



DNREC SEDIMENT AND STORMWATER PROGRAM

# WHERE ARE WE NOW?

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DNREC

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# Legal Challenge and Response

- **October 2015**
  - Delaware Superior Court invalidated the 2013/2014 version of the Delaware Sediment and Stormwater Regulations on procedural grounds; DNREC appealed decision
- **April 2016**
  - Delaware Supreme Court upheld the Superior Court's decision
  - DNREC adopts 2016 emergency sediment and stormwater regulations



# Legal Challenge and Response

- June 2016
  - Gov. Markell signs SB 253 into law authorizing DNREC to provide additional flexibility in meeting standards for sediment and stormwater regulations



## Senate Bill 253 Highlights

- E&S only for Residential Construction <1.0ac
- Standard Plans for agricultural structures
- Stormwater quantity management exemption for tidal discharges
- Caps R<sub>Pv</sub> at 1" runoff
- Allows use of functionally equivalent BMPs or continue under the 2016 emergency regulations



## Senate Bill 253 Highlights

- Extends the approval period for plans from 3 years to 5 years
- Extends the re-delegation period from 3 years to 5 years
- *Allows additional time for the RAC to thoroughly discuss all of the necessary amendments to the Sediment and Stormwater Regulations by eliminating the 180 day expiration of the Emergency Regulations*



# House Bill 194

- Applies to Linear water and wastewater utility projects having:
  - Width of disturbance  $\leq$  30 feet
  - Total disturbance  $<$  1.0 acre
- Erosion and Sediment Control only
- Exempt from Stormwater Management



# What Now?

- Regulatory Advisory Committee
  - Monthly meetings
  - Technical Subcommittee
  - Offset Subcommittee
- Revisions to Regulations
  - Address SB253 & HBI94
  - Include Technical Document as regulation to address court
  - Publication tentatively Summer 2017

# Priority Topic – Standard Plans\*

- ✓ • Residential < 1 Acre Disturbed
  - Residential > 1 Acre Disturbed
  - Minor Linear Disturbances
- ✓ • Poultry House Construction

\*Can be implemented now due to change in Law

# Priority Topic – R<sub>Pv</sub> Compliance\*

- ✓ • Alternative computational method
  - $I_a/S=0.05$  in HydroCAD
- ✓ • Functionally equivalent BMPs
  - 48-hour extended detention = 100% R<sub>Pv</sub> compliance
    - Wet Ponds, Dry Ponds
    - Bioretention with underdrain
  - Tabular surface recharge reductions
    - Vegetated Channels
    - Sheet Flow
  - Webpage for Functional Equivalents:  
<http://www.dnrec.delaware.gov/swc/Pages/Functional-Equivalents.aspx>

\*Can be implemented now due to change in Law



# Priority Topic – Post Construction BMP Standards & Specifications

- Technical Subcommittee
  - Soil Investigation Procedures
  - Alternative RPs Methodology
  - Wet Ponds
  - Afforestation
  - Infiltration
  - Bioretention
  - Rainwater Harvesting
  - Remainder of specs one by one



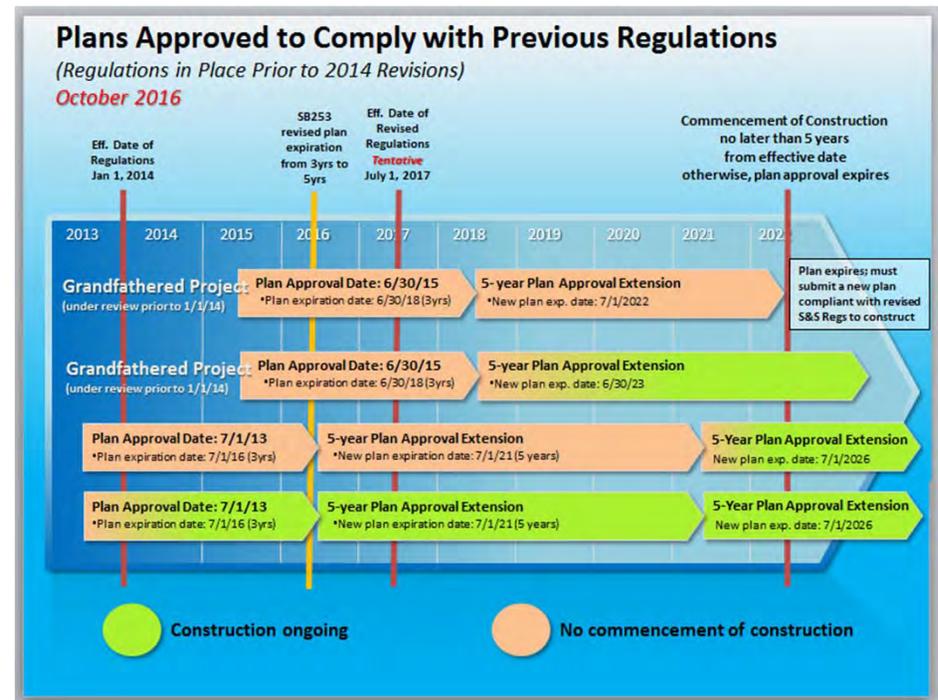
# Priority Topic – Redevelopment\*\*

- Three categories:
  - Contaminated or Brownfield sites
  - Sites having previous stormwater plan
  - Sites without stormwater plan
- Relaxed requirements
  - Reduction of impervious complies
  - Increases in impervious need BMPs to achieve 15% reduction in effective impervious

\*\*Cannot be implemented prior to completing full regulatory revision process because topic is not included in SB253 or HBI94

# Priority Topic – Sunset Provisions

- Previously all construction must commence by 12/31/19
- Revisiting sunset provisions for plans approved to comply with previous regs
  - Business Parks
  - Industrial Parks
  - Pad Sites





# Priority Topic – Offsets

- Offset Subcommittee
- Previously based on RPs volume shortfall
- Proposed to be based on nitrogen
- Greater discussion happening
  - Offsets across sectors
    - Agriculture
    - Wastewater



## Keep informed...

- Reg Revisions Interested Parties
  - To be included email contact info to [elaine.webb@state.de.us](mailto:elaine.webb@state.de.us)
- Sediment and Stormwater Listserve
  - Monthly updates
  - To join, send email to: [join-dnrec\\_sedstorm\\_news@lists.state.de.us](mailto:join-dnrec_sedstorm_news@lists.state.de.us)



# Questions?

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