



Response to Comments

For The NPDES General Permit for Stormwater Discharges from Construction Activities (SCR100000)

Introduction:

The following is South Carolina's Department of Health and Environmental Control's (DHEC or the Department) "**Response to Comments**" for comments received during the Public Notice of the Draft Construction Stormwater Permit (SCR100000), which was public noticed from April 19, 2019 through June 3, 2019.

The information included in this **Response to Comments** was compiled based on their relevance to the permit content and the intent/interpretation of this general permit rather than the implementation of the permit conditions (e.g., administrative procedures, requirements of other General Permits, development of TMDLS, etc.).

The Department's responses contained in this document are organized by permit section. If multiple comments were received on a single section, an effort has been made to provide a consolidated response encompassing each comment.

Permit Section(s) & Topic: (Section Reference – Topic Addressed)	Commenter(s): (Name of Commenter)
Comment(s) Received:	
1. <i>(Summary of Comments)</i>	
<i>Department's Response to Comments</i>	
SC DHEC's Response to comments and revised permit language where applicable. (All language revision will be in an <i>italic, red text.</i>)	

Additional Documents

The Department intends to update websites, SWPPP-Templates, and other resources for owners and engineers. All of which will be posted at:

<https://scdhec.gov/stormwater-construction-activities>

<i>Permit Section & Topic:</i> 1.3.1.B	<i>Commenter(s):</i> Georgetown County
Comments: <i>Suggest removing all links to websites in the CGP due to DHEC changing weblinks and pages at times during the permit term</i>	
Response	
<i>The Department has elected to leave the web links in the permit. Though we recognize that these are subject to change during the life of the permit, we will strive to keep them consistent or provide an addendum to the permit with updated links.</i>	
<i>Permit Section & Topic:</i> 1.3.1.C	<i>Commenter(s):</i> The Home Builder's Association of South Carolina
Comments: "The current permit does not apply to lots in a subdivision approved prior to 1992 (larger common plan). The new permit deems them approved but adds limits (no more than 5 contiguous and no more than 5 acres). This is a good start. Why should there be a limit when the builder/developer is abiding by the approved master plan."	
Response	
Though construction of homes within residential developments approved prior to the effective date (1992) of the South Carolina Stormwater Management and Sediment Reduction Regulations (R.72-300) is exempt from the provision of those regulations, these construction activities are not exempt from the NPDES Stormwater regulations. The proposed language provides a streamlined approach to grant applicable construction activities coverage. These lots will not have to apply for permit coverage unless 5 contiguous lots remain and no more than 5 total acres are disturbed in the subdivision.	

<p><i>Permit Section & Topic:</i> 1.3.3D</p>	<p><i>Commenter(s):</i> The Home Builder's Association of South Carolina, Brandon Wagner, and SCDOT</p>
<p>Comments: Permit takes a more aggressive stance on discharges from contaminated sites. We request that DHEC please clarify their intent.</p> <p>Please clarify the intent and implementation of Section 1.3.3.D of the draft CGP. The new permit language is not clear, concise, or measurable.</p> <p>"DHEC may allow coverage under this permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring the discharge into compliance with water quality standards"</p> <p>How will this be enforced for SWPPPs reviewed by MS4s?</p> <p>This is an over-reaching requirement. Contaminated groundwater is not regulated by stormwater regulations</p>	
<p>Response</p>	
<p><i>The permit contains no expanded regulatory requirements related to discharges from contaminated sites. The proposed language was added to provide clarification on the permitting of these sites based on the Department's experience throughout the previous permit cycle on a number of sites. This water quality section is designed in order to provide a more streamlined process of dealing with groundwater-contaminated sites by addressing the discharge of pollutants of concern from excavation dewatering through the construction general permit with the addition of specific Best Management Practices in lieu of requiring an individual NPDES discharge permit. Program staff will continue coordination with staff from Industrial Wastewater, DHEC's Bureau of Land and Waste Management, as well as MS4s, to navigate permittees through the process. DHEC will coordinate reviews and assist MS4s as they review SWPPP's that must be revised to address groundwater contamination.</i></p>	

