

9.0 Delegation of Program Elements

- 9.1 The provisions of these regulations may be delegated to the Conservation Districts, counties, municipalities, or State agencies. Initial consideration regarding delegation of program elements shall be given to the Conservation Districts.
 - 9.1.1 Program elements that are delegated shall be implemented according to Chapters 40 and 60 of Title 7 of the Delaware Code and these Regulations.
 - 9.1.2 Any Delegated Agency may submit documentation to the Department for determination of functional equivalency to the requirements contained in these regulations.
- 9.2 A Conservation District, county, municipality, or State agency requesting or renewing delegation shall submit a written request to the Secretary on or before January 1 of the year immediately preceding the fiscal year for which delegation or renewal of delegation is sought. The request for delegation shall contain sufficient information to determine whether the agency may be considered capable of implementing program elements in accordance with Chapter 40 and these regulations. The Department shall provide guidance to agencies requesting delegation of program elements as to information that shall be submitted with the delegation request.
- 9.3 The Secretary shall grant delegation of program elements to a Conservation District, county, municipality, or State agency seeking delegation that is found capable of implementing program elements in accordance with Chapter 40 and these regulations.
- 9.4 The Secretary shall, in writing, grant or deny delegation on or before April 1 of the year during which delegation is sought. The Secretary shall not deny a request for delegation unless opportunity has been afforded to the appropriate officials from the agency requesting delegation to present arguments. Delegation shall be effective July 1 of that year and extend no more than ~~three~~five years, unless renewed. In the event that the Department does not act on the renewal request by April 1, the Delegated Agency submitting the request would be entitled to continue operating for a subsequent ~~three~~five year time period unless action is taken by the Department to suspend the program.
- 9.5 Delegation of program elements shall be granted for a maximum time period of ~~three~~five years. After ~~three~~five years a new application to the Department must be made. During the period for which delegation has been granted, the Department will evaluate delegation implementation, coordinate review findings with the Delegated Agency, and determine if the new delegation should be granted.
- 9.6 Based on the Department's evaluation of Delegated Agency performance, the Department may determine that re-delegation of program elements may be granted for a time period of less than ~~three~~five years. A delegation period of less than the maximum of ~~three~~five years shall be considered a probationary delegation and specific improvement items shall be provided to the Delegated Agency. If program implementation is not improved during the probationary delegation, delegation may not be renewed beyond the probationary delegation period.
- 9.7 A Delegated Agency may establish alternative requirements which are compatible with or are more stringent than Departmental requirements. These alternative requirements may be established through local ordinance or statutes. Alternative requirements that are not codified in local statute must have approval of the Department following compliance with the public notice of 7 **Del.C.** §6004.
- 9.8 A Delegated Agency may enter into a cooperative agreement or contract with a third party to assist with program implementation only after Departmental concurrence.