



Public Comment of
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Proposed Rulemaking on Stormwater Management and
Soil Erosion and Sediment Control
"Second Proposed Rule"

Casey Trees is a nonprofit organization with a mission "to restore, enhance and protect the tree canopy of D.C." Our mission is in keeping with the spirit of the District's new stormwater regulations intended to "provide greater protection for the Anacostia and Potomac Rivers, Rock Creek and their tributaries," given that trees, particularly urban trees adjacent to nonporous surfaces or used in bioretention, help to retain and treat stormwater runoff.

However, Casey Trees is concerned that elements of the proposed rulemaking will be ineffective and that certain components (including the proposed transition period), are in violation of the Environmental Protection Agency's MS4 permit.

The offsite retention component of the proposed rulemaking designed to provide "...flexibility and cost-savings.." and allow for "...the installation of more BMP's in more parts of the District than would otherwise be achieved under a strict on-site retention approach" has many flaws. Offsite retention may make it less expensive to install BMPs in the urban core and downtown areas of the city. However, the areas of the city with the highest density are the areas most in need of greater tree canopy and other green infrastructure. In addition, allowing offsite mitigation will also make it more difficult to enforce the maintenance and upkeep of these new BMP installations. While DDOE is increasing its internal capacity by hiring some staff, offsite mitigation for projects also increases the number of projects that will need to be inspected. It is uncertain that the future economic conditions will allow DDOE to keep up inspections overtime.

Casey Trees is also concerned that the Stormwater Retention Credit (SRC) trading program will not provide additional incentive for creating BMPs citywide in a way that would increase stormwater retention overtime. Instead, the program undermines the EPA's 1.2 inch onsite retention requirement. This program, for which DDOE has "not conducted a comprehensive analysis of supply, demand, and

pricing.” will further encourage the separation of a given development from the stormwater that development is generating.

Lastly, the proposed rulemaking fails to protect existing tree canopy. While the “Second Propose Rule” mentions the Mayor’s Sustainable DC plan, it makes no reference to the 40% tree canopy goal codified as one of the principles of the Sustainable DC program. Trees are an integral part of both a sustainable urban landscape and the Districts’ desire to better manage stormwater. However, it is possible for a development to meet the DDOE stormwater requirements while removing the entire tree canopy from an undeveloped site. As the regulations are currently written, there is no protection of either individual trees or tree groves. The proposed stormwater rule should include a both the District’s 40% tree canopy goal and language to protect existing trees while encouraging the use of trees as a BMP.