
Chapter 6

Use of
Off-Site Retention
By
Regulated Sites

6.0 Off-Site Retention Overview

All sites regulated under the District's stormwater management regulations must satisfy a net Stormwater Retention Volume (SWRv), calculated in gallons, for the life of the development. A regulated site owner can retain the entire SWRv on site or achieve the SWRv through a combination of on-site and off-site retention.

A regulated site must retain on site a minimum volume, equal to 50% of the SWRv. Above that minimum on-site volume, the regulated site may use off-site retention without having to first demonstrate that it would be infeasible to retain that volume on site. However, in order to retain less than the minimum on-site volume, the site must demonstrate that on-site retention of that volume is technically infeasible or environmentally inappropriate.

The portion of a SWRv that a regulated site does not retain on site is termed the Off-Site Retention Volume or OSRv, and a regulated site's options for achieving its OSRv are the following:

- A. Use Stormwater Retention Credits (SRCs), each of which corresponds to one gallon of retention for one year; or
- B. Pay DDOE's in-lieu fee, the cost of which corresponds to one gallon of retention for one year; or
- C. A combination of A and B.

The owner of a regulated site may use SRCs that the owner has earned elsewhere in the District or SRCs purchased on the private market. DDOE will provide the regulated site with contact information for SRC owners who wish to sell their SRCs. SRC buyers and sellers negotiate the terms of a transaction between themselves, but the transaction is not complete until DDOE has approved it. DDOE's approval is required so that DDOE can effectively track ownership and use, including preventing fraudulent use of SRCs.

Regulated sites are responsible for their OSRv on an ongoing basis, just as they must maintain any on-site stormwater Best Management Practices (BMPs) on an ongoing basis. In other words, they must continue to use SRCs or pay in-lieu fee for the life of the development, similar to paying a lease or utility fee. However, if in the future a regulated site retrofits and achieves its OSRv on site, then it no longer must achieve that volume off site.

A regulated site may meet its OSRv for multiple years by paying up front for sufficient in-lieu fee to satisfy its OSRv for that time period. Likewise, the regulated site may purchase and commit to use sufficient SRCs to satisfy its OSRv for multiple years. SRCs may be banked indefinitely. The one year lifespan of an SRC or in-lieu fee payment begins once it is used to satisfy an OSRv.

Once SRCs have been used or sold, they remain valid, even if the owner of the retention practices for which SRCs were certified fails to maintain them. Note, however, that there are consequences for owners of sites that fail to maintain retention practices for which SRCs have been certified, as discussed in *Chapter 7* and *Appendix D*.

Each SRC will have a unique serial number, and DDOE will track how a regulated site is satisfying its OSRv. DDOE will automatically assess in-lieu fee, with penalties for late payment, for any site that does not stay current with its OSRv obligation.

The Stormwater Management Plan (SWMP) for a regulated site opting to use off-site retention must state its OSRv. This OSRv, along with related requirements for sites in the Anacostia Waterfront Development Zone, will be recorded in the maintenance covenant filed for the property. Whether using in-lieu fee or SRC, they must be in use as of the successful completion of DDOE's final inspection at the end of the construction process.

6.1 Off-Site Retention via Stormwater Retention Credits

One SRC satisfies one gallon of Off-Site Retention Volume (OSRv) for one year. The use of an SRC is not restricted by watershed.

A regulated site with an OSRv may elect at a future date to install additional stormwater Best Management Practices (BMPs) on site in a sufficient volume to eliminate or reduce the OSRv.

To use SRCs to meet an OSRv, a regulated site owner must submit an application to use SRCs to meet its OSRv (see Appendix C). The application must identify SRCs that are owned by the site owner and may cover multiple years of OSRv. The application must be submitted 30 days in advance of the planned date of use. SRCs (and/or in-lieu fee) must be in use as of the successful completion of DDOE's final inspection at the end of the construction process and thereafter on an ongoing basis.

After verifying the ownership of the SRCs and other information in the application to use SRCs, DDOE will approve the use of the SRCs. DDOE will not sign off on a regulated site's final inspection at the end of the construction process until it has approved the application and verified that any OSRv is achieved. The one-year lifespan of the SRCs begins as of the date that it is used to meet the OSRv.

At least 30 days before SRCs used to satisfy an OSRv are set to expire, the regulated site owner must submit an application identifying additional SRCs that will be used to satisfy the OSRv or pay in-lieu fee.

If the Department does not receive an application to use SRCs or an in-lieu fee payment 30 days in advance of SRC expiration, the Department shall automatically charge in-lieu fee to the site owner. If the Department receives the application or payment before the SRC expiration date, the charge of in-lieu fee will be waived. If the Department does not receive the application or in-lieu fee before the SRC expiration date, the Department shall add a 10% late fee to the required payment of in-lieu fee.

A regulated site owner may purchase SRCs from the private market or generate them elsewhere. Once SRCs have been used or sold, they remain valid, even if the owner of the retention capacity for which SRCs were certified fails to maintain the retention capacity. *Chapter 7* addresses consequences for owners of retention capacity that fail to maintain the retention capacity.

Summary of Key Steps for Using SRCs

1. Apply to use SRCs to satisfy OSRv 30 days in advance of final construction inspection.
2. Receive DDOE approval of use of SRCs.
3. Schedule final construction inspection with DDOE (step 2 and 3 can be reversed)
4. Pass final construction inspection and start use of SRCs.
5. 30 days before SRC expiration, apply to use additional SRCs to satisfy OSRv.
6. Receive DDOE approval of use of SRCs.
7. Repeat steps 5 and 6 as necessary.

6.2 Off-Site Retention via In-Lieu Fee

In-lieu fee corresponds to one gallon of retention capacity for one year. Payment of one gallon worth of in-lieu fee satisfies one gallon of Off-Site Retention Volume (OSRv) for one year. A regulated site may elect to install additional BMPs on site in a sufficient volume to eliminate or reduce the OSRv.

To use in-lieu fee to meet an OSRv, a regulated site must submit payment to the District, along with a notification form (see Appendix C). The notification and payment may be for multiple years. The notification and payment must be submitted 30 days in advance of the planned date of use. In-lieu fee (and/or SRCs) must be in use as of the successful completion of DDOE's final inspection at the end of the construction process and thereafter on an ongoing basis.

DDOE will confirm receipt of in-lieu fee. DDOE will not sign off on a regulated site's final inspection at the end of the construction process until it has verified that its OSRv is achieved. The one-year lifespan of the in-lieu fee begins as of the date that it is used to meet OSRv.

At least 30 days before in-lieu fee used to satisfy an OSRv is set to expire, the regulated site owner must submit notification and payment for additional in-lieu fee or submit an application to use SRCs to meet its OSRv. If the Department does not receive the notification and payment or application 30 days in advance of in-lieu fee expiration, the Department shall automatically charge in-lieu fee to the site owner. If the Department receives the application or payment before the in-lieu fee expiration date, the charge of in-lieu fee will be waived. If the Department does not receive the application or notification and payment of in-lieu fee before the in-lieu fee expiration date, the Department shall add a 10% late fee to the charge of in-lieu fee.

6.3 See *Appendix C* for the following forms:

- Application to Use Stormwater Retention Credits for Off-Site Retention Volume
- Notification of In-Lieu Fee Payment