

New MDE Stormwater Management Regulations & Impacts

The Stormwater Act of 2007

On May 4, 2009, the state adopted into its regulations the immediate implementation of the Stormwater Act of 2007. The Stormwater Act requires establishing a comprehensive process for stormwater management approval by implementing environmental site design (ESD) to the maximum extent practicable (MEP) to ensure structural practices are used only where absolutely necessary.

For new development, the state is requiring water quality for the first inch of rainfall and quantity control for the one-year storm event to be handled by numerous small, non-structural practices. According to the state, if the process can be successfully implemented, a site will not require a stormwater management facility.

The current regulations have the same water quality and quantity control requirements but do not encourage small facilities for quantity control. The advantage of the numerous facilities will be the elimination of a more centralized stormwater management facility located at the low point of each sub-area. Instead, there will be many small bio-retention areas, rain gardens, infiltration facilities, buildings with green roofs, porous pavement for parking lots, etc., scattered throughout a site. The intent is to emulate the recharge and runoff of woods in good condition for up to the one-year storm event.



The 2000 Maryland Stormwater Design Manual Volumes I and II were supplemented with a new Chapter 5, which provides design information for the new practices.



Local Jurisdiction Ordinances

In order to accomplish the goal of ESD to the MEP, the state will require the local jurisdictions to revise their ordinances to implement the guidelines. Each local jurisdiction has until November 11, 2009 to submit to the state their proposed changes to their ordinances and all changes shall be adopted by May 4, 2010. The state has not identified specific changes to the local rules and regulations that must be incorporated, however; it appears they will be expecting changes that reduce impervious areas, such as narrowing drive aisles, reducing the size and number of parking spaces, reducing road widths, encouraging sheet flow of water, and adding green roofs, etc.

Three-Phase Development Process

The state is mandating a three-phase development process which will consist of a concept plan, site development plan and a final stormwater management plan. Each phase must be completed and approved prior to submission of the subsequent phase. The concept plan will include an environmental inventory, which incorporates the location of wetlands, steep slopes, forested areas, etc., a stormwater concept plan and a preliminary site plan. This is similar to how Loiederman Soltesz Associates already prepares plans for projects in many jurisdictions.



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The second phase is a site development plan, which includes an estimated 50% stormwater management design, erosion and sediment control layout, grading, construction sequencing to minimize disturbed areas, and a site plan that shows buildings, roadways, parking, grading, etc. This is similar to the level of effort required for a detailed site plan process in Prince George's County, a site plan process in Montgomery County, a zoning site plan review in Charles County, and a site plan approval in Frederick County. St Mary's County does not currently have an equivalent process. While the site development plan is similar to these efforts, this phase does require the additional steps of confirming stormwater practices' sizing; preparing a sediment control layout that includes grading to ensure that outfalls work and that traps are placed where they make the most sense; and creating a basic sequence of construction with a goal of minimizing disturbed area before stabilization. This requirement will make large mass grading operations more difficult to implement as the state is trying to limit disturbed areas to eight to ten acres before each grading phase is stabilized and the contractor proceeds to the next area to be graded.



The final phase is the final stormwater management plan, which is the preparation of the final stormwater management and sediment and erosion control plans used for construction.

The Redevelopment Process

The redevelopment process will be very similar in nature to a new design process in that it will require a similar three phase procedure. Unlike new development, however, redevelopment is broken into two scenarios based on "site area." "Site" is now defined as "any tract, lot, parcel of land, or combination of tracts, lots, parcels of land, that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision or project." In the first scenario, if the "site" is less than 40% impervious, then any redevelopment will require water quality and quantity control as if it is a new development. However, if the site impervious percentage is greater than 40%, then water quality will only be required for a minimum of 50% of the existing impervious area or a combination of reduction and treatment for 50% of the existing impervious area. This is an increase from the minimum 20% currently required by state law, but implemented differently depending on the jurisdiction.

Grandfather Clause

A grandfather clause in the regulations exempts any project from meeting the new criteria if final approvals of sediment and erosion control and stormwater management plans are obtained by May 3, 2010.



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