

## 2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Adequate conveyance”** means any system having sufficient capacity to transport the runoff generated during the Resource Protection Event, Conveyance Event, and Flooding Event; functions and discharges in a non-erosive manner; and does not adversely impact any offsite properties, conveyance system, stormwater facility, or State Waters.

**“Adverse impact”** means a negative impact resulting from a construction or development activity. The negative impact may include, but is not limited to, increased risk of flooding; degradation of water quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic habitat; or threatened public health and safety.

**“Agricultural land management practices”** means those methods and procedures generally accepted by the Conservation Districts and used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

**“Agricultural structure”** means a structure on a farm used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Structures used for human habitation, public use, or a place of employment where agricultural products are processed, treated, or packaged are not considered agriculture structures for the purposes of these regulations.

**“Applicant”** means a person who has requested approval of a Sediment and Stormwater Management Plan through submittal of an application in accordance with these regulations or who has requested permission to conduct any activity subject to these regulations.

**“Best Available Technology (BAT)”** means a level of technology based on the very best (state of the art) sediment and stormwater control and treatment measures that have been developed or are capable of being developed and that are economically achievable.

**“Best Management Practices (BMPs)”** means schedules of activities, prohibition of practices, maintenance procedures, and other management practices or measures to prevent or reduce the discharge of pollutants. BMPs include the following, among other practices and measures: structural and non-structural controls; treatment requirements; operating procedures and practices to control site runoff.

**“Biosolids”** means solid or semi-solid material obtained from treated wastewater or animal manure.

**“Brownfield”** means any vacant, abandoned or underutilized real property the development or redevelopment of which may be hindered by the reasonably held belief that the real property may be environmentally contaminated.

**“Certified Construction Reviewer” or “CCR”** means those individuals, having passed a Departmental sponsored or approved training course and holding current certification, which provide on-site construction review for sediment control and stormwater management in accordance with these regulations.

**“Conservation plan”** means a customized document that outlines the use and best management practices of the natural resources on a parcel of land.

**“Conveyance Event”** means the runoff event produced by a storm having an annual probability of occurrence of 10%.

**“Conveyance Event Volume (Cv)”** means the volume of runoff generated by the Conveyance Event that is not otherwise reduced for the Resource Protection Event.

**“Dedication”** means transferring ownership of a stormwater management system to a delegated agency, public utility, municipality, stormwater utility, or private entity, along with all associated easements, escrow funds, and maintenance responsibilities.

**“Delegated Agency”** means the Conservation District, county, municipality, or State agency that has accepted responsibility in a jurisdiction for implementation of one or more elements of the Sediment and Stormwater Program within that jurisdiction.

**“Delegation”** means the acceptance of responsibility by a Conservation District, county, municipality, or State agency for the implementation of the Sediment and Stormwater Program.

**“Department”** means the Department of Natural Resources and Environmental Control.

**“Designated Watershed or Subwatershed”** means a watershed or subwatershed proposed by a conservation district, county, municipality, or State agency and approved by the Department. The Department may establish additional requirements due to existing water quantity or water quality problems. These requirements shall be implemented on an overall watershed or subwatershed master plan developed for water quality or water quantity protection.

**“Detailed plan”** means a plan developed by a Licensed Professional in the State of Delaware which does not meet standard plan criteria.

**“Drainage area”** means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

**“Easement”** means a grant or reservation by the Owner of land for the use of land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by the easement.

**“Effective imperviousness”**, for the purposes of these Regulations, means the equivalent percentage of a site's impervious area that directly contributes stormwater runoff during the Resource Protection Event after all runoff reduction practices have been implemented.

**“Erosion and sediment control”** means the control of solid material, both mineral and organic, during a land disturbing activity, to prevent its transport out of the disturbed area by means of wind, water, gravity, or ice.

**“Final stabilization”** means that:

- (1) All soil disturbing activities at the site have been completed and either of the two following criteria are met:
  - (a) A uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
  - (b) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (2) When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 70% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 70% of 50% ( $0.70 \times 0.50 = 0.35$ ) would require 35% total coverage for final stabilization. On a beach with no natural vegetation, no stabilization is required.
- (3) For individual lots in residential construction, final stabilization means that either:
  - (a) The homebuilder has completed final stabilization as specified above, or
  - (b) The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.
- (4) For construction projects on land used for agriculture purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.) final stabilization may be accomplished by returning the disturbed land to its preconstruction agriculture use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a “water of the United States” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) above.