Permit Section & Topic: 2.2.2	Commenter(s): The Home Builder’s Association of South Carolina
<p>Comments: <i>“The primary permittee permit coverage may be active or terminated, but if terminated the infrastructure must be completed. Also, if the primary permittee is no longer working on site, the infrastructure must be complete.”</i></p> <p>The first sentence is clear that if the primary permittee is terminating permit coverage that they must have completed the infrastructure to the development in accordance with the approved plans. However, DHEC’s second sentence “...the primary permittee is no longer working on site...” is vague and requires additional explanation. Does this mean that the primary permittee has completed construction activities onsite, or does this mean any time the primary permittee mobilizes their workers offsite? <u>It is suggested that DHEC further define Section 2.2.2 on Page 10 of the Draft Permit to clearly state the instance(s) when the primary permittee is no longer working onsite which would require the infrastructure to have been completed.</u></p> <p>This section also restricts building on lots within a subdivision that has incomplete infrastructure. We have a problem with this if it in any way limits the use of bonding. By the way, state law allows bonding.</p>	
<p>Response</p>	
<p>Revised per comment to clarify that the use of the Secondary Permittee option is limited to construction activities on single family residential lots and to provide clarification that an applicant may seek coverage as a Secondary Permittee in situations where the Primary Permittee continues to install infrastructure or undertake other construction activities in other areas of the site: Section 2.2.2 of the permit now reads:</p> <p><i>An individual lot owner or residential builder that conducts land-disturbing activity at a construction site, that is limited to <u>home construction on an</u> individual lot or a group of lots that are part of an LCP previously approved by the Department, is a Secondary Permittee. The primary permittee permit coverage may be active or terminated, but if terminated the infrastructure must be completed. Also, if the primary permittee is no longer working on site, the infrastructure must be complete.</i></p>	

Permit Section & Topic: 2.2.3.A	Commenter(s) The Home Builder's Association of South Carolina
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Comments:

"The Annual Blanket NOI...must be retained within the On-Site SWPPP."

and,

"The Utility Provider/Contractor at each site shall provide a copy of the approved Annual Blanket NOI or equivalent registration information provided by the Department to the Primary Permittee or Secondary Permittee (as applicable) prior to performing land-disturbing activities at a construction site."

The requirement that the primary or secondary permittees retain copies of the Annual Blanket NOI's (AB-NOI) in the On-Site Stormwater Pollution Prevention Plan (OS-SWPPP) is burdensome to the construction industry and has no beneficial impact to water quality in South Carolina. Additionally, the frequency at which a utility company provides the primary or secondary permittees a copy of their AB-NOI is highly infrequent, and without a copy of the AB-NOI in the OS-SWPPP the primary or secondary permittees are in violation of Section 2.2.3.A of the CGP.

The entities that have permit coverage under an AB-NOI are utility companies or the utility contractors (e.g. Duke Energy, AT&T, Dominion Energy, etc.). They do not work onsite as a subcontractor of the primary or secondary permittees. As such, the primary and secondary permittees have no leverage, contractual or otherwise, to require that the utility companies working onsite provide them with a copy of the AB-NOI.

Therefore, it is strongly recommended that DHEC remove the requirement that copies of the AB-NOIs be retained in the OS-SWPPP changing the language in Section 2.2.3.A to:

"The Annual Blanket NOI...to be retained within the On-Site SWPPP when provided by

the utility company or the utility contractor."

Response

Removed reference in this section to Primary and/or Secondary Permittee's obligation in this section to maintain a copy of the Utility Provider's Annual Blanket Certification within an individual site's On Site SWPPP as this requirement is not appropriate for this section of the permit. Revised permit language reads:

An approved Annual Blanket NOI provides statewide coverage for all construction activities performed by the utility provider/contractor within common developments or LCPs for a period of one (1) calendar year. Renewal of each Annual Blanket NOI must be submitted on or before January 1 of the year in which coverage is desired to remain covered. Utility providers may seek coverage throughout the year. The

Annual Blanket NOI will contain all applicable information contained in Section 2.3.2 of this permit ~~and must be retained within the On-Site SWPPP.~~

Language related to the documentation of Annual Blanket Certifications is also included in the list of items required to be included in the On-Site SWPP are found in Section 3.1.1.H.V(g) of the permit. This item has been revised as followed based on the comment received:

(g). Contractor Certifications. Certifications necessary to allow contractors to conduct construction activities within the construction site. This includes contractor certifications required under Section 4 of this permit. Primary and Secondary Permittees covered by this permit shall provide either a copy of the Annual Blanket Coverage letter, or documentation of a request to the utilities for their Annual Blanket Coverage Letter.

