



Greg Africa, Director

Memorandum

To: MBIA, Review Agencies and the General Public

From: Greg Africa, Director, Inspections and Permits

A handwritten signature in blue ink that reads "Greg Africa".

Subject: Site Inspections - Offsite Erosion and Sediment Deposition

Date: February 26, 2021

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**Background**

Article 16-5-101(11) of the County Code states that it is “a violation of this article to create a source of offsite erosion or sediment deposition.” Additionally, §16-3-102 clearly places the burden for repairs and restoration upon the entity who caused the damage: “Erosion, sediment deposition, disturbance of vegetative cover, or other damages that occur as a result of development or a violation of this title shall be repaired and restored to meet the requirements of this title.”

**Purpose**

The Department endeavors to protect adjacent property owners, streams and the Chesapeake Bay from sediment emanating from construction sites, and desires for developers and contractors to succeed in complying with State and County erosion and sediment control laws and regulations.

In order to adequately protect water resources and private and public lands from the adverse impacts of sediment and erosion emanating from construction sites and remove the burden placed upon residents and county tax payers to mitigate for erosion, sediment deposition, disturbance of vegetative cover, or other damages that occur as a result of development, the Department will continue to review and inspect site outfall(s) and downstream conditions.

The purpose of this memo is to provide notice that, in order to ensure that construction sites<sup>1</sup> are not causing offsite erosion or sediment deposition, County inspectors shall:

- a. Ensure the contractor is notified at the pre-construction meeting that it is a violation of the County Code for a site to cause a source of offsite erosion or sediment deposition, and that the site outfall(s) shall be monitored before and after every rainfall event;

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<sup>1</sup> For currently active sites, the grading supervisor will work with the contractor and the inspector to ensure that these are implemented.

- b. Ensure that the contractor reviews approved plans for each site outfall (s) location and the identified Point of Investigation(s). The contractor shall mark<sup>2</sup> each site outfall(s), sediment trapping device (e.g., trap, basin) outfall and any conveyance channel<sup>3</sup> between them
- c. Ensure in the event of wet weather, the contractor inspects and reviews all of the erosion and sediment control measures to make sure that they are operating and in good working condition, all disturbed areas are stabilized and all site outfalls, trapping device outfalls and conveyance channels are monitored;
- d. Ensure that the contractor maintains a log including pictures of the site outfall, trapping device outfall and conveyance channel conditions and markers before and after a rain event that produces runoff and will provide this information upon request by the inspector;
- e. Ensure that the contractor is responsible for maintaining and establishing vegetation, which is the most important factor in combating erosion. The goal is to expose as small an area as possible for the shortest length of time. By minimizing the time and extent of soil exposure, the erosion potential is reduced;
- f. Prior to Phase 1 approval, the inspector will require a plan of all marker locations clearly identified;
- g. At each following inspection after a rain event that produces runoff, the inspector will request the inspection log, including pictures of all the identified marker locations before and after the rain event;
- h. If sediment is noted leaving the site, an immediate notice of violation with a stop work order and correction notice shall be issued, including assessing civil penalties to the maximum extent permitted by the County Code; and
- i. If the inspector finds that the site has caused erosion, sediment deposition or other damages he or she will require the contractor to walk downstream to the point at which the erosion or sediment deposition ends and provide photo evidence to compare to previous conditions.
  - o If the erosion or sedimentation continues onto adjacent properties, the inspector shall request permission to access the property by the property owner in order to fully document the changed conditions.
  - o Depending upon the nature of the violation and the inspector's review of the documented pre and post-runoff conditions, the Department may conduct follow-up condition assessments to verify any damages.

### **Enforcement Actions**

The Department intends to strictly enforce any violations of § 16-5-101(11) of the County Code which prohibits creating a source of offsite erosion or sediment deposition. All enforcement decisions shall consider the gravity of the violation, any willfulness or negligence involved in the violation, and the environmental impact of the violation.

### **Damages**

The Department of Inspections and Permits shall issue a notice of violation under §16-5-102(d) and notify the permittee of the repair work that must be completed to cure the violation as required under §16-3-102. If the repair work is not completed within the requisite time period determined by the Department, the permittee shall be subject to legal action allowed to be taken by the County Code to obtain fines and to compel compliance with the County Code, and be responsible for all costs incurred by the County to complete the work as required under §16-5-104(d).

### **Timing**

This memo is effective March 15, 2021.

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<sup>2</sup> Use attached Sediment Control Monitoring Device Detail as a marker at each outfall. Each marker shall be uniquely labeled in the field to identify marker number and corresponding outfall number (e.g. M1/SO1, M2/SO1, M1/SO2, M2/SO2, etc.)

<sup>3</sup> As each site, outfall and trap locations are different- the number, location and frequency of the marker shall be per inspector's direction.