**“Financial guarantee”** means a bond, security, letter of credit, etc. provided by the Owner to serve

as a payment source should the Owner fail to meet the obligations and requirements of the approved Sediment and Stormwater Management Plan.

**“Flooding Event”** means the runoff event produced by a storm having an annual probability of occurrence of 1.0%.

**“Flooding Event Volume (Fv)”** means the volume of runoff generated by the Flooding Event that is not otherwise reduced for the Resource Protection Event and the Conveyance Event.

**“Forest”** means a biological community dominated by trees and other woody plants covering a land area of one contiguous acre or greater, and that have at least 100 trees per acre with at least 50% of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger. Forest does not include orchards or other stands of trees having a curve number equivalent to “woods-grass combination”. To determine whether a site meets the definition of a forest at the baseline condition of 2012, the Department or its authorized Delegated Agency may use data from various sources, including but not limited to 2012 Land Use/Land Cover data, historic and recent aerial photography, field collected data, etc.

**“Functional Equivalency”** means alternative measures that are consistent with the policies, procedures, technical specifications, and advisory provisions found in the Technical Document, and which satisfy these Regulations.

**“Impervious surface”** means a surface which either prevents or retards the entry of water into the soil.

**“Infiltration”** means the passage or movement of water into the soil profile.

**“Inspection port”** means an appurtenance installed within a stormwater management system to allow for observation of conditions, including water level, located below the surface.

**“Land disturbing activity”** means a land change or construction activity for residential, commercial, industrial, and institutional land development which may result in soil erosion from water or wind, or the movement of sediments or pollutants into state waters or onto lands in the State; or which may result in accelerated stormwater runoff, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

**“Licensed Professional in the State of Delaware”** means a design professional licensed under 24 Del.C.

Ch. 2, 24 Del.C. Ch. 27, or 24 Del.C. Ch. 28.

**“Maintenance”** means the work of keeping stormwater management systems including access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation and other protective devices) in a safe and functioning condition as the system was designed. Routine or minor maintenance includes grass mowing and trimming, debris removal, minor sediment removal, filling eroded areas and animal burrows, and removal of trees and shrubs on embankments. Non-routine or major maintenance includes structural repair, major sediment removal and major erosion repair, and invasive aquatic vegetation removal.

**“Maximum Extent Practicable”** means, for the purpose of these Regulations, using stormwater management measures, techniques and methods that are available and capable of being implemented while taking into consideration cost, available technology, and project site constraints.

**“Notice of Completion”** means a document issued by the Department or Delegated Agency at the end of project construction when all items and conditions of the approved Sediment and Stormwater Management Plan have been satisfied, post construction verification documents demonstrate that the stormwater management systems have been constructed in accordance with the approved Sediment and Stormwater Management Plan, and final stabilization of disturbed areas on the site has been achieved.

**“Offset”** means an alternate to strict adherence to the regulations including, but not limited to trading, banking, fee-in-lieu, or other similar program that serves as compensation when the requirements of these regulations cannot be reasonably met on an individual project basis.

**“Operation and Maintenance Plan”** means the plan which identifies required maintenance for stormwater management systems.

**“Owner”** means a person who has a legal interest in lands of this State, or who has an equitable

interest in lands of this State, except when a person holds an interest in those lands as a security interest, unless through foreclosure or other action the holder has taken possession of those lands, and who undertakes, or for whose benefit, activities subject to these regulations are commenced or carried out on those lands, or the person responsible for maintenance of stormwater management systems constructed to comply with these regulations on those lands.

**“Performance-based approach”** means a stormwater quantity management technique that utilizes an analytical process to determine compliance.

**“Person”** means a State or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or other political subdivision of this State, an interstate body or any other legal entity.

**“Permanent stabilization”** means the establishment of perennial vegetation by application of soil amendments, seed, and mulch in accordance with methods accepted by the Department on disturbed areas that have reached final grade in order to stabilize the soil, prevent erosion, and reduce sediment and runoff to downstream or offsite areas.

**“Post construction verification documents”** means a set of surveyed plans reflecting the as-built condition of stormwater management measures and may also include supporting computations and specifications as required by the Department or the Delegated Agency.