Permit Section & Topic:
3.1.2.B

Commenter(s):
The Home Builder's Association of South Carolina

Comments:

Section 3.1.2.B on Page 25 of the Draft Permit lists the following qualified individuals that can prepare, amend, certify and stamp [as allowed by their respective act and regulations] a Comprehensive SWPPP (C-SWPPP) as:

- I. Registered professional engineers as described in Title 40, Chapter 22;
- II. Registered landscape architects as described in Title 40, Chapter 28, Section 10, item (b);
- III. Tier B land surveyor as described in Title 40, Chapter 22; or
- IV. Federal government employees as described by Title 40, Chapter 22, Section 280(A)(3)."

It is recommended that DHEC include a person with the Certified Professional in Erosion and Sediment Control (CPESC) certification as a qualified individual in Section 3.1.2.B that can prepare, amend, certify and stamp [as allowed by their respective act and regulations] a C-SWPPP.

Response

The Standards for Stormwater Management and Sediment Regulation 72-300 thru 72-316 defines those individuals under state law who are authorized to prepare, amend, certify, and stamp C-SWPPP's. Addition of CPESC certified individuals would be inconsistent with current state regulation.

Permit Section & Topic:

3.1.6.B

Commenter(s):

The Home Builder's Association of South Carolina

Comments:

Section 3.1.6.B on Page 26 of the Draft Permit states:

"If it is infeasible to maintain a copy of the OS-SWPPP on the construction site, notice of the plan's location, along with any update contact information, must be posted near the main entrance at the construction site. Copies of the plans must be available within 30 minutes upon request by Department or other regulatory staff."

Additionally, the Draft Permit defines 'infeasible' in Appendix A as:

*"**Infeasible** means not technologically possible, or not economically practicable and achievable in light of best industry practices."*

DHEC's use of the term 'infeasible' when defining the scenario when the OS-SWPPP cannot be kept onsite is inappropriate. During the early stages of construction, especially in more remote locations of the State, onsite permit postings and the OS-SWPPP are often subject to vandalism and theft. Many times, during these stages of construction the OS-SWPPP is either kept with the Operator of Day-to-Day Site Activities (OSDA) or kept at an offsite location that is easily accessible during normal business hours. Therefore, it is recommended that DHEC update Section 3.1.6.B of the Draft Permit as follows:

*"If it is **not possible** to maintain a copy of the OS-SWPPP on the construction site, notice of the plan's location, along with any update contact information, must be posted near the main entrance at the construction site. Copies of the plans must be **made available in a timely manner** upon request by Department or other regulatory staff."*

Response

Revised per comment and to allow for discretion of DHEC, EPA or MS4 staff. Revised language reads:

If it is **infeasible not possible** to maintain a copy of the OS-SWPPP on the construction site, notice of the plan's location, along with any updated contact information, must be posted near the main entrance at the construction site. Copies of the plans, **either printed or easily readable digital**, must be available within **a reasonable timeframe 30 minutes agreed** upon by Department or other regulatory staff.

<p><i>Permit Section & Topic:</i> 3.1.7.C</p>	<p><i>Commenter(s):</i> Brandon Wagner</p>
<p>Section 3.1.7.C – Major Modifications SITES LOCATED WITHIN MS4 (Greenville County, City of Greer, etc.) Please Clarify – Is the Form B (Major Modification Form) required to be submitted to DHEC for all the Major Modifications listed in Section 3.1.7.C of the permit for SWPPPs reviewed by a MS4?</p> <p>A significant majority of the major modifications listed in Section 3.1.7.C are reviewed and approved by the MS4 and the changes are made within the SWPPP report with NO changes to the NOI. Major modifications such as resizing a detention pond, relocating a detention pond, stormdrain system layout modifications, point discharge addition, etc. do not require changes to the NOI and the MS4 reviews and approves the modifications in the SWPPP. These major modifications should not require submittal of Form B to DHEC.</p> <p>However, some of the major modifications in Section 3.1.7.C of the permit do require revisions to the NOI. Major modifications such as; addition of disturbed areas, waterbody crossings, changes to impacts to jurisdictional waters, etc. do require revisions to the NOI. In these cases, it is logical to require submittal of the Form B and revised NOI.</p> <p>RECOMMENDATION – Add language in the CGP or to Form B that state: For projects within MS4 areas:</p> <ul style="list-style-type: none"> • Major Modifications that require revisions to the NOI are required to submit Form B (and appropriate documentation). • Major Modifications that do not require revisions to the NOI are NOT required to submit Form B. 	
<p>Response</p>	
<p>The Department concurs that clarification in the permit as to when an updates NOI must be submitted would be helpful to MS4, permittees, and design professionals. Section 3.1.7.C. III has been added to the permit identifying when an updated NOI must be submitted to the Department. This section specifies:</p> <p><u>III. For Major Modifications for sites located in an area under the authority of a regulated MS4, or an entity delegated under Regulation 72-300, an updated NOI, along with any supporting documentation, must be submitted to DHEC for review and approval when the modification includes:</u></p> <ul style="list-style-type: none"> (a). <u>Addition of Disturbed Area.</u> (b). <u>Changes to Navigable Water Crossing.</u> (c). <u>Changes that include impacts to Waters of the State/Waters of the U.S.</u> (d). <u>Coastal Zone only, changes to the site design that may impact the project’s CZC.</u> (e). <u>Other changes as deemed appropriate by the Department that may affect the site’s authorization to discharge under this permit.</u> 	

