

Comments on Preliminary Draft Permit Language

Western Washington Phase II Municipal Stormwater Permit
 Appendix 1 – Minimum Technical Requirements for New Development and Redevelopment
 Draft revisions for incorporation of LID-related thresholds, definitions, and requirements

Sandy Petersen (Whatcom County Public Works Department) Comments

Date: 2011.06.16

No	Location	Comment/Question
1.	Pg 1, Sect 1, "Oil and Gas Field Activities or Operations"	Why exempt these activities? I contend that subject Permit provisions should apply here as well.
2.	Pg 2, "Converted Pervious Surface" definition	Change to: "Native vegetation conversion to pasture, lawn, or landscaped areas."
3.	Pg 3, 2 nd para starting with "Impervious surfaces..."	Will 2012 WSDOE SWMMWW BMP T5.30 include the 6.5:1 ratio of dispersion area flow path width to impervious area width requirement for consistency with 2005 WSDOE SWMMWW Volume III Appendix C paragraph 7.2.4 requirements?
4.	Pg 3, "Erodible or leachable materials" definition, 1 st sentence	Change to: "Waste materials or chemicals, either of which measurably alters the physical or chemical characteristics of runoff."
5.	Pg 3, "Impervious surface" definition	Delete both occurrences of "non-vegetated", since gravel shoulders along roadways can become overgrown with vegetation, but are still nonetheless "impervious".
6.	Pg 4	Add definition of "measurably" (see Comment No 4 for context).
7.	Pg 4, "Low Impact Development (LID)" definition	Insert commas after "evaporation", "transpiration", and "practices".
8.		Insert: "all" between "are" and "integrated".
9.	Pg 4, "LID Best Management Practices" definition	Insert comma after "evaporation".
10.	Pg 4, "Maintenance" definition, 1 st sentence	Replace: "Repair and maintenance includes..." with "Physical asset preservation..."
11.	Pg 4, "New development" definition	Insert before last sentence: "For proposed new subdivisions, short subdivisions, and binding site plan projects, assume, for threshold determination purposes in Figures 3.2 – 3.3, that _____ <insert value> square feet of impervious surface will result on each newly created lot, unless the project proponent has otherwise formally declared other values for each lot in the corresponding complete land division application."

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12.	Pg 5, "Pollution-generating impervious surface (PGIS)" definition, 2 nd sentence	Add at end: ", or exist in a WSDOE-declared phosphorus-limited or sensitive watershed."
13.	Pg 5, "Pollution-generating pervious surface (PGPS)" definition, 1 st line	Change: "non-impervious" to "pervious"
14.	Pg 8, last paragraph, 1 st sentence	Replace with: "For proposed land division projects, apply the thresholds in sections 3.2 and 3.3 at the time the project proponent submits a complete application for the land division, assuming that _____<insert same value from Comment No 11 above> square feet of impervious surface will result on each newly created lot, unless the project proponent has otherwise formally declared other values for each lot in the corresponding complete land division application."
15.	Pg 9	WSDOE should declare its position regarding, and include in Figure 3.1 Flowchart accordingly, after due consideration of State law and various court cases about vesting, the applicability of subject Permit requirements on properties that were created under an approved land division (i.e., subdivision, short subdivision, or binding site plan), where the corresponding land division complete application submission date precedes the Permit's effective date.
16.	Pg 10, Figure 3.2, 1 st decision block	Change: "impervious" to "hard".
17.	Pg 14, Section 4, 1 st para, 2 nd line	Change: "should" to "shall".
18.	Pg 14, Section 4, 1 st para, 4 th line	
19.	Pg 14, Section 4, 1 st para, last line	Insert comma after: "...replaced surfaces..."
20.		Change: "and" to "plus".
21.	Pg 22, Section 4.5, 4 th bulleted subpara, last line	Change: "usingthe" to "using the".
22.	Pg 22, blocked question	Yes.
23.	Pg 23, blocked question	Yes.
24.	Pg 26, para no 3, 8 th line	Change to: "High Annual Average Daily Traffic (AADT) roads as follows:".
25.	Pg 26, para no 3, 2 nd bulleted subpara	Delete: "Annual Average Daily Traffic".
26.		Change: "(AADT) counts" to "an AADT".
27.	Pg 26, para no 3	What is a: "4 th Strahler order stream"?
28.	Pg 30, 3 rd bulleted para	"Effective hard surfaces" and "effective pervious surfaces" are not defined anywhere.

