



Summary of Transition Plan for Stormwater Management Performance Requirements

The 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control (2013 SW Rule) includes a transition plan for implementing the stormwater management performance requirements in the 2013 SW Rule. As shown in Figure 1, this transition plan is broken into transition periods. The transition periods allows projects to be vested under different requirements.

In developing and implementing this transition plan, DDOE has and continues to balance multiple objectives. On one hand, DDOE's intention has been to allow a reasonable period for regulated development to incorporate these requirements into the design and construction of projects and avoid requiring redesign of projects that have undergone extensive design. On the other hand, DDOE understands the importance of these requirements for District waterbodies, and the transition is not intended to allow a project to be indefinitely vested under a Transition Period (TP).

A project vests under a TP as follows:

- For most projects, vesting will depend on when the project submits a complete Stormwater Management Plan (SWMP) as part of its complete application for the main building permit for the project, with the two exceptions described below. The primary scope of work of the main building (B) permit (issued with "B" as a prefix and immediately followed by a number) is typically for the construction of a new building, addition, or alteration, though a B permit may also be required for certain activities that do not involve a building or structure (e.g. a change in use).
- Projects with an unexpired approval from a reviewing body specified below are broken into two categories:
 - For projects with an "Advanced Design" (see definition below), vesting will depend on when the application to the reviewing body was submitted.
 - Projects that applied for an approval from a reviewing body listed in Figure 1 before the end of TP2A (for a major land disturbing activity) or the end of TP2B (for a major substantial improvement activity) can apply for relief from the minimum on-site retention requirement based on showing that the unexpired approval of the reviewing body conflicts with installation of a retention Best Management Practice (BMP).

Exceptions to Submitting a SWMP under a B Permit

As noted above, for most projects, vesting will depend on the submittal prior to the end of the TP, of a complete Stormwater Management Plan (SWMP) as part of a complete application for the B permit for the project. The two exceptions to the requirement that the SWMP be submitted as part of the application for the B permit in order to be vested under a TP are the following:

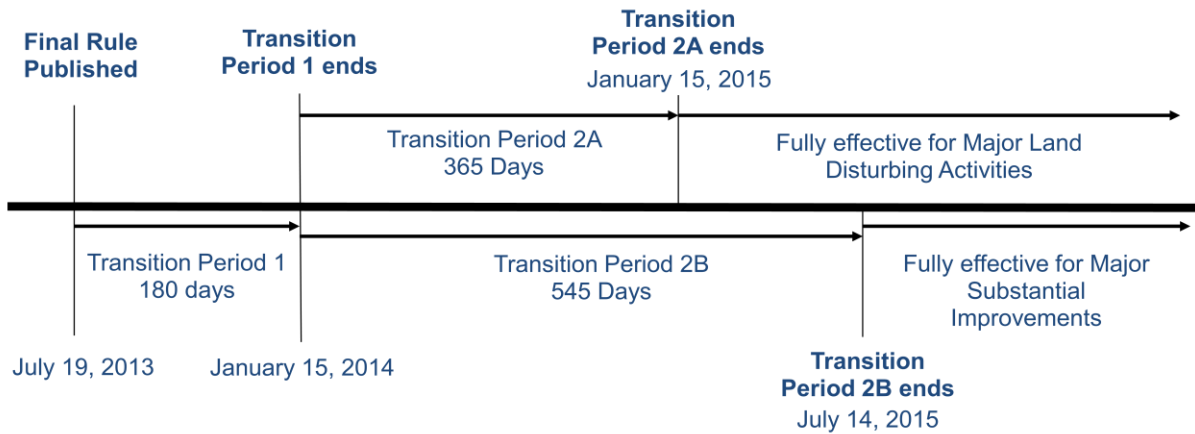
- **Foundation to grade (FD) permit.** A project may submit its complete SWMP as part of its application for a FD permit before the end of a TP. DDOE has had a long-standing requirement that a project must submit its SWMP when applying for a FD permit, which is important to ensure that decisions about placement of foundation elements are made with

adequate consideration of how stormwater Best Management Practices and infrastructure will be designed and installed to achieve compliance with the District's stormwater management regulations. A project that is ready to apply for a FD permit is relatively advanced in the design process and prepared to move forward with construction.

- **Civil (BCIV) permit for project with no B permit or FD permit.** A project that will not subsequently require a B permit or FD permit may vest in a TP by submitting its complete SWMP as part of its application for a BCIV permit before the end of that TP. If a project will involve construction of a new building, alteration, addition, or other activity requiring a B permit or a FD permit, then that portion of the project will be subject to the applicable stormwater management performance requirements at the time when the application for a B permit or FD permit is submitted.

For example, a project that involves clearing and grading solely to install a parking lot (and not involving a change of use that requires a B permit) would be subject to TP 1 if it submits its complete SWMP and BCIV application before the close of business on January 15, 2014. By contrast, if that project will also involve the eventual construction of an adjacent building, the SWMP submitted under the BCIV for the parking lot will not vest the building under the stormwater management performance requirements for TP1. The stormwater management performance requirements for the building will depend on when the application for the FD permit or B permit is submitted, relative to the transition plan.

Please contact Brian Van Wye (Brian.VanWye@dc.gov; 202-741-2121) for questions about this transition plan.



Transition Period One (TP1)

- Major regulated projects comply with stormwater regulations in place before Final Rule.

