



Capitol Region Watershed District

595 Aldine Street • Saint Paul, MN 55104

T: 651-644-8888 • F: 651-644-8894 • capitolregionwd.org

March 3, 2023

Todd Smith
MN Pollution Control Agency
Saint Paul, MN 55155-4194

Re: Draft Construction Stormwater General Permit

Dear Mr. Smith:

Capitol Region Watershed District (CRWD) appreciates the opportunity to comment on the 2023 draft Construction Stormwater (CSW) General Permit. As a local government unit responsible for protecting and improving water resources, CRWD has considerable, vested interest in the reissuance of the statewide permit that regulates construction site runoff to reduce water quality impacts from erosion, sediment, and pollutants. CRWD references and enforces the requirements of the NPDES CSW permit on projects requiring CRWD permits.

CRWD appreciates the support from MPCA inspection staff it has received in the past and has noted a shift away from inspection and enforcement efforts in recent years. As MPCA intends to continue collecting fees and issuing CSW permits for projects within active MS4s, CRWD requests resources be allocated to ensuring compliance with the permit through increased inspection and partnership with local governments.

CRWD recommends that the permit be amended in Part 15.3 such that the permanent stormwater treatment requirement applies to all newly constructed and fully reconstructed impervious surfaces on permitted projects. In most cases in urbanized areas, very little to no water quality treatment or volume reduction would be required based on the language in Parts 15.3 and 15.4 that requires water quality treatment for "a net increase of one (1) or more acres of cumulative impervious surface." In seventeen years of implementing a volume reduction and water quality improvement standard that is the same for both new development and redevelopment, it has been CRWD's experience that this is a reasonable, effective, and cost-efficient method to controlling stormwater runoff and improving water quality.

In addition to these general comments, CRWD provides detailed comments on specific permit language revisions in the pages below. For sections that were revised in the 2023 draft CSW but that CRWD does not provide comment on below, it can be assumed that we support these additions and revisions to the CSW Permit language.



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3.4 CRWD recommends language adjustment for clarity. “This **also** applies to **projects or common plans of development of sale disturbing less than 50 acres** if there is a discharge point on the project within one mile...”

7.2 *BMP Selection and Stormwater Management: Examples of **stormwater controls** for this section include but are not limited to wet sedimentation basins, temporary depressions to hold stormwater, stormwater routing, dikes, berms, pumping, and stormwater treatment BMPs. Permittees must phase and incorporate **stormwater management principles** as the construction progresses.*

CRWD recommends language adjustment for clarity. The term “stormwater controls” is unclear. Consider replacing it with term “stormwater management practices.” For example, “Permittees must phase and incorporate stormwater management principles that supplement the use of BMPs (erosion prevention practices and sediment control practices). Examples of the use **of stormwater management practices** include but are not limited to ...”

7.2 *Unless infeasible, temporary or permanent wet sediment basins (when required) should be constructed as a first step in the process and stormwater routed to these.*

CRWD recommends placement in Section 14.1 Temporary Sediment Basins.

7.3 *...permittees are encouraged to consider using use products that have been shown to minimize impacts on wildlife...*

CRWD recommends language adjustment “...permittees **are encouraged to use products** that have been shown to minimize impacts on wildlife...”

8.4 CRWD recommends language addition for clarity. “Stabilization is required for stockpiles of base material for roads, parking lots, and similar surfaces until they are constructed as a part of a road, parking lot, or similar surface.

8.5 and 8.6

CRWD supports this addition. Consider referencing “stockpiles” within this language to avoid confusion regarding timelines. Consider leaving the text “... to limit soil erosion...” in these sections as this provides context on the importance of stabilization.

8.8 CRWD recommends language adjustment for clarity “...within 14 calendar days (**or 7 days depending on the applicability of items 8.5 or 8.6**) after connecting...”

8.9 *Temporary or permanent ditches or swales being used as a sediment containment system during construction (with properly designed rock-ditch checks, bio rolls, silt dikes, etc.) do not need to be*



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stabilized. Permittees must stabilize these areas within 24 hours after their use as a sediment containment system ceases.

CRWD recommends removal of this item given conflict of this item with Section 8.8 and observed concerns with implementation of this. Areas within the last 200 linear feet of a drainage ditch or swale that drain water from the site should generally not be used as a sediment containment system unless the means for drainage, such as a catch basin, is fully blocked.

9.8 CRWD recommends language adjustment. "...if a specific safety concern (e.g. street flooding/freezing) is **observed (or has been observed)** by the permittees..."

9.12 CRWD recommends language adjustment in "...use street sweeping **in addition to a vehicle tracking BMP** if vehicle tracking BMPs **alone** are not adequate..."

10.2 *Permittees must discharge turbid or sediment-laden waters related to dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) to a sediment control (e.g., sediment trap or basin, filter bag) designed to prevent **discharges** with visual turbidity. To the extent feasible, use well-vegetated (e.g., grassy or wooded) upland areas of the site to infiltrate dewatering water before **discharge**. Permittees are prohibited from using receiving waters as part of the treatment area. Permittees must visually check and photograph the **discharge** at the beginning and every 4 hours of operations to ensure adequate treatment has been obtained and nuisance conditions will not result from the **discharge**.*

CRWD strongly recommends clarification of where a discharge is going in all areas where term "discharge" is bolded above i.e., discharge to a surface water or discharge to a sediment control. This will also provide clarification that visually checking and photographing the discharge is required for permittees to discharge TO A SURFACE WATER.

CRWD recommends retaining language that discharge cannot "adversely ... affect downstream properties" (or add to 10.3). Flooding of downstream properties during dewatering operations is a concern.

10.2 & 11.9

CRWD strongly supports the requirement to inspect and photograph dewatering at the beginning and once every 4 hours during operation. Recommend addition of language "... *at least* once every 4 hours during operation."

11.11 *For projects consisting of ground mounted solar panels where a pollinator habitat or native prairie type vegetated cover is being established, inspections may be reduced to once per month if the site has temporary vegetation with a density of 70% temporary uniform cover. If after 24 months no*



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significant erosion problems are observed, inspections may be suspended completely until the termination requirements in section 13 have been met.

CWD strongly recommends that this expands to projects beyond ground mounted solar panels to all projects where a pollinator habitat or native prairie type vegetated cover is being established. All projects using these vegetations will require additional time for establishment and pollinator and native type vegetation is beneficial to encourage.

15.3 CRWD strongly recommends requiring treatment of water quality volume for new and **reconstructed** impervious surface of one (1) or more acres.

16.12 *Permittees must employ appropriate on-site testing to ensure a minimum of three (3) feet of separation from the seasonally saturated soils (or from bedrock) and the bottom of the proposed infiltration system.*

CRWD strongly recommends that clarification is provided that seasonally saturated soils are indicated by redoximorphic features NOT one time groundwater measurements.

16.12 & 16.17

At least 3 feet of soil above the seasonally saturated soils or bedrock must consist of native undisturbed soils.

CRWD strongly recommends removal of this addition. We have several permitted sites where soil corrections were completed for the 3 feet of soils between the bottom of the infiltration system and seasonally saturated soils due to contaminated or poorly infiltrating soils and this material replaced with engineered media or sand. We feel that this decision should be left to the engineer. We prioritize the use of infiltration and feel that this would unnecessarily limit many sites to filtration.

17.5 CRWD recommends language adjustment. "...forebay, or hydrodynamic separator **or equivalent** to remove settleable solids..." Pretreatment options are variable and evolving and may include other practices that those listed directly. Comma should be after forebay.

20.2 CRWD recommends language adjustment for clarity. "Permittees must keep the SWPPP on site during normal working hours with personnel who have operational control over the applicable portion of the site, including all changes to the SWPPP, inspections, and maintenance records."

25.15 *Recreational trails that are distinctly set apart from a roadway and intended for pedestrians or bicycles are not considered impervious surfaces. Sidewalks within residential areas and alongside roadways must still be included as impervious surfaces.*



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CRWD strongly recommends language adjustment for clarity. “Recreational trails ... are considered **disconnected impervious surfaces**. Disconnected impervious surfaces are impervious surfaces that direct runoff to adjacent pervious areas where it can be infiltrated.” CRWD would support MPCA efforts to create a fact sheet providing guidance for calculating disconnected impervious.

25.22 CRWD requests clarification if “70 percent of the native background vegetative cover” would permit an area to be approved with less than 70% density if the area existed as non-vegetated prior to ground disturbance. From CRWD experience, this is a common misconception and a frequent point of contention during closure inspections. Recommend language adjustment “... of 70% of **planned** vegetative cover on all areas ...”

CRWD appreciates the opportunity to provide comments on the CSW General Permit and requests revisions addressing these comments be incorporated into the permit. We look forward to continued partnerships between CRWD and MPCA in protecting Minnesota’s water resources. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Acadia Stephan". The signature is written in a cursive, flowing style.

Acadia Stephan

Capitol Region Watershed District, BMP Inspector

Mark Doneux, Administrator

Forrest Kelley, Regulatory Division Manager

Elizabeth Hosch, Permit Program Manager

Luke Martinkosky, Water Resources Regulatory Specialist