



December 16, 2020

To Whom It May Concern,

Delaware Nature Society (DelNature) appreciates the opportunity to comment on the proposed revisions to the 7 DE Admin. Code 7201 *“Regulations Governing the Control of Water Pollution, Part 2 – Special Conditions for Storm Water Discharges Associated with Construction Activities.”*

Stormwater runoff is the most significant vector of pollutants into Delaware’s waterways and it is imperative that stormwater regulations are comprehensive, thorough, and enforced in order to protect our rivers and their tributaries. Already, 90% of Delaware’s waterways are considered impaired and sustained poor water quality can have significant negative impacts on our native wildlife, property values, and economy.

The proposed revisions will transition the current process from a ‘permit by regulation’ into a stand-alone general permit, limiting opportunities for public comment and review for construction activities included within the code. DelNature has the following comments and recommendations:

- DelNature asks that following activities be required to have individual permits because of their associated pollution risks. Reviewing the permits for these activities on an individual basis allows for more opportunities to prevent stormwater runoff and potential water pollution.
  - Asphalt Paving and Roofing Materials and Lubricant Manufacturers (SIC Codes 29151, 2952)
  - Cement Manufacturing (SIC codes: 3271-3275)
  - Crushed and Broken Stone, including Rip Rap, Sand and Gravel (SIC Codes 1411, 1422-1429, 1442, 1446)
  - Nonmetallic Mineral Services (SIC Codes 1481, 1499)
- The revisions extend the length of stormwater permits on industrial sites from 3 years to 5 years. The increase in permit length should require additional enforcement to prevent additional pollution from heavy use industries. Additional enforcement will also help prevent increasing any undue burden on fence-line communities. Industry, and specifically heavy industry, is known to be disproportionately located in low-income and/or minority communities.
- We recommend strengthening the definition of Certified Construction Reviewers (CCR) in Section 9.1 to prevent conflicts of interest. There is currently no provision preventing the CCR from being an employee of the company applying for the permit. We recommend adding a provision to ensure that CCRs are independently contracted.
- We advise against removing requirement 9.2.4.2.2.2, “inspections of erosion and sediment controls and storm water management practices the next business day after a rainfall event that results in runoff.” Failure in erosion control structures caused by significant rain events can lead to large amounts of sediment runoff and should be addressed as soon as possible to mitigate the potential impairments.
- Finally, DelNature asks that any changes made to the regulations are supported with stringent enforcement procedures such as spot-checks and regular evaluation.

Thank you for the opportunity to comment.

Emily Knearl, Director of Advocacy and External Affairs, Delaware Nature Society

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