Transition Period Two A (TP2A) for Major Land-Disturbing Activities and Transition Period Two B (TP2B) for Major Substantial Improvement Activities

- Minimum on-site retention requirement waived. Entire retention volume may be achieved off site.
- Minimum on-site treatment required per the Final Rule, as applicable.

Exceptions:

- Areas of projects for which an Advanced Design (AD) has been submitted and for which approval has not expired shall comply with the stormwater management requirements in place at the time of submittal.
- Areas of multi-phased projects for which all stormwater infrastructure and BMPs are installed in compliance with a DDOE-approved SWMP during an earlier phase of construction shall be deemed to have met the stormwater management requirements.
- Projects for which an unexpired approval listed below conflicts with the installation of a retention BMP can use evidence of that conflict in applying for relief from the minimum on-site retention requirement, provided that the project applied for the unexpired approval before the end of TP2A for a major regulated project or the end of TP2B for a major substantial improvement activity:
 - Concept review by the Historic Preservation Review Board;
 - Concept review by the Commission on Fine Arts;
 - Preliminary or final design submission by the National Capital Planning Commission; or
 - Variance or special exception from the Board of Zoning Adjustment.
 - Large Tract Review by the District Office of Planning.

Figure 1: DDOE Transition Plan for Stormwater Management Performance Requirements

For the convenience of the public, Section 552 of the Final Rule is excerpted and included below, along with key definitions from Section 599. Please note the official regulations are as posted in the District of Columbia Municipal Regulations (DCMR).

552 TRANSITION

552.1 Sections 500 through 545, 546, 547, and 599 of this chapter shall be enforced immediately upon publication as final, except as described below.

552.2 The Department shall enforce a transition to the stormwater management performance requirements in §§ 520 through 522, as follows:

(a) A major regulated project submitting a complete Stormwater Management Plan (SWMP), as required under § 518.4, in support of a building permit application before the end of Transition Period One (TP1), shall:

(1) Be exempt from the requirements of §§ 520 through 522;

(2) Comply with the preceding stormwater management requirements for water quality treatment and detention, in 21 DCMR §§ 529-30 (as published at 35 DCR 21 (January 1, 1988)), as amended and effective through June 30, 2013; and

(3) Have the right to generate each applicable Stormwater Retention Credit for each gallon of eligible retention capacity in excess of the water quality treatment requirements in subparagraph (2).

(b) A major land-disturbing activity submitting a complete SWMP, as required under § 518.4, in support of a building permit application after TP1 and before the end of Transition Period Two A (TP2A) and a major substantial improvement activity submitting a complete SWMP, as required under § 518.4, in support of a building permit application after TP1 and before the end of Transition Period Two B (TP2B) shall comply with this chapter, except that:

(1) The requirement in § 520 to achieve a minimum of fifty percent (50%) of the 1.2 inch Stormwater Retention Volume (SWR_v) on site shall be waived; and

(2) The entire SWR_v may be achieved off-site, in accordance with § 527.

(c) A major regulated project submitting a complete SWMP, as required under § 518.4, in support of a building permit application, for an area that was described explicitly in an Advanced Design (AD) and for which the approval of the AD reviewing body has not expired, shall comply with:

- (1) Paragraph (a) of this subsection, if the AD was submitted before the end of TP1; and
 - (2) Paragraph (b) of this subsection, if the AD was submitted after TP1 and before the end of TP2A, for a major land-disturbing activity or before the end of TP2B, for a major substantial improvement activity.
- (d) An area of a multi-phased major land-disturbing activity for which each stormwater infrastructure and best management practice required in a Department-approved SWMP was installed during a preceding phase of construction shall be deemed to have achieved compliance with the stormwater management requirements of this chapter and shall not be required to submit a separate SWMP to support a building permit application.

552.3 A major regulated project shall comply with the stormwater management requirements of §§ 552.1 and 552.2 that are enforced at the time it submits a complete SWMP, as required under § 518.4, if:

- (a) The project must re-apply for a building permit because the preceding permit has expired under 12A DCMR § 105.5 or the permit application had been abandoned under 12A DCMR § 105.3.2; or
- (b) The project applies for a building permit after the approving body's approval of an AD has expired.

552.4 This section shall be narrowly construed, and nothing in this section shall be interpreted to otherwise affect the enforcement of the other requirements and procedures in this chapter.

Advanced Design (AD) - Detailed design for an area of a project described explicitly in a:

- (a) Stage Two (2) Planned Unit Development (PUD) application to the District Zoning Commission;
- (b) Application for design review under the Capitol Gateway Overlay District to the District Zoning Commission; and
- (c) Final design submission to the National Capital Planning Commission (NCPC).

Transition Period One (TP1) – The one hundred and eighty (180) day period of time starting upon publication of the notice of adoption as final in the *D.C. Register* of the stormwater retention rulemaking. TP1 ends at the close of business on January 15, 2014.

Transition Period Two A (TP2A) – For a major land-disturbing activity, the three hundred and sixty-five (365) day period of time starting at the completion of Transition Period One. TP2A ends at the close of business on January 15, 2015.

Transition Period Two B (TP2B) – For a major substantial improvement activity, the five hundred and forty-five (545) day period of time starting at the completion of Transition Period One. TP2B ends at the close of business on July 14, 2015.