No	Location	Comment/Question
29.	Pg 31, 1 st line	Identify corresponding WSDOE SWMMWW Volume number for Appendix XX.
30.	Pg 36, 2 nd blocked request for comments	For now, <u>all</u> public roads.
31.	Pg 36, Section 8.B, 1 st para under "Note" para	Insert at beginning: "They would exist".
32.	Pg 36, Section 8.B, 3 rd para under "Note" para	
33.	Pg 36, Section 8.B, 4th para under "Note" para	
34.	Pg 36, Section 8.B, 5th para under "Note" para	
35.	Pg 37, Section 8.B, 9th para under the "Note" para	
36.	Pg 36, Section 8.B, 5th para under "Note" para	Replace with: "The grade of any porous asphalt section increment exceeds 5%, or the grade of any pervious concrete section increment exceeds 6%. Portions of pervious concrete sections that exceed 5% grade must incorporate design features that prevent drainage from upgradient base courses into its base course."
37.	Pg 37, Section 8.B, 10th para under the "Note" para	Delete: "Where".
38.	Pg 37, Section 8.B, 11th para under the "Note" para	
39.	Section 8.B	Add to list: "A road project, using conventional impervious surfacing, can otherwise comply with 2012 WSDOE SWMMWW Volume III paragraph 3.3.9(A) for 100% infiltration or Appendix C paragraph 7.2.4 for full dispersion."

LID Preliminary Language:

1. Technical/Guidance Manuals Adopted by Reference in Permit Appendix 1

Comment – The revised technical/guidance manuals for stormwater and LID facilities are not available. Requiring LID facilities without documented standards is counter-productive and would place too great a burden on permittees. If it is DOE's position that LID facilities are proven stormwater facilities, then clear standards for design, inspection and maintenance of said facilities should be included in the technical documents adopted by reference within the permit.

Recommendation – Issuance of technical manuals should not be done until clear standards for design, inspection and maintenance are included and have subjected to an economic analysis of the impacts especially in regard to private development.

2. Code Updates & Technical Manuals Prelim Draft Language Pg. 2 Sect. 4a

Comment – The draft permit language identifies a deadline of December 31, 2015 for adoption of the updated codes and technical manuals, as well as implementation of inspection and maintenance programs. This could be very difficult for Phase 2 Counties since significant changes were already required in the current permit cycle. This timeline is insufficient to address this requirement in the current economic downturn with the distressed state of private development.

Recommendation – Encourage rather than mandate the adoption and implementation of codes and technical manuals and delay mandating these changes until the next permit cycle.

3. Elimination of One Acre Threshold

Comment – Elimination of the one acre threshold will place a tremendous financial burden on small private development projects, such as single family construction and small road projects, which are only subject to Minimum Requirements 1-5 in Appendix 1, while offering little or no environmental benefit.

Recommendation – Retain the one acre threshold within the Phase II Permit or allow greater flexibility for small projects.

4. Definition of Receiving Waters Appendix 1 – Pg.6

Comment – The revised definition of “Receiving Waters” now includes infiltration into groundwater. Permeable soils are not receiving waters, and this is contradictory from guidance Whatcom County has received from DOE in regard to the Lake Whatcom TMDL study.

Recommendation – Remove the new language added to this definition.

S8 Monitoring:

1. The overall concept of the regional monitoring appears to a good approach.

2. Fee assessment pages 12 -14.

Comment – Using the entire unincorporated population of Phase 2 Counties places an undue burden on resources that are already severely strained.

Recommendation – The method for calculating fees for Counties should be based on actual populations of the Phase 2 Areas.

3. Fee assessment pages 12 -14.

Comment – The fees proposed starting in year 3 are much higher (by a factor of 2.5 to 3 times) than those discussed in meetings of the “Local Jurisdiction Caucus of the Puget Sound Stormwater Monitoring Work Group” when consensus was given to this approach.

Recommendation – Reassess the scope of the Regional Monitoring program these fees are going to be more than many permittees will be able to afford.

General Permit Comments:

Comment – Because of the patchwork nature of Phase 2 Areas that Phase 2 Counties are required to regulate, they are placed in a very difficult position in the process of creating consistent Public Outreach and Involvement, LID and Runoff Control programs, policies and ordinances in UGA’s because of competing interests of the Phase 2 cities.

Recommendation – DOE should embark on a concerted Legislative effort that requires cities (Phase 2 cities in particular) to either proceed with annexation efforts or lose UGA status for areas where they really have no intention to proceed with annexation.