January 10, 2022

**Re: NYC DEP Unified Stormwater Rule Amendments, Verizon Comments**

To whom it may concern:

Verizon submits the following comments on the Unified Stormwater Rule amendments and the updated NYC Stormwater Manual proposed by the New York City Department of Environmental Protection (DEP) on November 23, 2021.

Verizon requests clarification regarding the intended applicability of permit requirements to utilities installing and maintaining their infrastructure within paved or previously disturbed right-of-way.

**Linear Utility Work**:

The proposed Stormwater Manual contains the following relevant language:

*It is important to note that linear utility work that results in soil disturbance counts toward the overall soil disturbance threshold. In cases where linear utility work, or any other development activity, is carried out in phases, the project may be considered a common plan of development for covered maintenance activities, will require a SWPPP with only erosion and sediment controls (ESC).*

It is Verizon’s position that “linear utility work” within a previously disturbed ROW should in no case trigger stormwater construction permit requirements, as such activities do not significantly affect the environment, including the waters of the State. Providing robust and reliable service to our customers requires Verizon to continuously work on our system, which entails upgrades, replacements, repairs, and installation work. Our subsurface work is typically conducted in narrow trenches in segments less than 20,000 square feet, which are usually covered overnight and resurfaced to align with pre-existing road grade conditions. The disturbance caused by our work is typically temporary and smaller in scale than other roadway projects.

**Chapter 19.1**–**Stormwater construction permit requirements.**

Previously applied only to projects in MS4 areas (municipal separate storm sewer) that disturbed one acre of soil or more. Now it applies to projects in both MS4 and CSS areas (combined sewer) that disturb more than 20,000 sq. ft. or more of soil, or add 5,000 sf or more of new impervious surface.

If the stormwater permit requirements are interpreted as applicable to Verizon's maintenance and installation of fiber in the ROW, it would needlessly impede Verizon’s ability to maintain and expand our services, and also undermine the City’s goal of expediting the availability of high quality, affordable broadband to every resident.

**Covered Development Projects**

The permitting requirements under this proposed rule as defined in Chapter 19.1 would apply to covered development projects, unless the work constitutes “routine maintenance activity”. This routine maintenance activity is defined as:

-roadway maintenance involving 20,000 sf or more, including milling and filling of existing asphalt pavements (“milling and paving”), replacement of concrete pavement slabs, and similar work that does not expose soil or disturb the bottom six inches of subbase material.

This definition leaves open a myriad of circumstances yet to be defined that could have a substantial impact in our ability to conduct business. Verizon therefore requests that DEP clarify that routine maintenance utility work, including installation of fiber within a paved ROW, qualify as routine maintenance activities under the proposed rule.

Verizon understands the concerns and priorities of the DEP in their commitment to climate and environmental protections. Verizon shares those concerns and commitments. However, in this particular matter our work is not one that will cause the negative impacts that are trying to be avoided by these measures. Therefore, Verizon requests that these suggestions be considered in the promulgation of the rules and that the work as defined herein is not subject to the stormwater construction permitting requirements for the reasons described above.

Yours sincerely,

Kassandra Perez-Desir
Regional Director