<i>Permit Section & Topic:</i> 3.2.4	<i>Commenter(s):</i> The Home Builder's Association of South Carolina
<p>Comments: The C-SWPPP must identify and delineate all Waters of the State (WoS), including wetlands, located within the disturbed area and/or the total area associated with the construction site. The C-SWPPP must also identify all WoS, including wetlands, which are located immediately adjacent to or within the surrounding area of the construction site.</p> <p style="padding-left: 40px;">This seems to require the developer to identify and delineate WoS and wetlands on property that he does not own. What does "within the surrounding area" mean?</p>	
Response	
<p>The Department concurs that the language in Section 3.2.4 of the permit could prove problematic. The permit has been revised to mirror language in the stormwater program's Plan Review Checklist for Design Professionals to provide clarification and consistency with long-standing program guidance. Section 3.2.4.A now reads:</p> <p style="padding-left: 40px;">The C-SWPPP must identify and delineate all Waters of the State (WoS), including wetlands, located within the disturbed area and/or the total area associated with the construction site. <u>The C-SWPPP must also identify all WoS, including wetlands, on the site; however, delineation is not required if a 100-ft undisturbed buffer can be maintained between the WoS and all construction activities.</u> The C-SWPPP must also identify receiving waters, including wetlands and South Carolina Navigable Waters. The following must be addressed when a WoS is required to be identified.</p>	
<i>Permit Section & Topic:</i> 3.2.4	<i>Commenter(s):</i> The Home Builder's Association of South Carolina
<p>Comments: II. Seems to allow the contractor to begin work on a site prior to obtaining a JD or wetlands permit from the ACOE, provided that "no work can begin in this area" (meaning WoS and buffers) until all necessary permits are obtained.</p>	
Response	
<p>The operator is responsible for verifying all jurisdictional waters on a site and any impacts to those waters resulting from construction activity have been permitted by the U.S. Army Corps of Engineers prior to working in those areas. Section 2.6.2 of the permit covers issuance of permit coverage when a site has impacts to jurisdictional waters.</p>	

<i>Permit Section & Topic:</i> 3.2.4	<i>Commenter(s):</i> Home Builder's Association of South Carolina
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Comments:
 C. Buffer Zone Management
 II. Compliance Options
 (b). Option B allows for a reduction in the required buffer zone under certain conditions
 (c) . Option C allows for the elimination of the buffer under certain conditions.
 DHEC should strongly recommend these best practices for the entire state.

Response

The buffer compliance options outlined in Section 3.2.4 of the permit are available throughout the state. It is important to note that if a Municipal Separate Storm Sewer System (MS4) operator more stringent buffer zone requirements those will take precedence over the CGP requirements. R.61-9.122.34(b)(5)(ii)(A) directs regulated Small MS4s to *“Develop and implement strategies which include a combination of structural and/or non-structural best management practices **appropriate for your community.**”* In addition, if an MS4 determined that a buffer already established through local ordinance and identified as a BMP in their Stormwater Management Plan was ineffective or unfeasible, the MS4 must provide an analysis showing why the BMP is ineffective or infeasible, expectations on the effectiveness of the replacement BMP and an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

<i>Permit Section & Topic:</i> 3.2.4.C.III(e)	<i>Commenter(s):</i> Home Builder's Association of South Carolina
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Comments:
 Section 3.2.4.C.III(e) on Page 34 needs to be further indented to be aligned with the subparts of Section 3.2.4.C.III, as it is misaligned and appears to be separate section rather than a subpart to 3.2.4.C.III.

Response

Thank you for this comment. It is a formatting issue and has been corrected.

<i>Permit Section & Topic:</i> 3.2.12.B.I	<i>Commenter(s):</i> Home Builder's Association of South Carolina
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Comments:
 Section 3.2.12.B.I: We support the changes in section 3.2.12.B.I.

Response

Thank you for the agreement to the proposed changes

Permit Section & Topic: 3.2.6.A.II (c) 3.2.7.A.II (c)	Commenter(s): Georgetown County
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Comments:
The term “common drainage outfalls” is ambiguous. The word common is used numerous times throughout the document with seemingly different intended meanings (e.g. “Larger Common Plan”, “common BMPs”, “common outfall”)
Change “common” to “single” when referring to drainage outfalls throughout the permit. Common outfall is not defined in the Definitions

Response

The Department agrees the term “single” should be used instead of “common” to be consistent with the language found in R72-300 for drainage outfalls which serve a disturbed area of 10 acres or more.

Section 3.2.6.A.II(c) now reads:

Sediment Basins. For ~~common~~ single drainage outfalls that serve an area with 10 or more disturbed acres, a sediment basin, or equivalent sediment control BMPs, which meets the criteria identified in *State Regulations 72-307.C(5) (SC Regulation 72-425 applies to projects under the jurisdiction of SCDOT)*, must be provided where attainable until final stabilization of the construction site is achieved. For ~~common~~ single drainage outfalls serving an area of less than 10 acres, sediment basins are still recommended where applicable. In addition, the sediment basin must be designed to meet the following requirements:

Section 3.2.7.A.II(c) now reads:

Drainage basins and sub-basins in which stormwater runoff collects and drains towards a ~~common~~ single outfall location including offsite areas draining onto the site (must be consistent with *Section 3.2.8, Engineering Reports.*);

<i>Permit Section & Topic:</i> 3.2.12.B.I	<i>Commenter(s):</i> Brandon Wagner
<p>Comments: Section 3.2.12.B.I - Is the quantitative analysis required for bacteria impairments (Fecal Coliform/E. Coli)?</p> <p>It appears language relating to the quantitative analysis was revised to remove the requirement for a quantitative analysis for projects that discharge to a water impaired for FC or E. coli.</p> <p>Some MS4's have interpreted Section 4.2.4.5.f of the SMS4 permit to include a quantitative analysis for projects within a TMDL watershed for fecal coliform.</p>	
<p>Response</p>	
<p>The department does not consider stormwater runoff <u>from construction activities</u> to be a significant contributor of the pollutant of concern for most waters whose designated use is impaired by Fecal Coliform or EColi. The exception is those waters classified as Shellfish Harvesting located in the Coastal Zone which are impaired for Fecal Coliform bacteria. Given that the designated use in these waters is harvesting of shellfish for human consumption, additional protection is warranted. For these waters, in lieu of requiring a quantitative and qualitative assessment, the permit identifies the BMPs that must be utilized to minimize the risk of the discharge of bacteria from the site by placement of portable toilets and waste receptacles away from receiving waters and storm drains. A quantitative and qualitative analysis of BMPs is required for all construction sites which disturb 25 acres or more who discharge to waterbodies impaired for BIO (macroinvertebrate), turbidity, Total Phosphorous, Total Nitrogen, and Chlorophyll-a.</p> <p>Section 4.2.4.5.f of the current NPDES General Permit for Stormwater Discharges from Regulated Small MS4s does still require a quantitative and qualitative assessment of BMPs for both during construction and post-construction for sites discharging to impaired waters and those for which a TMDL has been developed. The Department notes the difference and will work to bring consistency as it relates to construction stormwater discharges when the Small MS4 permit is reissued. Also note that MS4s may elect to establish additional requirements, beyond those outlined in the NPDES CGP to address local water quality concerns.</p>	

<i>Permit Section & Topic:</i> 3.2.6.III(d)	<i>Commenter(s):</i> Home Builder's Association of South Carolina
<p>Comments: We support the changes in section 3.2.6.III(d)</p>	
<p>Response</p>	
<p>Thank you for the agreement to the proposed changes.</p>	

<i>Permit Section & Topic:</i> 4.2 4.3.E	<i>Commenter(s):</i> Georgetown County
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The term "common BMPs" is ambiguous in these sections. In the first instance (4.2) it seems to mean "typical". However, in the second instance (4.3.E), the word "common" could be construed to mean a BMP that is the responsibility of both the primary and secondary Permittees.

