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From: [REDACTED]
Sent: Thursday, September 17, 2026 7:37 PM
To: DNREC_Wetlands_RAC
Cc: [REDACTED]
Subject: Wetlands Stewardship Act Regulations - Milford and Mispillion Watershed Comments

Members of the Wetlands Regulatory Advisory Committee:

I am submitting these comments as a Milford area resident who is particularly concerned with wetlands, forested habitat, water quality, flooding, wildlife habitat, and the cumulative effects of continued development in the Mispillion River watershed.

I appreciate that the Wetlands Stewardship Act establishes the overall statutory framework, while leaving many important technical decisions to the RAC and DNREC, including wetland function scoring, Exceptional Value Wetlands, mitigation, cumulative impacts, professional certification, the Delaware Wetland Screening Tool, and additional protections for particularly valuable wetlands.

Milford and the Mispillion watershed would be an important area to consider while developing these regulations. DNREC's own Mispillion River Watershed Wetland Condition Report documented extensive forested headwater wetlands, riverine wetlands that provide flood storage and wildlife corridors, rare wetland communities, development pressure around Milford and Route 1, and loss of natural nontidal wetlands that was accompanied by creation of lower functioning stormwater ponds.

I respectfully ask the RAC and DNREC to address the following questions as the initial regulations are developed:

1. **Forested headwater wetlands and high-function scoring - §§ 6603(e), 6607(b).**
How will the high, moderate and low wetland-function scoring system account for the flood storage, groundwater, nutrient-processing, habitat and hydrologic functions of forested headwater wetlands, particularly wetlands that may be geographically isolated from continuously flowing surface waters?
2. **Delmarva Bays and Atlantic white cedar wetlands - §§ 6603(g), 6607(d)(4).**
Will these wetland types presumptively qualify as Exceptional Value Wetlands, or otherwise receive heightened consideration in the Exceptional Value Wetland screening criteria? How will DNREC's previous recommendations for biologically significant buffers and stronger mitigation for unavoidable impacts be considered in the new regulations?
3. **Wetland buffers and surrounding land disturbance - §§ 6604, 6607(b)-(d).**
Wetland function can be degraded without directly filling the delineated wetland itself. How will functional assessments account for roads, clearing, grading, development and other disturbance immediately outside the wetland boundary? Will the regulations establish criteria for determining when an undisturbed vegetated buffer is necessary to maintain wetland function?
4. **Cumulative development impacts - § 6607(d)(6).**
Will cumulative impacts be evaluated at the watershed or subwatershed level rather than

considering each development project in isolation? Will DNREC track historic wetland losses, permitted impacts, mitigation and functional losses within the Mispillion watershed so decision-makers and the public can see the cumulative effect of continuing development?

5. Natural wetlands versus stormwater ponds - §§ 6602, 6607(d)(7).

DNREC's Mispillion study documented natural nontidal wetlands being lost while lower-functioning stormwater retention ponds were created. How will mitigation rules prevent acreage calculations from treating a constructed stormwater pond as functionally equivalent to an established natural wetland?

6. Seasonal wetlands and timing of field investigations - §§ 6603®, 6607(b).

Some depression wetlands, including Delmarva Bays and Coastal Plain seasonal ponds, may contain little or no visible surface water during portions of the year. What procedures will ensure these wetlands are not missed because a field visit occurs during a dry season? Will applicants be required to consider hydric soils, vegetation, historic aerial photography, LiDAR/topography and prior hydrology when seasonal conditions make a single site inspection inconclusive?

7. Threatened and endangered flora and fauna - §§ 6603(g), 6607(b).

What habitat criteria will be used to determine whether a wetland supports qualifying threatened or endangered flora or fauna? When will a Presence/Probable Absence Study be required, who will be qualified to perform it, and how will seasonal detectability be addressed?

8. Wetland migration and coastal resilience - §§ 6602, 6607(d)(7).

Will the regulations or Wetland Screening Tool identify areas necessary for future wetland migration? When upland development immediately adjacent to a tidal wetland would eliminate its ability to migrate landward, will that loss of future wetland function be considered during permit review?

9. Source water, groundwater recharge and drinking-water protection - §§ 6603(g), 6604.

How will the Screening Tool and functional scoring incorporate Source Water Protection Areas, wellhead protection areas, groundwater recharge and the relationship between wetlands and public drinking-water resources? Where several of those resources overlap, will that increase a wetland's functional rating or Exceptional Value status?

10. The 0.50-acre exemption and professional certification - § 6606(b)(3).

Because qualifying certifications may remove a small nontidal wetland from further Chapter 66 regulation, what qualifications, documentation, quality-control procedures and DNREC auditing will apply to certified professionals? Will DNREC independently review a meaningful sample of these certifications? Will the supporting reports, maps, photographs and scoring sheets be publicly available?

11. Application completeness, permit timelines and public transparency - §§ 6607(g)-(i).

What information will constitute a complete application for projects affecting wetlands? Will delineations, functional assessments, Exceptional Value screening, species information and required mitigation information have to be complete before the review clock begins? For the public permit tracking system, I encourage DNREC to display project location, wetland acreage and type, permit category, completeness date, proposed impact, mitigation, Exceptional Value determination and final disposition.

12. Testing the regulations against real Delaware watersheds before adoption - §§ 6607 and 6621.

Would the RAC consider applying its proposed wetland-function scoring criteria and Exceptional Value screening methodology to an already well-studied watershed such as the Mispillion before finalizing the regulations? DNREC already has extensive assessment information for this watershed. A public demonstration showing how known headwater flats, riverine wetlands, Delmarva Bays, Atlantic white cedar wetlands and other wetland types would score could help

determine whether the proposed methodology produces results consistent with existing Delaware wetland science.

DNREC has already invested substantial resources assessing the Mispillion watershed and identifying the stressors affecting its wetlands. I hope that information will be actively incorporated into development of the Wetlands Stewardship Act regulations rather than treated simply as historical research.

I would also appreciate these comments being included in the RAC's public record and circulated to committee members as they consider the relevant sections of the initial regulations.

Thank you for your consideration.

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