current issues with housing affordability and the current inflationary and interest rate environment. We have also been told by various waste management companies that they do not and could not have the capacity to handle that amount of dumpster pulls and that, were they to do so, they would be pulling empty or mostly empty dumpsters on a regular basis. This would result in increased traffic and damage to roadways from heavy garbage disposal vehicles as well as increased air pollution from emissions – essentially eviscerating any positive impact this overly broad regulation could have.

As indicated above, we would like a public hearing to discuss the Regulations and to hopefully come to some common sense compromises that will advance your agency's environmental goals while also allowing the building and construction industries to continue their work in a cost effective manner and in strict compliance with the Regulations. Should you have any questions I can be contacted at jolear@regalbuilders.net, or by phone at 610-324-1918

Very truly yours,

A handwritten signature in blue ink, appearing to read "Justin Olear", is positioned above the printed name.

Justin Olear
President

Builders and Remodelers Association of Delaware