

2.02.1

Scenarios for Plans Approved Under Previous Regulations

Background

To provide guidance to the regulated community regarding the plan approval provisions regarding plans approved under previous *Delaware Sediment & Stormwater Regulations (DSSR)*, the Department has established policy interpretations for the following scenarios:

Scenario 1: Plan expired prior to effective date; construction had commenced.

Under this scenario, the Department or Delegated Agency would grant a 5-year administrative extension from the most recent expiration date in accordance with Section 1.3.2.2 of the *DSSR*. The applicant is responsible for acquiring any additional extensions as necessary to complete the project in accordance with Sections 1.3.2 and 3.6 of the *DSSR*. Projects that expired more than five years previously would need to submit a variance request in accordance with Section 1.5 of the *DSSR* to allow the plan approval to be extended.

Scenario 2: Plan expired prior to effective date; construction had not commenced.

Under this scenario, the applicant may choose to redesign the plan to comply with the current *DSSR* or to apply for a variance to the Department in accordance with Section 1.5 of the *DSSR*. Article 2.05.1 of the Technical Document contains standard forms to be completed by the applicant for the variance request. The Department may be able to advertise a group of variance requests for public notice, but the variance itself is granted or denied for each individual request. The applicant is responsible for any costs associated with public notice requirements. The Department will review the request with assistance from the appropriate Delegated Agency to verify that the expired plan meets the intent of the current *DSSR*. Expired plans that meet the requirements of the current *DSSR* by employing runoff reduction BMPs or functionally equivalent BMPs would be supported by the Sediment & Stormwater Program for a variance.

Scenario 3: Master plan project approved under previous Delaware Sediment and Stormwater Regulations which included future building pad sites, outparcels, and/or future phases where regional SWM facility completed.

Under this scenario, the applicant would submit a Sediment & Stormwater Plan for proposed development of any pad sites, outparcels, and/or future phases to appropriate Delegated Agency. The Delegated Agency verifies the proposed development meets the requirements of the original design of the regional SWM facility, and the regional

SWM facility was constructed and continues to function in accordance with the original design. If so, the plan can be approved without additional SWM requirements.