

***Update on Revisions to the
Delaware Sediment & Stormwater Regulations:
Update on Proposed Changes***

***Regulatory Advisory Committee Meeting
February 25, 2010***

What have we been
doing for the past year?

Collated & Organized Comments on 1st Draft

February 2009 Working Draft Comments				
Comment Date	Subsection	Comment	Commenter	Subcommittee Assignment
3/3/2009	General Comment	The three-step process outlined in this Section is overly burdensome and unnecessary for small projects and for redevelopment projects.	Ernie Sheppe, MRA	Urban Considerations / Policies & Procedures
3/3/2009	General Comment	I invite those who work on these matters on a daily basis to expand on this, as you are far more familiar with the process than I am, but as a general comment, the overall process outlined in this Section appears to be a "do loop" that will have the developer and his consultant going in circles.	Ernie Sheppe, MRA	Policies & Procedures
3/11/2009	General Comment	The stormwater impact study and associated findings report are positive additions to the pre-application meeting process. These elements will help better inform the PLUS process.	Jen Mihills, DNW	Technical
3/13/2009	General Comment	Most of Section 3 should be deleted. Bureaucratic delays and indecision already in the system are making it impossible for new businesses to respond to changing economic conditions in a timely fashion. For example, just yesterday (March 10), the Secretary of Transportation agreed that DelDOT must shorten their response times dramatically for this reason.	Rich Collins, PGA	Economic Impacts
3/13/2009	General Comment	Section 3 puts the county's lawful land use powers in a secondary position. That is not constitutionally acceptable! Land use powers are delegated to the counties and municipalities. Stormwater is a permitting process, not an approval process.	Rich Collins, PGA	Planning & Land Use
3/13/2009	General Comment	The current pre-application meetings don't work. Agencies routinely change their requirements after they've signed off on a concept. Business plans and financial arrangements have been totally disrupted because government employees can't get their act together. This was a huge complaint at the DelDOT meeting. We can't add another layer in another department that actually has veto power before the local government gets to see a project.	Rich Collins, PGA	Policies & Procedures
3/13/2009	General Comment	Why are all of the procedural steps being added to the regulations instead of outlined in a separate policy document? If it is found that the procedure needs to be changed or modified in the future, does this now mean another regulation change to change procedural steps? As Section 3.0 is written it will add and complicate the review process without adding benefit except in the limited cases.	Jared Adkins, KCD	Policies & Procedures
3/11/2009	3.1	Will the pre-application meeting be required for all projects? Many of the City's projects are redevelopment and infill and this process seems to be an extra step that could add extra time to a project. Public Works questions why can't the preliminary plans be submitted at the time of the pre-application meeting?	City of Newark Public Works	Urban Considerations / Policies & Procedures
3/13/2009	3.1	A Pre-App meeting, Conceptual Plan & Impact Study, are a waste of time and resources if the zoning is not yet approved, A Pre-App meeting, Conceptual Plan & Impact Study is a waste of time and resources if the site plan being presented is not acceptable to the County.	Sally Ford, Land Design	Planning & Land Use

Subcommittee Meetings Held to Discuss Issues & Concerns

Regulatory Advisory Committee (RAC) Subcommittees

The Regulatory Advisory Committee (RAC) has chosen six subcommittees that meet separately within the RAC during the regulation revision process. These subcommittees originated to better identify needs for the revisions to Delaware's Sediment and Stormwater Regulations.

Technical Subcommittee
Chair: Bruce Jones, ACEC
Staff: Randy Greer, Randel.greer@state.de.us
Upcoming meetings: Oct. 7, 2009 (9 a.m. - Noon) [Oct 7 Agenda](#)
DelDOT Administrative Building Fenwick Room
[Technical subcommittee draft regulation comments](#)
Meetings to date:
August 5, 2009 [Agenda](#) [Meeting Notes](#)
July 1, 2009 [Agenda](#) [Meeting Notes](#)
June 3, 2009 [Agenda](#) [Meeting Notes](#)
May 6, 2009 [Agenda](#) [No Meeting Notes](#)
April 8, 2009 [Agenda](#) [Meeting Notes](#)
Dec. 1, 2008
June 5, 2008
April 7, 2008
March 17, 2008
March 3, 2008
Feb. 4, 2008

Policies and Procedures Subcommittee
Chair: Jeff Bross, Clean Water Advisory Council
Staff: Elaine Webb, Elaine.Webb@state.de.us
Upcoming meeting: To Be Determined
[Policies and procedures draft regulation comments](#)
Meetings to date:
April 6, 2009 [Agenda](#) [Meeting Notes](#)
March 20, 2008
March 7, 2008
Feb. 5, 2008

Urban Considerations Subcommittee
Chair: Doug Seavey, Home Builders Association of Delaware
Staff: Frank Piorko, Frank.Piorko@state.de.us
Upcoming meeting: To Be Determined
[Urban considerations draft regulation comments](#)
Meetings to date:
April 20, 2009 [Agenda](#) [Meeting Notes](#)
March 4, 2008
Feb. 20, 2008
Feb. 6, 2008

Economic Impacts Subcommittee
Chair: To Be Determined
Staff: Frank Piorko, Frank.Piorko@state.de.us
Upcoming meeting: To Be Determined
[Economic impacts draft regulation comments](#)
Meetings to date:
April 6, 2009 [Agenda](#) [Meeting Notes](#)

Maintenance Subcommittee
Chair: Jenn Volk, DNREC Division of Water Resources
Staff: Beth Krumine, Beth.Krumine@state.de.us
Upcoming meeting: To Be Determined
[Maintenance subcommittee draft regulation comments](#)
Meetings to date:
April 8, 2009 [Agenda](#) [Meeting Notes](#)
March 20, 2008
March 6, 2008
Feb. 4, 2008

Planning and Land Use Subcommittee
Chair: Lee Ann Walling, DNREC Secretary's Office
Staff: Elaine Webb, Elaine.Webb@state.de.us
Upcoming meeting: To Be Determined
[Planning and land use draft regulation comments](#)
Meetings to date:
April 3, 2009 [Agenda](#) [Meeting Notes](#)
March 17, 2008
Feb. 25, 2008
Feb. 5, 2008

Began Work on Technical Documents

Expanded Technical Document Outline – July 2009

Article 1. Sediment and Stormwater Program Background

Section 1.01 [Executive Summary](#)

Section 1.02 [Federal Clean Water Act Requirements](#)

Section 1.03 [State Requirements](#)

Applicability – cover exemptions (Section 1.4 of revised regs)

Article 2. Policies and Procedures

Section 2.01 **Delegated Agencies**

- A. Delegation Background and Process
- B. Required documentation
(See Section 5.4 of current regs)
- C. Public Notice Requirements

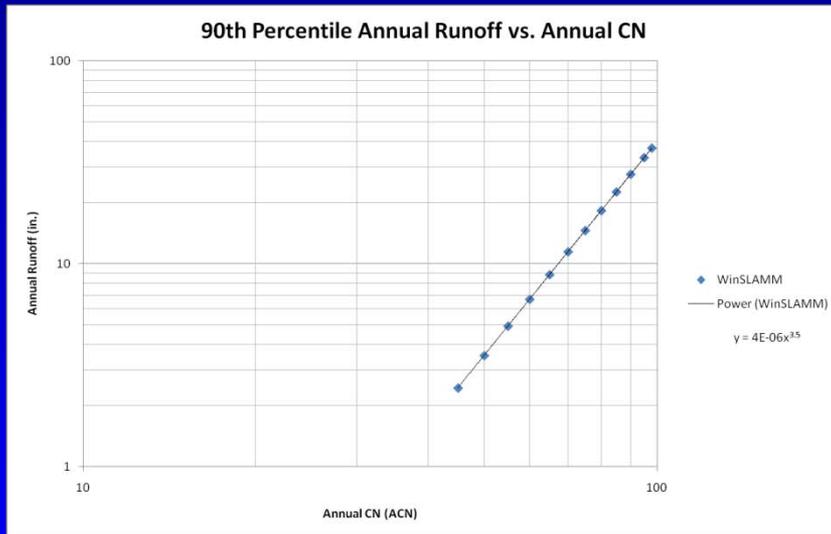
Section 2.02 **Plan Policies and Procedures**

- A. Plans valid for 3 years (current 8.7, proposed 3.5)
- B. Grandfathering / sunseting plans

Section 2.03 **Fees**

- A. Public review process for fee adjustments
- B. Fees-in-lieu
 - i. Process
 - a. Delegated agency develops a policy
 - b. DNREC concurrence
 - c. Public review
 - ii. Circumstances for when fee-in-lieu is applicable
 - a. Water quality, Resource Protection
 - b. Water quantity, Conveyance & Flooding
 - c. All?
- C. Financial Guarantees and Bonds
 - i. Process
 - a. Delegated agency develops a policy

Developing Compliance Tools for Designers



PROJECT:		DURMM v2					
DRAINAGE SUBAREA ID:		BMP 1		BMP 2		BMP 3	
		Type: Downspout Disconnection	Type: Bioswale	Type: Bioretention			
Step 1 - Calculate Initial Rpv		Data	Data	Data			
1.1	Contributing area (ac)						
1.2	RCN from TR-55						
1.3	Runoff volume (in.)						
1.4	Max. allowable discharge (cfs)						
Step 2 - Adjust for Storage							
2.1	Storage volume (cu. ft.)						
2.2	Storage volume (in.)						
2.3	Runoff volume after reduction (in.)						
2.3	CN*						
Step 3 - Adjust for Runoff Reduction							
3.1	Annual CN (ACN)						
3.2	Annual runoff (in.)						
3.3	Runoff reduction allowance (%)						
3.4	Annual runoff after reduction (in.)						
3.5	Adjusted ACN						
Step 4 - Calculate Total BMP Reduction							
4.1	Total runoff reduction (in.)						
4.2	Total runoff reduction (%)						
4.3	Adjusted RCN						

Follow-Up Meetings & Discussions with Consultant

The screenshot shows the Center for Watershed Protection website in a Windows Internet Explorer browser window. The address bar displays <http://www.cwp.org/>. The page layout includes a top navigation bar with links for [Log In](#), [About Us](#), [Donate](#), and [Contact](#). A Google Custom Search bar is positioned below the navigation. The main content area is divided into several sections:

- Left Sidebar:** A green sidebar with a white background containing the Center for Watershed Protection logo and a vertical menu with links for [Resources](#), [Our Work](#), [News](#), [Publications](#), and [Calendar](#).
- Main Content Area:** A large photograph showing two individuals in waders standing in a stream, with a third person partially visible in the background. A yellow caution tape is stretched across the water.
- Latest News:** A section titled "Latest News" with a green background. It lists several upcoming events and reports, including:
 - UPCOMING EVENT:** *From the Rooftop to the Bay: Implementing Stormwater Management Strategies in the Chesapeake Bay Watershed*, March 9-11, 2010 (Registration Deadline is February 5, 2010) at Stonewall Jackson Hotel in Staunton, VA.
 - The Center's **2008 Annual Report** released - 10/29/09
 - Guánica Bay Watershed Management Plan* posted - 10/29/09
 - Stormwater BMPs in Virginia's James River Basin: An Assessment of Field Conditions & Programs* technical report released - 6/29/09
 - Coastal Stormwater Supplement to the Georgia Stormwater Management Manual* released - 5/04/09
- Events:** A section titled "Events" with a green background. It features the same event as in the "Latest News" section: *From the Rooftop to the Bay: Implementing Stormwater Management Strategies in the Chesapeake Bay Watershed*, March 9-11 at Stonewall Jackson Hotel in Staunton, VA. A link [view all events »](#) is provided.
- Sign Up:** A section titled "Sign Up" with a green background. It encourages users to "Join our online community!" and receive a quarterly e-newsletter, *Runoff Rundown*. It includes a text input field for an email address and a "Go" button.

The browser's taskbar at the bottom shows several open applications: **start**, **Inbox - Microsoft Out...**, **Presentations**, **Microsoft PowerPoint ...**, and **Center for Watershe...**. The system tray on the right indicates the time as 1:47 PM and the date as 5/04/09.

Met with DeIDOT to Improve Coordination Between Agencies

F.Y.I.

You have some land and an idea for developing it. Now, where to begin at DeIDOT?

The Plan Review Process – Who and What

Subdivision Plan Review

Essential Information for DeIDOT Customers



Reviewed & Commented on Several EPA Stormwater Initiatives

Proposed National Rulemaking to Strengthen the Stormwater Program | NPDES | US EPA - Windows Internet Explorer

U.S. ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge Elimination System (NPDES)

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NPDES Topics Alphabetical Index Glossary About NPDES

Proposed National Rulemaking to Strengthen the Stormwater Program

EPA is announcing plans to initiate national rulemaking to establish a program to reduce stormwater discharges from new development and redevelopment and make other regulatory improvements to strengthen its stormwater program. This website provides information on two activities related to this proposed rulemaking:

- [Stakeholder Input on Proposed Rulemaking](#)
- [Information Collection Request \(ICR\) for Proposed Rulemaking](#)

Stakeholder Input on Proposed Rulemaking

EPA has issued a [Federal Register Notice \(PDF\)](#) (6 pp, 76K) seeking stakeholder input to help EPA shape a program to reduce stormwater impacts. Input will be provided through both written comments and during a series of public listening sessions. As described in the FR Notice, EPA seeks input on the following preliminary regulatory considerations:

- Expand the area subject to federal stormwater regulations
- Establish specific requirements to control stormwater discharges from new development and redevelopment
- Develop a single set of consistent stormwater requirements for all MS4s
- Require MS4s to address stormwater discharges in areas of existing development through retrofitting the sewer system or drainage area with improved stormwater control measures
- Explore specific stormwater provisions to protect sensitive areas

Written comments must be submitted on or before February 26, 2010 to the address specified in the Federal Register notice.

New! [Boston, MA Listening Session](#) - March 11, 2010, 10:00 am to 3:00 pm at EPA Region 1 Office

A new stormwater listening session has been scheduled for March 2010. EPA invites members of the public to give brief (3 minute) statements regarding stormwater rulemaking considerations including the five areas of preliminary consideration. Written comments may also be submitted in person at the listening session.

In order to provide adequate seating for those wishing to attend EPA's public listening sessions, interested individuals must register to attend by March 8, 2010. For individuals who cannot attend the listening session, EPA will make a conference call line available. The conference line will be "listen only," and sound quality cannot be guaranteed. Please contact [Amber Marriot](#) (amber.marriot@tetratech.com) for the conference call information.

Please Note: EPA will **not** be accepting comments (oral or written) on the Draft General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems in Massachusetts North Coastal Watersheds. EPA-Region 1 will hold a separate public hearing for the permit on March 18, 2010. For further information, please contact [Theima Murphy](#) (murphy.theima@epa.gov).

New! [EPA has made available a copy of EPA's presentation from the listening sessions \(PDF\)](#) (30 pp, 2.7MB).

In January 2010, EPA held five public listening sessions to allow the public to provide input on regulatory actions that EPA is considering. Brief oral comments (three minutes or less) were accepted at the sessions.

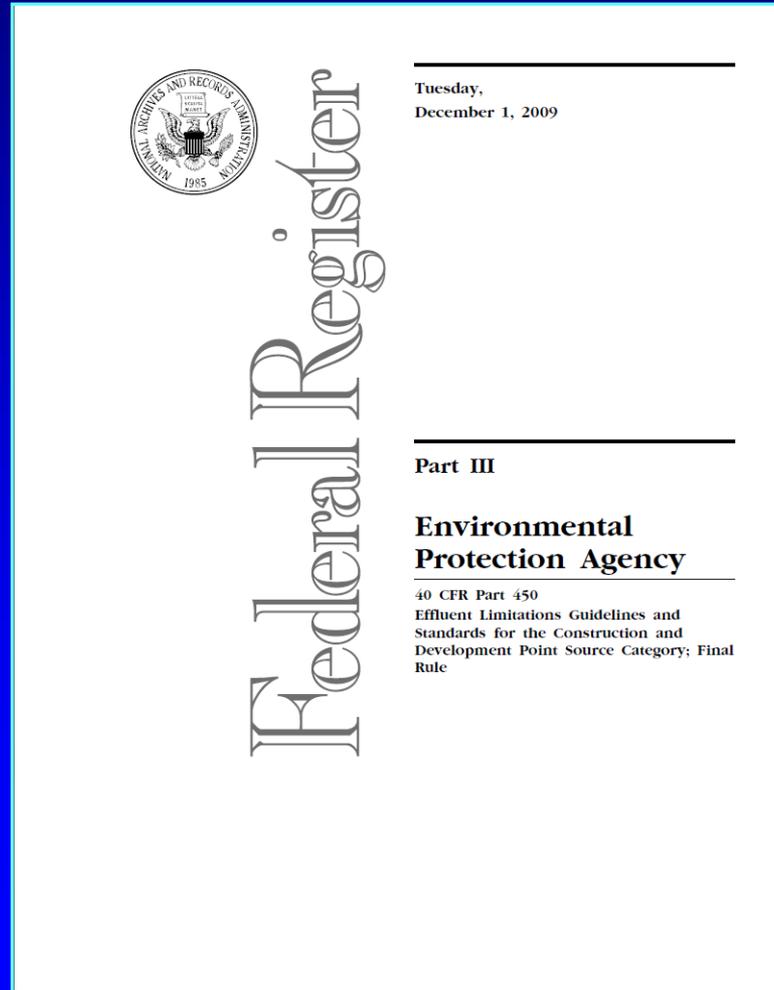
EPA held a "virtual" listening session as a Webcast on February 3, 2010 from 12:00 pm to 4:00 pm Eastern time. After a presentation from EPA, the Webcast allowed members of the public to call in and give brief (3 minute) statements. Audience members were able to listen to the webcast and all public statements were...

Executive Order 13508
**Draft Strategy for
Protecting and Restoring
the Chesapeake Bay**
November 9, 2009

Developed by the Federal Leadership Committee for the Chesapeake Bay

EPA, NOAA, USACE, USFWS, USDA, and the State of Maryland logos.

Reviewed New ELGs for Construction & Development Industry



Monitoring Proposed Stormwater Regulations from Surrounding States

Table 1
Comparison of Current Stormwater Requirements in the Bay States

STATE	Water Quality	Channel Protection?	Redevelopment
DC	Prevent/Reduce runoff volume from 75% One-inch event + 25% treatment Higher requirements for Anacostia (3 inches)	Not specifically, although Anacostia requirements should provide CPv	Nearly all development in City is redevelopment: Reduce runoff volume from 75% of the 1 inch rainfall event, and treat the remaining 25%
DE	Runoff reduction for all storm events up to one year design storm event (Resource Protection Event)	Yes , Must provide runoff reduction or detention for runoff volume from the 1 yr event. Considered part of the Resource Protection Event.	Criteria for redevelopment, infill and brownfield compliance being developed in early 2010
EPA	Runoff Volume Reduction From 95 th percentile rainfall event (1.5 to 1.9 inches in watershed)	No , but the 95 th percentile storm should provide some channel protection	Full runoff volume reduction for the 95 th percentile rainfall event (1.5 to 1.9 inches in watershed)
MD	Reduce runoff volume at least up to from 1 inch rainfall event and strive for 1 year event (2.6 inches)	Yes , first reduce, then detain runoff volume up to one-year 24 hour design storm (2.6 inches)	Reduce or treat runoff volume from 0.5 inch rainfall event
NY	Partial runoff reduction for the first inch of rainfall (20 to 50% of WQv depending on soil). Higher runoff reduction required in P-limited watersheds	Yes , runoff reduction and/or detention of one-year 24 hour design storm	New IC: Reduce or Treat Runoff Volume from 1 inch rainfall event Existing IC: Reduce by 25% through IC reduction, BMPs or alternative practices
PA	Runoff reduction up to the 2-year design storm event or Treatment/reduction and infiltration of the first 2 inches of rainfall	Yes , the CG-1 is presumed to provide adequate channel protection	20% WQ treatment for the site (0.2 inches)
VA	Post development TP load no more than 0.45 lbs/ac/yr using runoff reduction practices	Yes , 4 different criteria depending on the nature of the receiving stream channel	Reduce existing phosphorus load by 10 to 20% depending on project location and site area
WV	Provide full runoff reduction for runoff from the first inch of rainfall	No .	Runoff volume reduction for 0.25 to 1.0 inches of rainfall, depending on nature of redevelopment project

Important Caveat: This comparative summary is accurate as of January 31, 2010, but readers should be mindful that specific requirements may be more stringent or complex than shown. Please consult the individual state web links provided at the end of this handout. Also, stormwater requirements may change in the future due to pending legislative actions, legal challenges, federal or state permit requirements or as regulations proceed from draft to final stage. Local governments have the option to adopt more stringent requirements or criteria.

Source: Chesapeake Stormwater Network

Consulted with DOJ Legal Counsel

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State of Delaware
The Official Website of the First State

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Eric Eidel
Message from Attorney General

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Preventing Crime

Protecting Families

Guarding Consumers

Securing Seniors

Media Outreach

The Civil Division

Administrative & Environmental Services Group

The Administrative & Environmental Group provides legal advice and support to 34 regulatory boards and commissions that regulate 42 professions organized under the Delaware Division of Professional Regulation. During the last year, the Administrative Deputies participated in 191 public meetings, more than 90 disciplinary and/or licensure hearings, completed 88 written board orders and drafted numerous regulations for State boards and commissions. The Environmental Deputies provide legal advice to the Department of Natural Resources and Environmental Control on matters including environmental enforcement prosecution, statutory construction, and legislative initiatives, and defend department officials and employees in litigation brought against the State. In 2008, Administrative and Environmental Deputies assisted with reviewing or drafting more than 18 legislative bills, 14 of which were passed by the General Assembly.

Notable cases include:

- On March 31, 2008, the United States Supreme Court rejected New Jersey's legal challenge to Delaware's jurisdiction over the Delaware River within the historic twelve-mile circle from New Castle. The dispute involved Delaware's efforts to preserve its fragile coastal environment and protect Delaware citizens from a potentially dangerous industrial development. The Delaware Department of Justice, along with private counsel, represented the State of Delaware.
- In late 2007, the Department helped negotiate a settlement on behalf of the Delaware Public Service Commission that strengthened oversight of the regional electric grid operator, in order to police abuses in the wholesale electric market that have led to higher retail electricity rates.
- An agreement between the Delaware Department of Natural Resources and Environmental Control (DNREC) and BP/Amoco, under which the company will perform a cleanup of its former polymer plant located in New Castle at an estimated cost of \$15-20 million.
- A settlement with International Petroleum Corporation (IPC) in a claim of natural resource damages resulting from an April, 2006 oil spill from its Wilmington facility into the Christina River. Funds from the settlement will be used by DNREC to restore or replace natural resources in the Christina River watershed and Delaware River and Bay, which were injured by the oil spill. A settlement was also negotiated with the owners of the vessel M/V Bermuda Islander that spilled oil into the Delaware River on April 25, 2006. Funds from the settlement will be used by DNREC and the federal government to restore or replace damaged natural resources in the Delaware River and Bay.
- The Department represented DNREC in the beach replenishment construction project at Bethany Beach and South Bethany Beach. The beach replenishment project enhances the beach experience, safeguards regional tourism, and protects the state's infrastructure. The Department also negotiated and coordinated with the Army Corps of Engineers and obtained the necessary beachfront easements. In return, the federal government funded 65 percent of the project costs (approximately \$17.4 million). As a result, Delaware also secured its priority for federal funding of maintenance sand nourishment projects for the next 50 years.



8

2nd Draft in Progress

Working Second Draft Sediment and Stormwater Regulations: February-April-November 2009

1.3.1.3 7 Del. C. Ch. 60, relating to the development, utilization, and control of the land, water, underwater and air resources of the State, and,

1.3.1.4 Section 9.1.02 of the Regulations Governing the Control of Water Pollution, Section 9.1.02, known as Special Conditions for Stormwater Discharges Associated with Construction Activities;

1.3.2 A proposed land disturbing activity for which a final plat or plan was approved prior to ~~EFFECTIVE DATE~~ proposed major subdivision plans, site plans, concept plans, initial stage calculation sheets, requests for service level evaluation, or requests for zoning meetings which have been received by DelDOT prior to the effective date of these regulations for a development proposal, for the purpose of securing a letter of no objection, support facilities report, entrance location, or entrance approval, shall be governed by the regulations in effect at the time of approval with the following exception: receipt by DelDOT;

1.3.3 Where submission to DelDOT is not required prior to filing an application with the county or local government, projects for which applications have been submitted to the county or local government prior to the effective date of these regulations shall be governed by the regulations in effect at the time of submittal to the county or local government.

1.3.4 Projects which have been approved received Sediment and Stormwater Management Plan approval prior to ~~EFFECTIVE DATE~~ the effective date of these regulations, and where site clearing construction activity has not been initiated on the project within two-three years after the project plan approval date, shall be resubmitted to the Department or delegated agency for review and approval subject to the requirements of these regulations.

1.3.5 A project having an approved Sediment and Stormwater Management Plan where construction has not been completed, shall be subject to the sunset provisions of the county or local government. The Sediment and Stormwater Plan approval shall expire three years after the approval date, or if the approval is extended, the Sediment and Stormwater Plan approval shall expire when the county or local government sunsets that project approval.

1.4 Exemptions
1.4.1 The following activities are exempt from both sediment control and stormwater management requirements established by these regulations:

1.4.1.1 Agricultural land management practices unless the Department or delegated agency determines that the land requires a soil and water conservation plan, and the owner or operator of the land has refused either to apply to a Conservation District for the development of such a plan, or to implement a plan developed by a Conservation District.

Proposed New Text for 3.1 – 3.4 (41/24/12/04/14/09):

3.0 Plan Approval Procedures and Requirements

3.1 All projects requiring approval of a detailed Sediment and Stormwater Management Plan are subject to a three-step approval process. Step 1 of the plan approval process is ~~known as scheduling and conducting the Project project Application application Meeting meeting~~. Step 2 of the plan approval process is ~~known as submission of the Preliminary preliminary~~ Sediment and Stormwater Management Plan. Step 3 of the plan approval process is ~~known as submission of the detailed~~ Sediment and Stormwater Management Plan.

3.1.1 Approval of the Authorization is current step in the process is required prior to proceeding with from the current step to the following subsequent step in the plan approval process.

3.1.2 If significant changes, as determined by the Department or delegated agency, are proposed on the subsequent submittal from the submittal that received authorization to proceed, the owner may be required to repeat the previous step in the plan approval process.

3.2 Project Application Meeting

3.2.1 Unless granted prior approval by the Department or delegated agency, all owners persons subject to these regulations owners are required to hold a Project project Application application Meeting meeting with the Department or delegated agency.

3.2.2 Prior to scheduling the Project project Application application Meeting meeting, the owner applicant owner must submit a Stormwater Assessment Study to the Department or delegated agency.

3.2.3 At the Project project Application application Meeting meeting the Stormwater Assessment Study will be reviewed and discussion of as well as potential approaches for stormwater management and opportunities to reduce runoff rates, volumes, and pollutant loads, will occur.

3.2.4 A Project project Application application Meeting meeting Discussion discussion and Agreement agreement Items items document will be developed during the meeting and signed by all attendees at the conclusion of the meeting.

3.2.5 A Stormwater Assessment Report will be completed by the Department or delegated agency based upon the Stormwater Assessment Study and Project project Application application Meeting meeting discussion. The Stormwater Assessment Report will be submitted to the local land use approval agency.

3.3 Preliminary Sediment and Stormwater Management Plan

3.3.1 The Preliminary preliminary Sediment and Stormwater Management Plan submittal shall include preliminary plans for the site, as well as the schematic erosion and sediment control plan, with supporting hydrologic and hydraulic calculations necessary for the Department or delegated agency to determine compliance with these regulations.

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Comment

Where are we now?

1.0 General Provisions

1.3 Effective Date

- When does clock start ticking?
- Consistent state-wide



1.7 Legal Authority

- Promulgate regulations under both 7 Del. C. Ch. 40 and 7 Del. C. Ch. 60
 - Allow for enforcement under both
 - Use Ch. 60 variance procedure

1.5 Variances

- Revised variance provision
 - Refer to Chapter 60
 - Request to Department Secretary

1.6 Fees and Financial Guarantees

- Financial Guarantee
 - Local agencies can require
- Fee-in-lieu
 - Regs allow for local agencies to develop fee-in-lieu program
 - Public review and comment prior to adoption

2.0 Definitions

- Adverse Impact
- As-Built Plans → Record Construction Document
- Licensed Professional in the State of Delaware
- Variance

3.0 Plan Approval Procedures and Requirements

3.0 Plan Approval Procedures and Requirements

- 3 Step Process as defined in Regulations
 - Step 1: Project Application Meeting
 - Step 2: Preliminary Sediment & Stormwater Plan
 - Step 3: Sediment & Stormwater Plan

3.1 Project Application Meeting

- **Stormwater Assessment Study (SAS)** - Applicant submits site data including soils, hydrology, historic drainage problems, etc.
- Applicant & review agency go through pre-defined checklist to develop the **Stormwater Assessment Report (SAR)**

3.1 Project Application Meeting

DRAFT

Stormwater Assessment Report

Project: _____

Owner/Developer: _____

Consultant: _____

<u>Assessment Item</u>	<u>Anticipated Engineering Effort</u>		
	<i>Minor</i>	<i>Moderate</i>	<i>Significant</i>
1. Soils - On-site soils have low permeability, high water table, or other limitations that could adversely affect adequate stormwater management for the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Runoff Potential - Change in land cover due to removal of trees, increases in impervious cover, etc. could adversely affect adequate stormwater management for the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Water Quality - Pollutant loadings associated with proposed project could adversely affect adequate stormwater management.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Sump Conditions - Existing topography of site creates depressional areas (closed 2' contours) where runoff tends to collect without direct discharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Discharge Points - Areas where stormwater runoff leaves the site have limitations due to low gradient, backwater effects, lack of a defined channel or other hydraulic limitations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Off-Site Drainage - Areas draining into the site could adversely affect adequate stormwater management for the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Conveyance - Downstream conditions such as inadequate pipe or channel capacity could limit adequate drainage from the site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mitigation under consideration for "Significant" ratings:

Over-management

Off-site improvements

Easement(s)

Reporting Agency: _____

Contact Person: _____

Date of Pre-Application Meeting: _____

Variance Request Review

- Section 3.6 deleted
- Chapter 60 procedure used for variance requests

3.7 Standard Plan Criteria

- Standard Plan Categories with template plans
 - Ag Structures
 - Tax Ditch Maintenance
- Addition of SWM requirements

3.8 Plan Certifications

- Former language:
 - “qualified design professional”
- Revised language:
 - “licensed professional in the State of Delaware”

Easements

- Section 3.11 deleted
- No legal authority to prescribe easements
- Recommendations in Technical Document

3.0 Plan Approval Procedures and Requirements

- Issues to be resolved
 - Allowance for minor projects to follow a more streamlined process

4.0 Performance Criteria for Construction Site SWM

4.0 Construction Site SWM

- Federal Rule (Feb. 1, 2010)
 - Effective on or about August 1, 2011, Numerical Effluent Limit of 280 ntu applies to all construction sites with greater than 20 acres disturbed for all storms less than the 2-YR frequency
 - 20 acre disturbance threshold will roll back to 10 acres effective Feb. 1, 2014
- Proposed Regs
 - Disturbance > 10 ac. requires engineered design based on 2-YR bare earth condition

4.4 Limits of Disturbance

- Section 4.4.2 - areas excluded from LOD removed from reg language
 - Addressed in Technical Document

5.0 Performance Criteria for Post-Construction SWM

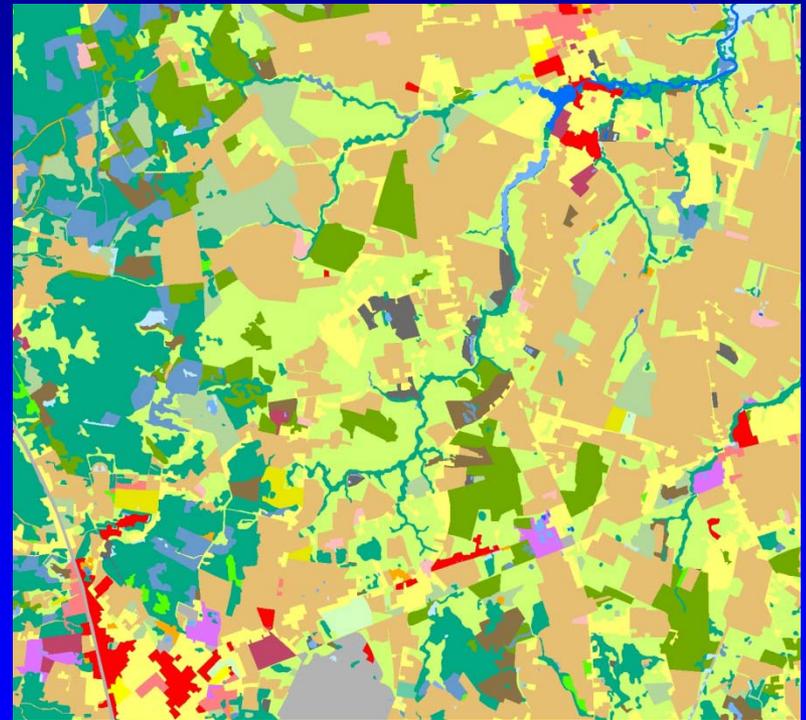
5.2 Resource Protection Event Criteria

- Proposed Regs
 - 1-YR Storm event (~2.7" rainfall)
 - Optimize for runoff reduction based on 90th percentile annual runoff volume
 - Offset requirement for the percentage of runoff volume that is not reduced

5.3 Conveyance Event Criteria

5.4 Flooding Event Criteria

- Option 1
 - Standards-based
 - Unit Discharge
 - Based on 2007 LULC
 - Woodland/Meadow (HSG A)
 - » 10-YR: 0 cfs/ac
 - » 100-YR: 0.25 cfs/ac
 - Woodland/Meadow (HSG B,C,D)
 - » 10-YR: 0.375 cfs/ac
 - » 100-YR: 1.25 cfs/ac
 - Non-Woodland/Non-Meadow
 - » 10-YR: 0.75 cfs/ac
 - » 100-YR: 2.25 cfs/ac



5.3 Conveyance Event Criteria

5.4 Flooding Event Criteria

- Option 2
 - Performance-based
 - Compliance based on “no adverse impact”
 - Analysis based on 3 increasing levels of detail
 - Level 1
 - Hydrologic modeling only
 - Point of Analysis at site only
 - Analyze post-developed condition only
 - Compliance based on site hydrograph peak compared to overall watershed hydrograph peak

5.3 Conveyance Event Criteria

5.4 Flooding Event Criteria

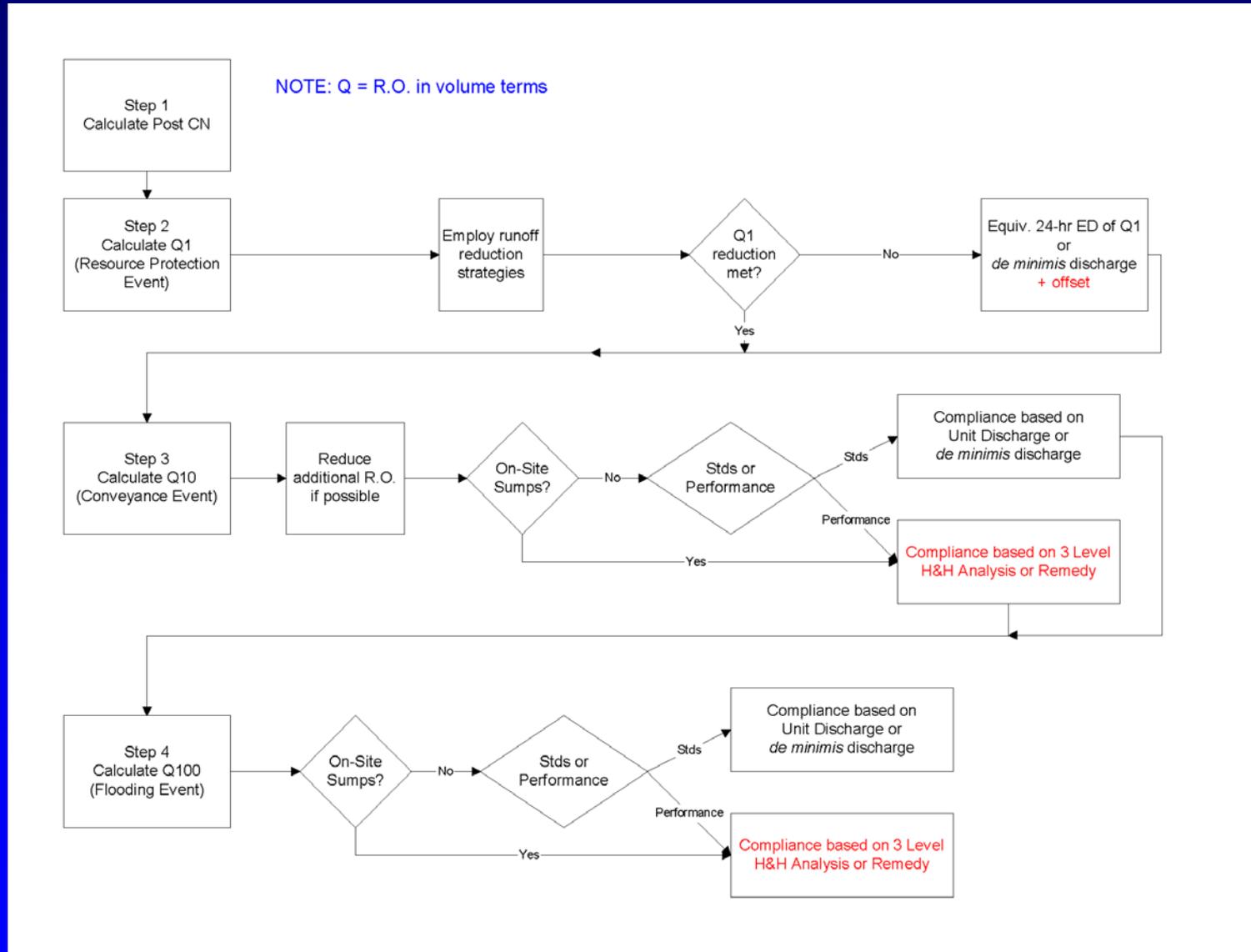
- Option 2 (cont.)
 - Level 2
 - Hydrologic modeling + steady flow hydraulic model
 - Point of Analysis at point downstream where site is less than 10% of total watershed
 - Analyze pre- and post-developed conditions
 - Compliance based on less than 0.05' increase in water surface elevations in channels and/or in headwater at hydraulic structures for all points of analysis; the area of inundation shall not encroach upon buildings or similar structures previously not impacted.
 - Level 3
 - Same as Level 2 except use of unsteady flow hydraulic model

5.3 Conveyance Event Criteria

5.4 Flooding Event Criteria

- Option 2 (cont.)
 - If compliance can't be met as above, remedy must be provided
 - Options include over-management, downstream improvements, easements, etc.

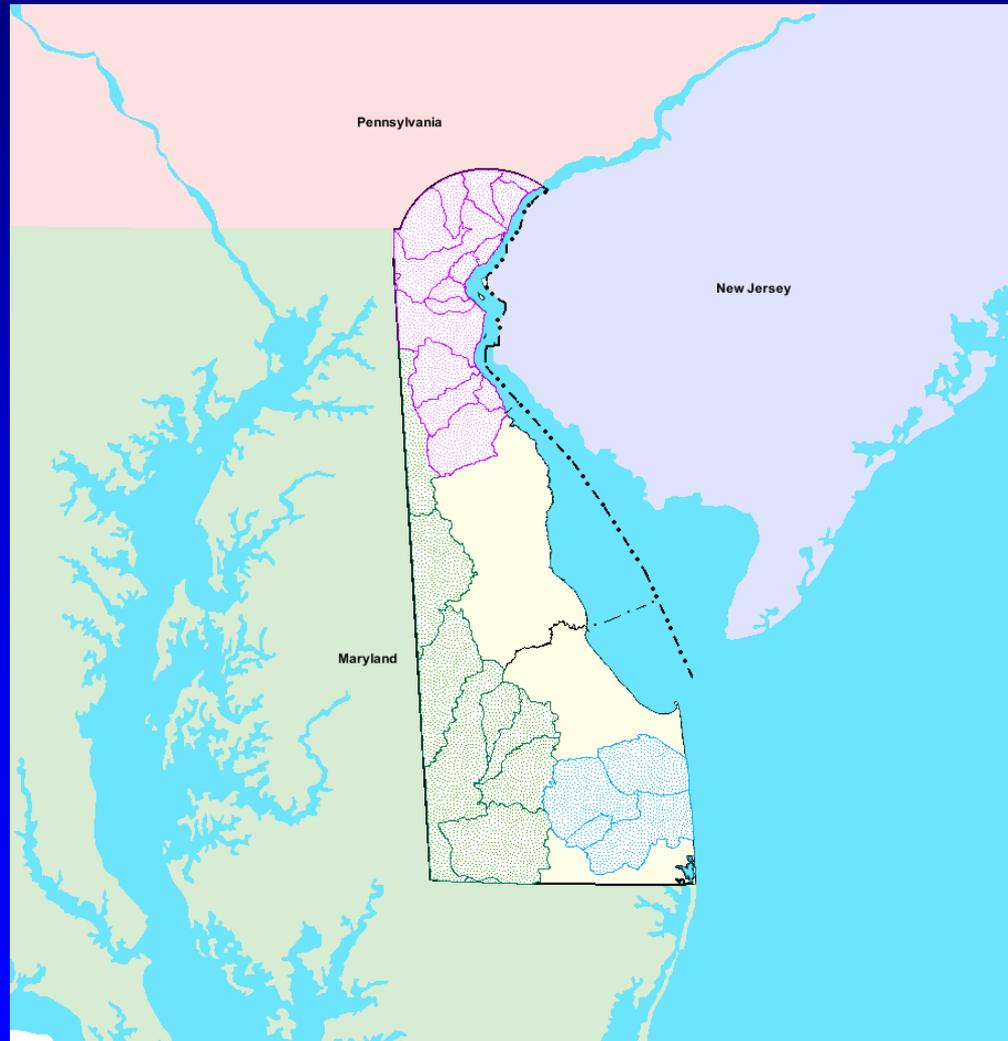
5.0 Performance Criteria for Post-Construction SWM



5.5 Alternative Criteria

- Section 5.5.2
 - The Department or delegated agency, at its discretion, may require alternative stormwater treatment practices or criteria if a receiving waterbody has been identified as impaired, or designated with a specific pollutant reduction target necessary to meet State of Delaware water quality regulations.
 - i.e., **TMDLs**

5.5 Alternative Criteria TMDLs



5.5 Alternative Criteria TMDLs

One Reg to Rule Them All...



5.6 Redevelopment, Brownfield, and Infill Criteria

- Proposed Regs
 - Infill considered more like new development, with the understanding that on-lot SWM may be necessary
 - Redevelopment & Brownfields may have reduced runoff reduction requirements

5.6 Redevelopment, Brownfield, and Infill Criteria

The screenshot shows the EPA website for the National Pollutant Discharge Elimination System (NPDES). The main heading is "Proposed National Rulemaking to Strengthen the Stormwater Program". The page includes a navigation menu on the left with categories like "Basic Information", "Municipal MS4s", and "Construction Activities". The main content area features a search bar, a "Proposed National Rulemaking to Strengthen the Stormwater Program" section with a summary of the EPA's plans, and a "Stakeholder Input on Proposed Rulemaking" section with a list of bullet points and a "Federal Register Notice" link. A sidebar on the right contains "Stormwater Information" and "Sign Up for NPDES NEWS". The bottom of the page shows a taskbar with various open applications and the system clock at 2:10 PM.

U.S. ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge Elimination System (NPDES)

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Proposed National Rulemaking to Strengthen the Stormwater Program

EPA is announcing plans to initiate national rulemaking to establish a program to reduce stormwater discharges from new development and redevelopment and make other regulatory improvements to strengthen its stormwater program. This website provides information on two activities related to this proposed rulemaking:

- [Stakeholder Input on Proposed Rulemaking](#)
- [Information Collection Request \(ICR\) for Proposed Rulemaking](#)

Stakeholder Input on Proposed Rulemaking

EPA has issued a [Federal Register Notice \(PDF\)](#) (6 pp, 78K) seeking stakeholder input to help EPA shape a program to reduce stormwater impacts. Input will be provided through both written comments and during a series of public listening sessions. As described in the FR Notice, EPA seeks input on the following preliminary regulatory considerations:

- Expand the area subject to federal stormwater regulations
- Establish specific requirements to control stormwater discharges from new development and redevelopment
- Develop a single set of consistent stormwater requirements for all MS4s
- Require MS4s to address stormwater discharges in areas of existing development through retrofitting the sewer system or drainage area with improved stormwater control measures
- Explore specific stormwater provisions to protect sensitive areas

Written comments must be submitted on or before February 26, 2010 to the address specified in the Federal Register notice.

News! [Boston, MA Listening Session](#) - March 11, 2010, 10:00 am to 3:00 pm at EPA Region 1 Office

A new stormwater listening session has been scheduled for March 2010. EPA invites members of the public to give brief (3 minute) statements regarding stormwater rulemaking considerations including the five areas of preliminary consideration. Written comments may also be submitted in person at the listening session.

In order to provide adequate seating for those wishing to attend EPA's public listening sessions, interested individuals must register to attend by March 8, 2010. For individuals who cannot attend the listening session, EPA will make a conference call line available. The conference line will be "listen only," and sound quality cannot be guaranteed. Please contact [Amber Marriont](mailto:Amber.Marriont@tetratech.com) (amber.marriont@tetratech.com) for the conference call information.

Please Note: EPA will **not** be accepting comments (oral or written) on the Draft General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems in Massachusetts North Coastal Watersheds. EPA Region 1 will hold a separate public hearing for the permit on March 18, 2010. For further information, please contact [Thelma Murphy](mailto:Thelma.Murphy@epa.gov) (murphy.thelma@epa.gov).

News! [EPA has made available a copy of EPA's presentation from the listening sessions \(PDF\)](#) (30 pp, 2.7MB).

In January 2010, EPA held five public listening sessions to allow the public to provide input on regulatory actions that EPA is considering. Brief oral comments (three minutes or less) were accepted at the sessions.

EPA held a "virtual" listening session as a Webcast on February 3, 2010 from 12:00 pm to 4:00 pm Eastern time. After a presentation from EPA, the Webcast allowed members of the public to call in and give brief (3 minute) statements. Audience members were able to listen to the webcast and all public statements were

Stormwater Information

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Sign Up for NPDES NEWS

Get Acrobat Reader

The documents on this site are best viewed with Acrobat 8.0

5.0 Performance Criteria for Post-Construction SWM

- Issues to be resolved
 - “deminimis discharge”
 - Offsets for RPv

Questions?



6.0 Construction Review of Sediment & Stormwater Management Plan

Construction Review

- Minor changes to reg language
- Standardized elements in Technical Document
 - Construction Review and Compliance Assistance procedures
- Changes in NPDES Construction General Permit Regs

7.0 Post Construction Maintenance of Permanent Stormwater Management Systems

Transfer of Maintenance Responsibility

- Acknowledgement by all parties of maintenance requirements
- Agreement to transfer maintenance responsibilities
- Timing of Transfer
- Legal review

Operation and Maintenance Plan

- Record Construction Document (“as-built”) completed first
- O&M Plan based on Record Construction Document
- Technical Document: Standard Guidelines for O&M of SWM BMPs

8.0 Enforcement and Penalties

- No significant language changes to regulations
- Technical document will outline process

9.0 Delegation of Program Elements

- Streamlined regulation language
- Technical document will outline Delegation Review process

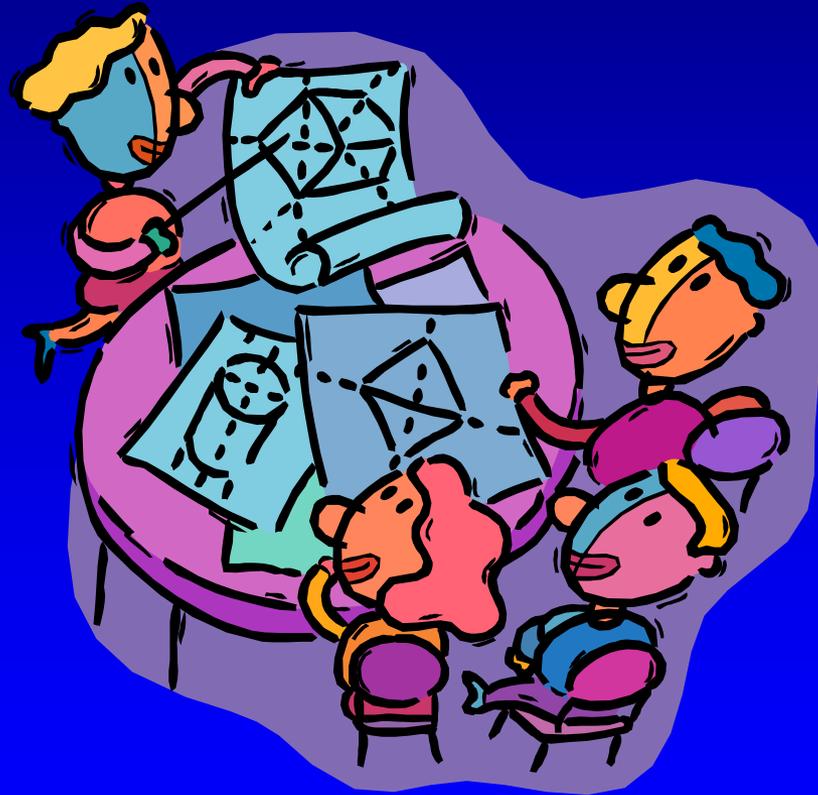
10.0 Criteria for Implementation of a Stormwater Utility

- Streamlined regulation language
- Allows local governments to develop stormwater utilities that work for them

Questions?



Discussion



Timeline – 2nd Quarter 2010

- Regs 2nd Draft
- Technical Document
- Selected Subcommittee Meetings
- RAC Meeting - May 24, 2010

Timeline – 3rd Quarter 2010

- Legal Review
- Public Workshops
- Outreach to selected regulated groups

Timeline – 4th Quarter 2010

- Public Hearing – October
- Register of Regulations
 - December 2010 - January 2011