Discussion Topics and Key Questions
IAC Meeting # 4 – 4/15/10

Regulatory Approach

Type of Development	Saturated Hydraulic Conductivity >0.1"/hr	Saturated Hydraulic Conductivity ≤ 0.1"/hr
New Development and Redevelopment – Urban (in UGA or Census Urban Area CUA) **Based on Project Size:**		
Small projects below thresholds for flow control & treatment - (>2,000 sf Impervious Surface or >7,000 sf land disturbance and less than 5,000 sf PGIS or 7,000 sf land disturbance)	Expand MR 5 for onsite sw mgmt to add techniques via checklist	Expand MR 5 for onsite sw mgmt to add techniques via checklist
Projects above thresholds for flow control & treatment - (≥ 5,000 sf PGIS or ≥ ¾ acre land disturbance) and less than 5 acres	Checklist	Checklist
Large projects ≥ 5 acres	Performance standard with feasibility review	Checklist
New Development – outside current UGA/ CUA **Based on parcel size**		
Small lots ≥5,000 sf PGIS or ≥¾ acre land disturbance and < 5 acres	Checklist	Checklist
Large lots ≥ 5 acres	Performance standard with no feasibility review	Performance standard with no feasibility review
Redevelopment outside UGA/CUA **Based on parcel size**		
Small lots <5 acres	Checklist	Checklist
Large lots >5 acres	Performance standard with no feasibility review	Checklist

Definitions and Acronyms

Redevelopment – On a site that is already substantially developed (i.e., has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities. Sites with less than 35% impervious surface coverage are considered new development.

Project size – That portion of a property, properties, or right-of-way subject to land disturbing activities, new impervious surfaces, or replaced impervious surfaces.

Site – The area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

PGIS – Pollution Generating Impervious Surface

Discussion Questions

Regulatory Approach

1. Please provide your feedback on Ecology's proposal as outlined in the table above. Is it appropriate to treat development outside the UGA different from inside the UGA?

2. Is 5 acres a reasonable place at which to draw the line between urban projects that could be regulated by a performance standard and urban projects that have to use the standardized evaluation/checklist approach?

Checklist and Feasibility

Please refer to the SPU Draft Director's Rule: Each project must complete the Table A.1 Worksheet to determine how much credit is given for each LID technique used and whether impervious areas are adequately mitigated. The credits given and the mitigation required are based on achieving a hydrologic performance standard. If the target mitigation is not reached, the project must submit documentation re why additional LID is not feasible. Documentation must include either a completed engineering feasibility checklist; or a narrative to describe why competing needs prevent more LID; or cost estimates and a narrative to support a claim of cost infeasibility.

3. How should local governments address feasibility issues related to competing needs?

4. If a project wants to claim cost infeasibility, the SPU approach is to require submission of cost information that will eventually be combined and later evaluated for developing cost feasibility criteria. What do you think of this approach?

5. How significant are concerns regarding long-term maintenance with respect to feasibility? For example, a 25 home subdivision could have 25 or more LID features instead of one central stormwater facility. What implementation mechanisms might address those concerns?

6. In establishing the feasibility checklist approach, should Ecology publish a checklist which:
    a. the local government must adopt or develop an equivalent;
    b. the local governments are not required to use, but they must adopt a similar site analysis method; or
    c. is put forth only as an example, with local governments given complete discretion regarding what to include in their checklist?

LID in Areas Exempt from Flow Controls

Ecology is considering a feasibility checklist for projects in flow control exempt areas. This requirement would apply to all projects creating ≥5,000 sf PGIS or ≥3/4 acre land disturbance.

7. Provide feedback on this regulatory approach for projects in areas exempt from flow controls.

8. Should the checklist include feasibility review only for LID techniques that have a pollutant control benefit? Note: Most roofs are considered non-pollutant generating. So, LID techniques reducing roof runoff (e.g., infiltration and dispersion, green roofs, rainwater harvesting) do not substantially contribute to pollutant control.

Basin Planning

The PCHB said:

"*Ecology has identified the particular importance of basin planning in areas which are relatively undeveloped where new development is occurring. The Board concludes that city and county permittees should identify such areas where potential basin planning would assist in reducing the harmful impacts of stormwater discharges upon aquatic resources. This will assist Ecology in readying for the next round of permits when such requirements may be necessary to meet the state AKART standard, and, under federal law, to reduce pollutants in municipal stormwater to MEP.*"

9. Current recommendations of scientists are that to protect high quality water resources, the following actions are necessary:
    a. preserve a significant percentage (> 50%) of a basin in native vegetation;
    b. minimize effective impervious area;
    c. provide high quality riparian zones along creeks and wetlands of all sizes;
    d. prohibit development on steep or unstable slopes; and
    e. detention and water quality treatment facilities for any stormwater discharges.

Should the permits require local governments with identified high quality water resources to develop a strategy to achieve the above qualities, and subsequent implementation of the strategy through land use planning, ordinance and rule updating?

For Example: Municipalities whose permit coverage area includes part of a basin which has less than XX% total impervious area must demonstrate how their comprehensive land use plan, site development ordinances and rules (including stormwater-related requirements), and critical areas requirements will preserve more than YY% of the basin in native vegetation, keep total impervious area less than ZZ%, and minimize increases in effective impervious area through LID techniques. Municipalities sharing subject basins would collectively demonstrate that their enforceable plans, ordinances, and rules, when considered as a package, achieve the Clean Water Act requirement to preserve, maintain, and restore the beneficial uses of surface waters within those basins.

Timing

Ecology has clarified that it will set deadlines for implementing LID requirements within the permits rather than in advance of permit reissuance. Committee member responses to the survey question on timing range from 1 year after 2012 permit reissuance to 3 years from reissuance. Because of the varying assumptions committee members used for those deadlines, Ecology requests a roundtable response for Phase I and Phase II permittees based on the following assumptions:

- Permittees will begin the process of code review and revision only when the permits are reissued in January, 2012.
- The code review and revisions to incorporate LID will require a comprehensive plan amendment.
- The codes to review and revise include at a minimum the stormwater code (including maintenance standards), the subdivision code, the zoning code, the clearing and grading code, and street and parking standards.

- The permittee must train plan reviewers, permit staff, inspectors, and maintenance staff.
- The permittee must prepare the development community for these changes.
- The public process will require at least 6 months between drafting the code revisions and adoption.

10. Do you agree with these assumptions?

11. Based on these assumptions, what timeframes do you recommend allowing for the Phase I and Phase II permittees to implement LID requirements?