

**STORMWATER ORDINANCE UPDATE
TECHNICAL ADVISORY COMMITTEE (TAC)
Meeting #3: Wednesday, September 05, 2007
Washington Department of Fish and Wildlife
2108 Grand Boulevard
1:30 - 3:30 pm**

NOTES

Introduction / Agenda

Members Attending

Tom Grange, Patrick Harbison, Tim Kraft, Robin Krause, Mike Misiak, Jennifer McClure, Chad McMurry, Ali Safayi, Mike Soliwoda,

Members Absent

Gordon Euler, