

3.01

Project Types

General Information

Construction projects that involve disturbance to the land for residential, commercial, industrial, agricultural and institutional land uses are subject to the *Delaware Sediment and Stormwater Regulations*. Construction projects that do not involve land disturbance, or projects that disturb less than 5,000 square feet of land, are exempt from the requirements of the *Delaware Sediment and Stormwater Regulations*.

Agricultural land management, which includes tilling the land to plant a crop, is exempt from the requirements of the *Delaware Sediment and Stormwater Regulations*; construction of structures for agricultural use is not exempt. Land development projects as large as a 500-acre mixed use residential and commercial subdivision as well as small projects such as the construction of a single family residential home on single recorded lot on a county road is subject to these regulations.

Residential Construction

Residential subdivisions of all sizes and densities ranging from one acre lots to townhomes are developed in a way that accounts for and manages the stormwater runoff from the entire development. Stormwater rates and volumes are computed based upon all developed areas of the site. All impervious surfaces on the site, including roofs, driveways, sidewalks, roadways, and parking areas are factored into the runoff computations. The quality of the stormwater runoff from all of these impervious surfaces is managed as well.

Some residential subdivisions may be developed without open space or common areas. An example would be a strip-lot development along an existing roadway. When no open space exists for the management of stormwater, stormwater management must be accomplished on individual lots. Stormwater management facilities should be protected from alteration by homeowners through deed restrictions or easements, depending upon the type of stormwater management BMP that is constructed for the project.

When individual lots are developed as part of a residential subdivision, the term often used is "larger common plan of development", the NPDES general permit coverage to discharge stormwater from construction activities for the subdivision includes each of those individual lots while they are under construction. When a lot is developed that is not part of a larger common plan of development, and the land disturbance exceeds 1.0 acre, the individual lot owner must apply for NPDES general permit coverage to

discharge stormwater from the construction activity by submitting a Notice of Intent (NOI) and developing a plan.

Individual residential lots that are not part of a larger subdivision, or a larger common plan of development, and where the disturbance is less than 1.0 acre, need only to comply with Standard Plan criteria in 3.01.1, and do not need to submit an NOI or develop a plan.

Commercial, Industrial and Institutional Construction

All projects for commercial, industrial and institutional construction where the land disturbance will exceed 5,000 square feet must submit a Sediment and Stormwater Management Plan for review and approval prior to beginning construction, and that plan must be implemented during construction. The Sediment and Stormwater Management Plan will provide for stormwater management of all developed portions of the site as well as erosion and sediment control and construction site stormwater management while the project is under construction.

All commercial, industrial or institutional projects that will exceed 1.0 acre of disturbance also require a permit to discharge stormwater from the construction activity. This permit coverage is gained by submitting a Notice of Intent (NOI) prior to Sediment and Stormwater Management Plan approval. Industrial sites will often have a separate NPDES permit to discharge stormwater from the industrial activity. The requirement for separate permit coverage for discharges from construction activities on a site containing an industrial stormwater discharge permit will be coordinated with the DNREC Division of Water Resources Surface Water Discharges Section.

Non-profit institutions such as churches are not exempt from the requirements of the *Delaware Sediment and Stormwater Regulations*. Small site disturbances of less than one acre on commercial, industrial or institutional sites do not require submittal of an NOI to gain permit coverage to discharge stormwater from a construction activity. Some non-residential construction projects that disturb less than 1.0 acre may be approved through a Standard Plan if the project meets all the Standard Plan criteria in 3.01.1.

Utility Construction

Utility construction poses a potential to discharge pollutants during the construction activity, especially when the utility installation involves stream crossings or disturbance close to the stream. Underground utility installation results in no change in the hydrologic condition after construction. However, any areas that result in a change to the hydrologic condition, due to clearing of trees or construction of impervious for an

access road, substation, pump station, etc., must manage the change in the runoff after construction.

Utility projects that disturb greater than one acre of land must have an approved Sediment and Stormwater Management Plan prior to beginning construction. A Notice of Intent (NOI) is required for these projects as well. Many utility projects result in very little land disturbance and may qualify for a Standard Plan. Please refer to the Standard Plan criteria for minor linear disturbances in 3.01.1.

Roadway Projects

Delaware Department of Transportation (DeIDOT) is responsible for the majority of the publicly maintained roadways in the State of Delaware. Municipal governments own and maintain public streets within their jurisdictions, and some privately maintained streets exist within some subdivisions. When DeIDOT undertakes the construction or major improvement to a state-maintained roadway, DeIDOT reviews and approves the Sediment and Stormwater Management Plan and inspects the project during construction. These major roadway improvements require a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.

When roadways are improved to support increased traffic due to the construction of new development, the developer is responsible for designing and constructing those roadway improvements to DeIDOT standards. The size and scope of the developer-funded roadway improvements determines whether the review and approval of the plan and review during construction is conducted by DeIDOT or the local plan approval agency such as a conservation district or the municipality. The reviewing agency is determined at the time of the pre-application meeting for the project. The NPDES general permit coverage for these developer-funded roadway improvement projects may be included with the general permit coverage for the project being developed through a single Notice of Intent (NOI).

Redevelopment

Redevelopment of existing sites and clean-up and development of brownfield sites require Sediment and Stormwater Management Plan approval prior to construction. Alternative stormwater requirements have been established for redevelopment and brownfield cleanup projects.

Redevelopment and brownfield development projects that require a detailed Sediment and Stormwater Management Plan require NPDES permit coverage through submittal of a Notice of Intent (NOI). Small site disturbances of less than one acre on redevelopment and brownfield sites may qualify for a Standard Plan. Please refer to the

Standard Plan criteria for non-residential construction with less than 1.0 acre of disturbance in 3.01.1.

Agriculture

Agricultural land management practices which include tilling the land to plant a crop are exempt from the *Delaware Sediment and Stormwater Regulations* when the agricultural land has a current soil and water conservation plan prepared by the local conservation district. Application of nutrients to agricultural land is regulated by the Delaware Department of Agriculture Nutrient Management Program under 3 *Del.C.* Ch. 22.

Construction of agricultural structures such as barns, machine sheds, grain storage facilities, poultry houses and other livestock facilities that disturb greater than 5,000 square feet during construction are not exempt. Agricultural structures must be constructed in accordance with the approved Sediment and Stormwater Management Plan. NPDES general permit coverage for the stormwater discharges associated with the construction activity must be gained for the agricultural structure construction when land disturbance exceeds 1.0 acre through submittal of a Notice of Intent (NOI).

Agricultural structure construction that meets the Standard Plan criteria may be constructed under the Standard Plan. Please refer to the Standard Plan criteria in 3.01.1. Agricultural structure construction that exceeds 1.0 acre of disturbance will require a NOI for the construction activity and a stormwater pollution prevention plan will need to be developed. Local conservation districts are equipped to provide technical assistance to cooperators in development of these plans.

Commercial forest harvest operations are exempt from the requirements of the *Delaware Sediment and Stormwater Regulations*. Erosion, sediment control and stormwater management for forestry operations are regulated by the Delaware Department of Agriculture under 3 *Del. C.* Ch. 10 Subchapter VI.

Biosolids are the portion of sewage sludge that has undergone adequate treatment to permit land application. Application of biosolids to agricultural or other lands is exempt from the requirements of the *Delaware Sediment and Stormwater Regulations* when the application area has an approved conservation plan, an agricultural utilization permit, agricultural waste plan, or a nutrient management plan. Further information regarding biosolids application can be gained from the DNREC Division of Water Resources Surface Water Discharges Section.

03.01.1

Standard Plan Criteria

Background

Section 3.7 of the *Delaware Sediment and Stormwater Regulations* allows the Department to develop criteria for cases when a standardized Sediment and Stormwater Management Plan may satisfy the requirements in the place of a detailed Sediment and Stormwater Management Plan. When a project meets the Standard Plan applicability criteria for the project type, that project has the option to comply with the conditions of the Standard Plan for the project type in lieu of developing a detailed Sediment and Stormwater Management Plan.

Project types for which Standard Plan applicability criteria and compliance conditions have been developed are included as follows in this document:

- 3.01.1.1 Residential Construction
- 3.01.1.2 Non-residential Construction < 1.0 acre disturbed
- 3.01.1.3 Minor Linear Disturbances
- 3.01.1.4 Agricultural Structure Construction
- 3.01.1.5 Tax Ditch Maintenance
- 3.01.1.6 Stormwater Management Facility Maintenance

A detailed plan may be necessary for the construction activity to be adequately managed for construction site stormwater runoff and/or post construction stormwater management. A detailed plan may be required for any site that may otherwise meet Standard Plan criteria if it is deemed appropriate by the approval agency. The approval agency may require a detailed plan prior to approval or at any time during construction. Parcels that have previously received approval under a Standard Plan may not be eligible for a Standard Plan in the future, as determined by the approval agency on a case-by-case basis.

An owner or owner's representative may submit to the Department for consideration of development of standard plan criteria and conditions for any project type that may be submitted on a routine basis and which in the view of the Department would benefit from the development of Standard Plan criteria and conditions.

3.01.1.1

Residential Construction

Applicability:

1. The residential construction is for one single family residence on one individual residential parcel.
2. The total land disturbance will not exceed 3.0 acres.
3. Within the disturbed area, the pre-development land use is not classified as “wooded” based on the 2007 Delaware Land Use/Land Cover data.
4. The total impervious area proposed (roof, driveway, sidewalks, auxiliary structures, etc.) will not exceed the lesser of 7,500 square feet or 15% of the total parcel area.

