

GOVERNMENT OF THE DISTRICT OF COLUMBIA

District Department of the Environment



Office of the Director

MEMORANDUM

TO: District of Columbia Stakeholders

FROM: Keith A. Anderson
Director 

DATE: May 5, 2014

SUBJECT: Process for Publishing Errata for the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control and 2013 Stormwater Management Guidebook

On July 19, 2013, the District Department of the Environment (DDOE) published the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control (2013 SW Rule) as final in the *D.C. Register* and also released the 2013 Stormwater Management Guidebook (2013 SWMG), which provides technical guidance on complying with the 2013 SW Rule.

DDOE conducted extensive stakeholder engagement, including numerous training sessions, during the process to develop and finalize the 2013 SW Rule and 2013 SWMG. DDOE greatly appreciates the comments and input it received throughout this process, which was very helpful to DDOE as it improved and refined these documents. Nonetheless, given the length and complexity of the 2013 SW Rule and 2013 SWMG, it is to be expected that some points of confusion and inadvertent errors will remain.

As implementation has begun and DDOE continues to provide training, DDOE and stakeholders have identified various issues in the 2013 SW Rule and the 2013 SWMG that require clarification. To move forward with implementation in a clear and consistent manner, DDOE has made determinations on these issues. DDOE kept the following objectives in mind as it determined the appropriate clarifications and developed a process for documenting and disseminating those clarifications:

- Maintain consistency with the intent DDOE described during the rulemaking process;
- Provide timely clarification to minimize unnecessary delays for regulated projects;
- Achieve consistent implementation by DDOE from project to project;
- Ensure that DDOE's determinations are carefully vetted internally; and
- Maintain transparency about the determinations that DDOE makes.



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Regarding DDOE's process for both the 2013 SW Rule and the 2013 SWMG, DDOE's clarifications will be developed by program staff and management in the Watershed Protection Division and Stormwater Management Division of DDOE's Natural Resources Administration (NRA), and these clarifications will be vetted through DDOE's Office of General Counsel (OGC). Clarifications related to the 2013 SWMG will be contained in a memorandum from the NRA deputy director, after being vetted by OGC staff. However, recognizing the legal significance of the 2013 SW Rule issued under the authority of the DDOE director, clarifications related to the 2013 SW Rule will be contained in a memorandum from the DDOE director, after being vetted by the DDOE general counsel. If additional clarifications are necessary, DDOE will update these memoranda through the same process described above.

DDOE will also periodically incorporate its clarifications and any other necessary edits into the body of the 2013 SWMG. At those times, DDOE will notify stakeholders and provide an opportunity for public comments before finalizing the revised version of the SWMG. DDOE plans the first such update to the 2013 SWMG in the fall of 2014. Similarly, DDOE will periodically consider whether it is necessary or beneficial to make formal revisions to the 2013 SW Rule, and any such revisions would go through the formal rulemaking process.

DDOE will post the clarifying memoranda at ddoe.dc.gov/swregs and distribute them through the stakeholder email list for the 2013 Rule and 2013 SWMG. To be added to this list, please contact Arquena Dailey at arquena.dailey2@dc.gov or call (202) 741-2136.