Response

The Department agrees the term "common BMP's" could be problematic. In lieu of adding an additional definition to the permit, Section 4.2.B has been revised to read:

..... Inspection of ~~common~~ BMPs, such as sediment basins, sediment traps, which may receive flow from land development and/or construction on individual lots, may be required to resume if areas that drain to them become disturbed during future construction.

Similarly, Section 4.3.E has been revised. Note a more extensive revision was necessary to this section to clearly convey the intention of this language. Thus, it now reads:

"Secondary Permittee Common BMP Maintenance Requirement. It shall be the responsibility of the Secondary Permittee to either maintain or coordinate ~~the maintenance with the primary permittee or the party responsible for permanent maintenance~~ of any ~~common~~ stormwater BMP (silt fence, sediment trap, sediment basin, etc), accepting stormwater discharges from any area associated with ~~their work~~ the secondary permittee's construction activities, with the primary permittee or the party responsible for permanent maintenance

<i>Permit Section & Topic:</i> 4.2.B	<i>Commenter(s):</i> Home Builder's Association of South Carolina
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Comments:

It closes a loophole on CEPSCI inspections to guarantee at least 41 inspections a year (one every nine days).

The intent is for weekly inspections.

The move to inspections 24 hours after a rain event coupled with the weekly inspections seems over burdensome and unneeded. Notice of violation or deficiency should meet compliance within 5 business days.

Response

The first rainfall following the installation of BMPs is an important milestone in the life of an active construction project. The intent of the language in this section is to highlight that the contractor should take this opportunity to evaluate the installation and effectiveness of BMPs. Based on the above comment, this section has been updated to provide to utilize the term "assessed" in instead of "inspection" which the Department agrees may be

confusing. In addition, due to the frequent nature of rainfall in the state, the department is revising to note 1.0”.

- B. **Frequency.** After construction activities begin, inspections must be conducted at a minimum of at least once every calendar week, with no time period between inspections exceeding 9 days, and must be conducted until final stabilization is reached on all areas of the construction site. **An inspection It is recommended that BMPs be assessed by the contractor** within 24 hours of the end of a storm event of **0.51.0 inches** or greater, as well as during the first rain event after the initiation of construction activities, after the installation of BMPs.

Permit Section & Topic:

4.2.D

Commenter(s):

Home Builder’s Association of South Carolina
Gene Norman, WaterWatchPRO

Comments:

SC HBA:

Section 4.2.D on Page 54 of the Draft Permit states:

“Permittees shall maintain an on-site rain gauge during active construction, to record rainfall records from any significant rainfall event, 0.5 inches or greater.”

This section has been modified from the current permit. The 2012 CGP afforded the permittees the ability to use a certified weather record:

“Permittees shall either maintain an on-site rain gauge or use data from a certified weather record...located within a reasonable proximity of the construction site, to record rainfall records from any significant rainfall event, 0.5 inches or greater.”

It is too restrictive for DHEC to require that rainfall data be recorded from an onsite rain gauge only, especially since the requirement to conduct post-rain event inspections is a recommendation (§4.2.B). Furthermore, the permittee’s OSDA may not be onsite every day (e.g. vacation, holidays, weekends, etc.) to accurately record the daily rainfall amounts. A certified weather record, whether it is a personal weather station or an online weather source (e.g. NOAA, USGS, etc.) allows the permittee the ability to access rainfall data at any time without the need for the OSDA to be onsite. Therefore, it is strongly recommended that DHEC update Section 4.2.D to allow the permittees the use of a certified weather record and change the text as follows:

“Permittees shall either maintain an on-site rain gauge or use data from a certified weather record (e.g. NOAA, USGS, etc.) located within a reasonable proximity of the construction site, to record rainfall records from any significant rainfall event, 0.5 inches or greater.”

WaterWatchPRO”

I propose making the condition of a sited gauge optional for the following reasons:

- a) Physical gauges are subject to error due to external environmental factors and can vary widely based on where they are sited and how they are maintained and managed. A literature search documents these known issues: <http://bit.ly/2Y6Tk5N>, <http://bit.ly/2VFG5eE>, <http://bit.ly/2ZTVoQm> (Davis, one of the manufactures of such gauges). Some clients I have even report gauges are subject to theft.

- b) There are remote sensing alternates which provide a good approximation of the rainfall without relying on manual interpretation, siting and maintenance of gauges. Several vendors, including my company, WaterWatch PRO offer this; CloudCompli is another.
- c) As an entity concerned with promoting a healthy environment, having physical equipment, which can be damaged or stolen seems counter to a "green" mindset.

I propose that permit holders be allowed to either place and maintain a gauge **or** use remotely-sensed data. There are many available sources of official National Weather Service data available on-line. This data is used by the NWS to calibrate rainfall forecasting models and flash flood guidance. Its integrity for that purpose should be sufficient for a permit holder's use.

Response

Section 4.2.D of the permit has been revised based on the submitted comment. This revision should allow flexibility for a variety of situations which may realistically occur during the life of construction activities. As to the comment from WaterWatchPRO identifying challenges with physical rain gauges, the Department concurs that options other than a physical gauge should be available. We recognize and endorse the use of remote sensing technology when deemed appropriate by the construction site operator. DHEC has even found in our Dam Safety Program that the National Weather Service Quantitative Precipitation Estimates to be a valuable resource (https://www.weather.gov/media/owp/oh/hrl/docs/qpe_nws_overview.pdf).

- D. **Rain Gauge.** It is strongly recommended that permittees ~~shall~~ maintain an on-site rain gauge during active construction, to record rainfall records from any significant rainfall event, 0.5 inches or greater. Permittees may utilize data from a certified weather record (such as a personal weather station or an airport) located within reasonable proximity of the construction site in lieu of an on-site rain gauge. These recorded rainfall amounts must be maintained in a Rain Log located in the on-site SWPPP. Rainfall records for the day of an inspection and any significant rainfall events since the last inspection must be reported on each weekly inspection report.

Permit Section & Topic: 4.3.A	Commenter(s): Home Builder's Association of South Carolina
Comments: Section 4.3.A on Page 56 of the Draft Permit states: <i>"If the required maintenance takes longer than 7 days, documentation as to the reason shall be provided along with the estimated time of completion."</i> Much of the construction industry has migrated to the use of electronic inspection reporting platforms to document and retain the construction site inspections required by Section 4.2 of the CGP. While these electronic platforms allow the permittees to add additional notes or documentation to a specific maintenance item when the item cannot be completed within 7 days, there are platforms being used by the construction industry that do not include these notes to the construction site inspection report when they are printed to hard copy. Since these notes are added to the maintenance item's electronic record, they can still be made available to Department or other regulatory staff upon request.	

Additionally, the inclusion of the text “...along with estimated time of completion.” is largely speculative and many times is dependent on numerous variables outside of the permittees’ control. For instance, to complete a particular maintenance item the permittee may be dependent on a third-party supplier to deliver the BMP or construction material; another third-party subcontractor to install or maintain the BMP or construction material; in order for the permittee to document this maintenance item as complete. While the permittee may have received an estimated timeframe for the completion of this maintenance item by both third-party firms, the actual time it will take to complete the maintenance item is solely dependent on the schedules of both the third-party firms. Therefore, the requirement that the permittees to include the estimated time of completion is too subjective and unnecessary.

Therefore, it is strongly recommended that DHEC change the language used in Section 4.3.A as follows:

“If the required maintenance takes longer than 7 days, documentation as to the reason can be provided by the permittee upon request by the Department of other regulatory staff upon request.”

Response

The Department concurs with the comment provided on this section and has added the language suggested by the commenter.

C. **Construction Maintenance.** All BMPs and other protective measures identified in the OS-SWPPP must be maintained in effective operating condition. If site inspections required by Section 4.2 identify BMPs that are not operating effectively, maintenance must be performed within seven (7) calendar days, before the next inspection, or as reasonably possible, and before the next storm event whenever practicable to maintain the continued effectiveness of stormwater controls. If the required maintenance takes longer than 7 days, documentation as to the reason shall be provided upon request of the Department or other regulatory staff along with estimated time of completion.

Permit Section & Topic:

General Comment

Commenter(s):

Home Builder’s Association of South Carolina

Comments:

Please provide documentation for why ½ mile from waterways and ditches is an approved measure of the distance at which runoff is measured. 500 linear feet should be sufficient in concert with best management and practices.

Response

The distance of ½ mile from a receiving water body is contained within both the existing NPDES and 72-300 stormwater regulations. No change is being made to the permit.