Conditions:

1. Standard nutrient management plan recommendations will be followed for the project, during construction and throughout the life of the project.
 - a. Application of lawn nutrients will be based upon the recommendations of a soil test.
 - b. Nutrients will be applied only to turf areas, not impervious surfaces.
 - c. Nutrients will not be applied directly before a runoff event.
2. Discharges from rooftops will be disconnected using one of the following methods or another method approved by the Department or Delegated Agency:
 - a. Individual downspouts will discharge to lawn or landscape area.
 - b. Discharges from downspouts will be collected to discharge to a rain garden.
 - c. Discharges from downspouts will be collected in rain barrels or cisterns for reuse.
3. Driveways, sidewalks, patios, and other impervious surfaces will be graded to sheet flow to lawn or other pervious areas to the maximum extent practicable.
4. Construction site stormwater management best management practices will be used.
5. Construction projects exceeding 1.0 acre of total disturbance require submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.

3.01.1.2

Non-residential Construction <1.0 acre Disturbed

Applicability:

1. The disturbed area for construction of the improvements will not exceed 1.0 acre.
2. The total impervious area proposed will not exceed 10,000 square feet.
3. Within the disturbed area, the pre-development land use is not classified as “wooded” based on the 2007 Delaware Land Use/Land Cover data.
4. Project site location is within an area previously managed for stormwater quantity and quality.

Conditions:

1. Discharges from rooftops will be disconnected using one of the following methods or another method approved by the Department or Delegated Agency:
 - a. Individual downspouts will discharge to lawn or landscape area.
 - b. Discharges from downspouts will be collected to discharge to a rain garden.
 - c. Discharges from downspouts will be collected in rain barrels or cisterns for reuse.
2. Driveways, sidewalks, patios, and other impervious surfaces will be graded to sheet flow to lawn or other pervious areas to the maximum extent practicable.
3. Construction site stormwater management best management practices will be used.

3.01.1.3

Minor Linear Disturbances

Applicability:

1. Disturbance will be linear, as in utility construction, having a maximum width of disturbance of 20 feet.
2. No greater than 1.0 acre will be disturbed at any one time throughout the course of construction.
3. Land cover will be restored to the pre-construction hydrologic condition. Pre-construction grading and surface cover will remain after construction. No new impervious surfaces will be created as part of the construction.

Conditions:

1. Stabilization with seed and mulch will occur daily so that no greater than one acre will be disturbed at any one time.
2. Construction site stormwater management best management practices will be used.
3. Construction through sensitive areas, including stream and wetland crossings, will be accomplished through directional drilling, with land disturbance happening outside of the sensitive area.
4. Construction projects exceeding 1.0 acre of total disturbance require submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.

3.01.1.4

Agricultural Structure Construction

Applicability:

1. Construction is for an agricultural structure which is defined as a structure on a farm used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying or raising of agricultural commodities, including the raising of livestock. Structures used for human habitation, public use, or a place of employment where agricultural products are processed, treated, or packaged are not considered agricultural structures.
2. The pre-construction land use at the location of the agricultural structure is historically agricultural use (farmstead, crop field, pasture). If any portion of the pre-construction land use is a wooded condition, a detailed plan is required.
3. The proposed impervious area as a result of construction of an agricultural structure is less than 10% of the watershed area to the point of discharge from the parcel.

Conditions:

1. Nutrient management plan recommendations will be followed for the project, during construction and throughout the life of the project.
2. Discharges from rooftops will be disconnected from impervious surfaces. Downspouts, if applicable, will discharge to a stabilized area, such as grass or gravel.
3. Impervious surfaces, including compacted gravel roadways, will be graded to sheet flow to pervious areas to the maximum extent practicable.
4. Construction site stormwater management best management practices will be used.
5. Construction projects exceeding 1.0 acre of total disturbance required submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.

3.01.1.5

Tax Ditch Maintenance

Applicability:

1. Land disturbance is for maintenance of a recorded tax ditch having a design on file with DNREC.

Conditions:

1. Construction will follow “Principles and Guidelines for Planning, Constructing, and Maintaining Drainage Ditches in the State of Delaware”, DNREC Division of Soil and Water Conservation, June 1995.
2. Following maintenance the tax ditch elevations will be returned to design elevations.
3. Construction site stormwater management best management practices will be used.
4. Construction projects exceeding 1.0 acre of total disturbance required submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.

3.01.1.6

Stormwater Management Facility Maintenance

Applicability:

1. Land disturbance is for maintenance of a stormwater management facility having a design on file with DNREC or a Delegated Agency of the DNREC Sediment and Stormwater Program.

Conditions:

1. Construction will follow an Operation and Maintenance Plan in place for the stormwater management facility if one exists.
2. Following maintenance the stormwater management facility elevations will be returned to design elevations.
3. Construction site stormwater management best management practices will be used.
4. Construction projects exceeding 1.0 acre of total disturbance required submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity.