

Legislative Update to the Sedimentation Control Commission

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Update on Sediment Fee Increase Proposal:

- Background:
 - SCC with assistance from DEMLR staff have analyzed staffing needs in order to properly implement the Sediment Program
 - In order to improve inspection frequency and onsite technical assistance, it has been determined that 16 additional positions are needed across our seven regional offices
 - In order to maintain funding for our existing 18 receipt supported positions and add these additional 16 receipt supported positions along with required operating costs, a sediment fee increase of \$105 – increasing the existing fee from \$65/disturbed acre (in place since 2007) to \$170/disturbed acre – is necessary
 - DEMLR has been pursuing this sediment fee increase since 2010 through the budget process (Divisions propose budget expansion requests to DEQ management, DEQ management provides its budget priorities to the Governor's Office, and then the Governor's Office sets its budget priorities in the Governor's proposed budget to the legislature)
 - A phased in, 3-year sediment fee increase was included in the Governor's 2015 budget but did not make it into the legislature's final budget
 - The phased in, 3-year sediment fee increase proposal increases the fee from \$65/disturbed acre to \$90/disturbed acre (+\$25) initially, then to \$130/disturbed acre (+\$40) in year two, and then to \$170/disturbed acre (+\$40) in year three and beyond
 - DEMLR has continued to submit this phased fee increase proposal, along with supporting documentation and the SCC's 2014 resolution in support of the fee increase
- Latest Developments:
 - Phased in sediment fee increase proposal was DEMLR's second priority (behind Emergency Action Plan review engineers for the Dam Safety Program) for the 2017 legislative session
 - DEQ Budget and the Office of State Budget and Management (OSBM) have made numerous inquiries as part of its evaluation of this proposal for possible inclusion in the Governor's budget:
 - Four-year history of sediment receipt funded FTEs to clarify the decline in receipt funded positions based on current fee (FY08/09 = 39.75 FTEs down to FY15/16 = 16.72 FTEs, for a total loss of 23.03 FTEs in receipts alone)
 - History of sediment fee increases: 1973-1989: 0; 1990-2000: \$40; 2001-2006: \$50; and 2007-2017: \$65
 - Data on workload: with approximately 17 receipted FTEs and 13 appropriated FTEs (30 FTEs statewide), 2,441 sediment plans were reviewed, 12,120 inspections were conducted on approx. 12,000 open projects, and 778 complaints were investigated; inspection frequency is approx. 12-14 months/project vs. once per month for delegated local programs; Since 2007, inflation has increased by 18% nearly negating the last fee increase (\$65/disturbed acre established in 2007 is worth about \$53 in today's

economy); development is beginning to pick up, so DEMLR needs the fee increase now to ramp up staff to handle the workload

- What is Commission's goal: Per past studies and the SCC's 2014 resolution, the SCC's goal is that the sediment program inspect projects at least monthly until they are stabilized; to reach this goal, significant staff resources would be needed that would require a fee in the amount of \$660/disturbed acre; as this was not considered practical in today's political climate, DEMLR and SCC determined that a quarterly inspection frequency should be the minimum goal – thus, 16 additional FTEs with a revised fee of \$170/disturbed acre; as this fee increase was not receiving favorable support, DEQ and SCC agreed to pursue a phased in fee increase approach to garner support from the small to mid-sized homebuilders who have voiced concerns with any fee increase (note that Mecklenburg County charges \$450/disturbed acre and Raleigh charges \$370/disturbed acre, as examples)
- OSBM recently asked DEMLR to project what the sediment fee increase would be if some of the 16 FTEs were provided as appropriated positions (for a mixture of receipt supported and appropriation supported positions); DEMLR analysis indicates that for every appropriated position that is granted, the sediment fee increase will be reduced by \$6.50: with one appropriated and 15 receipted, the fee would be \$163.50/disturbed acre, while 8 appropriated and 8 receipted would require \$118/disturbed acre
- DEQ Budget and OSBM has indicated their support for a sediment fee increase and are trying to determine the best way to move forward to “market” the fee increase and gain legislative support for inclusion of a sediment fee increase and positions in the 2017 budget

Legislative Update/Bills Affecting the Sediment Program:

- None at this time
- House Bill 56 – Amend Environmental Laws was filed February 7, 2017 with its only component being clarification of DEMLR's Emergency Action Plan requirements under the Dam Safety Program (this bill be likely be amended in the near future to add other changes to environmental statutes and will be monitored closely by DEMLR and DEQ staff)