



December 16, 2020

Lisa A. Vest, Hearing Officer
Office of the Secretary
Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901

Submitted via Public Hearing Comment Form.

RE: Comments on the proposed revisions to *Regulations Governing the Control of Water Pollution, Part 2 – Special Conditions for Storm Water Discharges Associated with Construction Activities* (Docket #2020-R-W-0012)

Ms. Vest,

River Network appreciates the opportunity to review and comment on the State of Delaware’s revisions to the *Regulations Governing the Control of Water Pollution*. We also appreciated the public hearing presentations that explained the changes; this was very helpful. Stormwater runoff is the most significant vector for water quality impairments in Delaware. It impacts aquatic life, property values and the economic health of our communities and activities, such as construction, need to be more carefully managed to ensure our water systems are not further degraded. Please see below for my comments.

General comments:

The extensive edits and the way in which the edits were presented made it a little difficult to piece together the proposed changes. Particularly, understanding how or if the changes or deletions in Section 9.2 were covered under 9.1 or elsewhere in the document. For example, several sections in 9.2 are proposed to be deleted (9.2.1.1 Eligibility, 9.2.1.2 Limits on Eligibility, etc.) and it is not clear if these clauses are represented elsewhere and include construction activities. Secondly, the term “construction activities” was included in both Section 9.1 and Section 9.2 and there were many references to the other in both sections. For example, Section 9.1.2.1.3 *Monitoring* states that construction activities shall follow monitoring requirements in accordance with Section 9.2, yet that section has been edited to remove all specific monitoring information (Section 9.2.4.2). Additionally, Section 9.1.1.3.1.1 (construction activities) was mentioned as a reference five (5) times yet that section does not exist in the document. We recommend adding clarifying language so there is no confusion on what applies to Sections 9.1 and 9.2. We also recommend making sure all clauses are accurate (including Section 9.1.1.3.1.1 mentioned above).



Section 9.2 Definitions

The term “project completion” is removed from this list of definitions but it is not defined elsewhere in the document. “Project completion” is used as a term in this section, but the definition is not clear. We suggest keeping the definition in this section and updating it to more appropriately encompass the revised regulation.

Section 9.2.4.2

It seems that all of the requirements in this section are proposed to be removed, leaving only “All persons subject to this Part must comply with the monitoring requirements of the CGP”. We did not find any other explanation of what the monitoring requirements of the CGP would entail. As read, the proposed revisions will remove both the weekly maintenance inspections and the inspection following a rainfall event. These inspections are critical to compliance and to ensuring that polluted stormwater is not entering the drainage or river system.

The Environmental Protection Agency’s [2017 Construction General Permit](#), Part 4.2 provides two options for inspection: 1. Once every seven calendar days or 2. Once every 14 days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge. It also includes requirements for increased inspection frequency for sites discharging to sensitive waters (Part 4.3). We strongly suggest that Delaware adopt these requirements and include the additional frequency for those sites discharging to sensitive waters. Each site should be evaluated prior to construction to determine which method of monitoring will be most suitable depending on site location and conditions.

Section 9.2.5.4.1.4

Regarding the suggested removal of the sentence “The notification from the Department or the appropriate plan approval agency shall list and describe the deficiencies of the Plan”. Will support of any kind be given to the applicant to improve their plan to meet your requirements? We suggest leaving this sentence in the regulations as it will create efficiencies in the process and ensure that the permittee is clear on exactly what they need to do to adequately address the requirements.

Thank you for the opportunity to comment.

Sincerely,

Colleen Walters
Delaware River Basin Program Manager
cwalters@rivernetwork.org