



SPONSOR: Sen. Hocker

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 2

TO

SENATE BILL NO. 253

1 AMEND Senate Bill 253 by deleting lines 25 thru 29, inclusive, thereof, and by inserting in lieu thereof the
2 following:

3 ~~(b) Unless a waiver is granted the construction of agricultural structures such as broiler houses, machine sheds,~~
4 ~~repair shops, and other major buildings shall require approval of a sediment and stormwater management plan, by the~~
5 ~~appropriate plan approval agency, prior to initiation of construction. The Department shall adopt standard plans for the~~
6 ~~construction of agriculture structures and it shall not be necessary for any person seeking approval to submit a sediment~~
7 ~~and stormwater management plan.~~

8 FURTHER AMEND Senate Bill 253 by deleting line 31 thereof and by inserting in lieu thereof the following:

9 ~~(d) Subject to sediment and erosion controls, land disturbing activities of 1 acre or less, excluding non-residential~~
10 ~~properties, are not subject to the provisions of this chapter.~~

11 ~~(e) Land disturbing activities not subject to the land management practices set forth in subsection (a) of this~~
12 ~~section which are conducted on 10 acres or less of agricultural lands for agricultural purposes shall be subject to standard~~
13 ~~plans adopted by the Department, and it shall not be necessary for any person seeking approval to submit a detailed~~
14 ~~sediment and stormwater management plan.~~

15 ~~(f) Subject to water quality management and sediment and erosion controls, non-erosive conveyances of~~
16 ~~stormwater discharges from land disturbing activities which drain into tidal areas and tidal waters are not subject to the~~
17 ~~quantity management provisions of this chapter.~~

18 FURTHER AMEND Senate Bill 253 by deleting lines 35 thru 38, inclusive, thereof, and by inserting in lieu
19 thereof the following:

20 (c) The Department shall develop such regulations in conjunction with and with substantial concurrence of a
21 regulatory advisory committee, appointed by the Secretary, which shall include representatives of the regulated community

22 and others affected by this chapter. The Secretary shall appoint only one (1) representative of the Department to the
23 regulatory advisory committee and no legal representatives of any of those serving on the committee shall be entitled to be
24 a member of the committee. The recommendations of this committee shall be presented at all public workshops and
25 hearings related to the adoption of the regulations implementing this chapter. Prior to final promulgation of regulations
26 under this chapter, the Secretary shall explain, in writing, any differences between the advisory committee
27 recommendations and the final regulations. The regulations may include, but are not limited to, the following items:

- 28 (1) Criteria for the delegation of program elements;
- 29 (2) Types of activities consistent with the provisions of this Chapter that require a sediment and
30 stormwater management permit;
- 31 (3) Waivers, exemptions and variances;
- 32 (4) Sediment and stormwater plan approval fees and performance bonds;
- 33 (5) Criteria for distribution of funds collected by sediment and stormwater plan approval fees;
- 34 (6) Criteria for implementation of a stormwater runoff utility;
- 35 (7) Specific design criteria and minimum standards, and specifications, provided that any design criteria,
36 standards and specifications adopted shall be technologically feasible and uniformly capable of being
37 satisfied;
- 38 (8) Permit application and approval requirements;
- 39 (9) Criteria for approval of designated watersheds;
- 40 (10) Criteria regarding attendance and completion of departmental sponsored or approved training
41 courses in sediment and stormwater control that will be required of certified construction reviewers and
42 responsible personnel;
- 43 (11) Construction review; and
- 44 (12) Maintenance requirements for sediment control during construction and stormwater management
45 structures after construction is completed.

46 (d)(1) The Department may adopt, amend, modify or repeal rules and regulations after public hearing to effectuate
47 the policy and purposes of this chapter. The conduct of all hearings conducted pursuant to this chapter and the
48 promulgation process shall be in accordance with the relevant provisions of Chapter 60 of this title, and all other
49 provisions of Delaware law. Notwithstanding the foregoing or any other provision of Delaware law, the
50 Department and any other approval authority shall, for purposes of approval, after the effective date of this
51 Act, review required applications for land disturbing activities using the guidelines set forth herein until such time

52 that the Department adopts new regulations which become final pursuant to the requirements of this chapter. The
53 guidelines to be used are as follows:

54 a. The Resource Protections Event Volume (RPv) is equal to a runoff volume generated by a 2.7" storm
55 event. Treatment of a one inch runoff from a RPv event with best management practices (BMPs) as set forth in
56 the April 2016 Post Construction Stormwater Management BMP Standards and Specifications or functional
57 equivalents is required. If additional measures are necessary to manage the remainder of runoff from the RPv to
58 achieve the pre-development runoff rate from the RPv, then additional BMPs shall be utilized to achieve the pre-
59 development runoff rate and shall be considered sufficient for purposes of obtaining plan approval.

60 b. Runoff rates for the 10 year and 100 years storm events shall be managed in accordance with the
61 referenced BMPs, exclusive of volume requirements.

62 (2) In lieu of satisfying the guidelines in paragraphs (d)(1)a. and (d)(1)b. of this section, nothing shall
63 preclude an applicant from utilizing in whole or in part the 2016 emergency regulations and guidelines prior to
64 the adoption of the referenced new regulations.

65 (3) The guidelines cited in (d)(1)a. and (d)(1)b. of this section shall be included in the new regulations
66 which are to be adopted.

67 FURTHER AMEND Senate Bill 253 by adding thereto the following:

68 “Section 4. Amend §4006(b), Title 7, Delaware Code by making deletions as shown by strike through and
69 insertions as shown by underline as follows:

70 § 4006 State management program.

71 (b) In carrying out this chapter, the Department shall have the authority to:

72 (3) Review the implementation of all components of the statewide sediment and stormwater program that have
73 been delegated to either the conservation districts, counties, municipalities or other state agencies in reviews to be
74 accomplished at least once every ~~3-years~~ 5 years;

75 (10) Establish a maximum life of ~~3-years~~ 5 years for the validation of approved plans. The regulations shall
76 specify variances which expand this time limitation in specific situation; and”

SYNOPSIS

This Amendment provides additional time for proper and thoughtful corrections to technologically proposed regulations with thorough input from the Regulatory Advisory Committee and industry experts, allows for technologically feasible BMPs to be developed, requires a fair application of the regulations across the State without failure to comply and provides a path for cost effective measures to protect the environment and improves Delaware's waters and the Chesapeake Bay.

AUTHOR: Senator Hocker