



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Maryland Department of the Environment Stormwater Management Regulations Expiration of Administrative Waivers August 2015

Maryland's current stormwater management regulations (see the Code of Maryland Regulations or "COMAR" at 26.17.02) apply to all new development and redevelopment projects that did not have final project approval for erosion and sediment control and stormwater management plans prior to May 4, 2010. The regulations contain grandfathering provisions that could be applied to projects in the local review process that were not able to obtain final approval by May 4, 2010. Local jurisdictions were given the option to grant an "administrative waiver" to allow the continued design and construction using the 2000 stormwater management criteria if a development received a preliminary approval prior to May 4, 2010. Administrative waivers have expired for those projects that did not receive a final project approval prior to May 4, 2013. Where final project approval was received, the administrative waivers expire on May 4, 2017.

According to State regulation, administrative waivers may only be extended beyond that date if, by May 4, 2010, the development was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement. If these conditions do not exist, then all construction authorized under an administrative waiver must be completed by May 4, 2017 or stormwater management must be addressed using the current regulatory requirements (i.e., environmental site design). This is critical for those administratively waived projects where construction may not be completed by that date.

The administrative waiver applies to the stormwater system as shown on the approved final plans. Therefore, MDE considers the "construction" that must be completed by May 4, 2017 to include all stormwater management practices and associated infrastructure including stormwater conveyance systems.

MDE recognizes that county and municipal agencies have broad authority over the administration of their local stormwater management programs. Decisions made regarding construction completion and administrative waivers are no different. In fact, some localities have established their own grandfathering policies.

Measuring the level of "completion", for example, will likely vary with each local jurisdiction. At a minimum, all stormwater management practices should be constructed to final grade and stabilized. Each local jurisdiction may require that stormwater management be addressed using the current requirements for projects where significant changes were made to the approved development footprint and/or design.

