

DNREC Sediment & Stormwater Listserve Update: April 2024

This month's topics:

1. Personnel Changes
2. eNOI Account Clarification for Owners
3. Construction Site Reviews - CCR Performance Standards and Supervising PE Responsibilities



1. Personnel Changes

New EPS Tech IV

The Sediment and Stormwater Program would like to welcome Bill Lesmerises as the new EPS Tech IV. Bill joins us with the experience of working in the wastewater industry and owning a small family business. Welcome, Bill!

2. eNOI Account Clarification for Owners

Delaware's National Pollution Discharge Elimination System (NPDES) Construction General Permit (CGP) was developed in compliance with the provisions of the Clean Water Act, 33. USC §1251 et. seq., (CWA), and 40 CFR §122.26, 7 DE Admin. Code 7201 Section 9.2 *Regulations Governing the Control of Water Pollution, Part 2 – Special Conditions for Stormwater Discharges from Construction Activities*, 7 Del.C. Ch.60 *Environmental Control*, 7 Del.C. Ch.40 *Erosion and Sedimentation Control*, and 7 DE Admin. Code 5101 *Sediment and Stormwater Regulations*.

Part 2.12 of the CGP outlines the requirements for any person signing an electronic Notice of Intent (NOI) or Notice of Termination (NOT). In addition to these requirements, signatures must meet the signature, authentication, and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports. This includes that the "identity of the individual... his or her relation to any entity for which he or she will sign electronic documents has been determined with legal certainty by the issuing state, tribe, or local government."

In its current operational capacity, the online process for creating user accounts with signing authority only allows for one entity (e.g. agency, company, corporation, LLC.) to be associated with the account. Recently, the Sediment and Stormwater Program has been informed by the EPA Region III that with this system, owners responsible for signing for multiple entities must create individual accounts for each entity to comply with 40 CFR § 3.2000(b). To support the regulated community and provide a more streamlined process for managing electronic NOI user accounts, the Sediment and Stormwater Program is working with the system designers to reconfigure the system or develop a new system that will negate the need for multiple user signing accounts. The timeline to remedy this issue is unknown, but notice will be provided in this listserv when achieved. Until that time, users needing to sign Notices of Intent or Termination for multiple entities will need to create individual accounts for each entity.

3. Construction Site Review Responsibilities – Reminders

With the 2024 CCR training finishing up, it is important to remember the responsibilities to which Certified Construction Reviewers (CCRs) and supervising Delaware-licensed P.E.s must oblige. Pursuant to the statutes, the regulations, and the processes presented during the training, the CCR and their supervising P.E. must adhere to the following in relation to review of construction sites for Sediment and Stormwater Management Plan implementation:

CCR Responsibilities:

1. A CCR shall obtain certification, valid for five years, that may be extended at five-year intervals through recertification.
2. A CCR shall function under the supervision and direction of a registered professional engineer (P.E.) licensed to practice engineering in the State of Delaware.
3. The CCR shall attend site and BMP pre-construction meetings.
4. The CCR shall review and report on the adequacy of construction activity in accordance with the approved Sediment and Stormwater Management Plan, these regulations, and training received in the CCR training course.
5. The CCR shall conduct the review and complete a construction site stormwater management (CSSWM) report at least weekly, unless:
 - a. The Department or Delegated agency has issued a written modification of reporting frequency,
 - b. The Department or Delegated agency has issued a written release of responsibility, or
 - c. A greater frequency is needed to accurately complete a stormwater BMP checklist.
6. The CCR shall review and complete a CSSWM report in a format that is acceptable by the Department or Delegated Agency that accurately reflects site conditions at the time of the review. (Training)
7. The CCR shall prescribe corrective actions to address inconsistencies or inadequacies of the approved plan to be conducted within a specified period of time.
8. The CCR shall sign and submit the CSSWM report to the supervising Delaware-licensed P.E. for verification and signature.
9. The CCR shall submit the verified CSSWM report of site conditions, including any inconsistencies with or inadequacies of the approved plan, to the Department or Delegated Agency, the Owner, and the contractor, within five (5) calendar days of the construction review.
10. The CCR shall notify the Delegated Agency or Department if the Owner fails to address the items contained in the written CSSWM. Verbal notice shall be made to the Department within two calendar days and written notice shall be provided to the Department within five calendar days.
11. The CCR shall accurately complete the stormwater BMP construction checklist.
12. Prior to halting reporting activities, the CCR must contact the Department or Delegated Agency.

Supervising Delaware-licensed Professional Engineer Responsibilities:

1. The P.E. shall be responsible for overseeing and verifying the accuracy of the CCR review.
2. The P.E. shall be responsible for maintaining an ongoing knowledge of the site conditions through periodic site visits or discussions with the CCR.
3. The P.E. shall sign the CCR reports. The P.E. shall only sign CCR reports that were prepared under their direct supervision for sites where the P.E. has knowledge of the site conditions.

Construction site reviews are to occur at least weekly and signed reports must be submitted to the appropriate plan review agency within five (5) days of the review.

Note: Any person can obtain CCR certification by attending and successfully completing a department-sponsored or approved Certified Construction Reviewer course.