**“Pretreatment”** means a mechanism at or before an inlet to a stormwater management practice that reduces gross pollutants and sediment from compromising the performance and to maximize the maintenance interval of the practice.

**“Redevelopment”**, including brownfield development, means a construction, alteration or improvement, including but not limited to the demolition or building of structures, filling, grading, paving, or excavating, where existing land use is residential, commercial, industrial, or institutional. Ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements are typically not considered redevelopment activities for the purposes of these regulations

**“Resource Protection Event”** means the runoff event produced by a storm having an annual probability of occurrence of 99%.

**“Resource Protection Event Volume (RPv)”** means the annualized volume of runoff generated by the Resource Protection Event.

**“Responsible personnel”** means a foreman or superintendent who is in charge of on-site clearing and land disturbing activities for sediment and stormwater control associated with a construction project.

**“Runoff reduction practices”** means stormwater best management practices that reduce total runoff volume from a developed site through canopy interception, surface recharge, evaporation, rainfall harvesting, engineered infiltration, or evapotranspiration and may include practices that delay the delivery of stormwater to a surface discharge.

**“Sediment”** means soils or other surficial materials transported or deposited by the action of wind, water, ice or gravity as a product of erosion.

**“Sediment and Stormwater Management Plan”** means a plan for the control of soil erosion, sedimentation, stormwater quantity, and water quality impacts resulting from a land disturbing activity, through both the construction and post construction phases of development.

**“Standard plan”** means a set of pre-defined standards or specifications for minor land disturbing activities that may preclude the need for the preparation of a detailed plan under specific conditions.

**“Standards-based approach”** means a stormwater quantity management technique that utilizes a pre-determined discharge rate to determine compliance.

**“State waters”** means any and all waters, public or private, on the surface of the earth which are contained within, flow through or border upon the State or any portion thereof.

**“Stone”** means a hard non-metallic mineral building material, and for the purposes of this regulation shall be interchangeable with “gravel” and “aggregate”.

**“Stormwater”** means the runoff of water from the surface of the land resulting from precipitation, or

snow or ice melt.

**“Stormwater management”** means:

- (a) For water quantity control, a system of vegetative, structural, and other measures that controls the volume and rate of stormwater runoff which may be caused by land disturbing activities upon the land; and
- (b) For water quality control, a system of vegetative, structural, and other measures that controls adverse effects on water quality that may be caused by land disturbing activities upon the land.

**“Stormwater Management Offset”** means an alternative method of compliance to the regulations including, but not limited to, trading, banking, fee-in-lieu, or other similar program.

**“Stormwater Management Offset District”** means an organization established to administer stormwater management offsets established under Department authorization.

**“Stormwater management system”** means vegetative, structural, and other facilities or measures, singularly or in combination as defined in Section 11, that provide stormwater management.

**“Stormwater utility”** means an administrative organization that has been established for the purposes of funding sediment control, stormwater management or flood control planning, design, construction, maintenance, and overall resource needs by authorized and imposed charges.

**“Temporary stabilization”** means planting quick-growing vegetation and applying anchored straw mulch or other means to stabilize the soil and prevent erosion of a disturbed area until permanent vegetation or other stabilization measures can be established.

**“Third Party CCR”** means for the purposes of these regulations, any individual CCR that is not an employee of the owner or a contractor of the construction activity, excluding the site designer.

**“Tidal waters”** means any water that alternately rises and falls in a predictable and measurable rhythm or cycle due to the gravitational attraction of the moon and sun and is under the regulatory authority of 7 **Del.C.** Ch. 72.

**“Transfer”** means to convey responsibility for maintenance of a stormwater management system to a new Owner.

**“Variance”** means a permitted deviation from an established rule or regulation, or plan, or standard or procedure.

**“Water quality”** means those characteristics of stormwater runoff from a land disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

**“Water quantity”** means those characteristics of stormwater runoff that relate to the rate, volume and duration of flow to downstream areas resulting from land disturbing activities.

**“Watershed”** means the drainage area contributing stormwater runoff to a single point.

**“Watershed plan”** means a comprehensive study of the activities and sources that contribute to water quality or water quantity problems and identifies the location of those problem areas within a specific watershed boundary. It also serves as a framework for how, where and what stormwater management tools will be applied to address those water quality or water quantity problems.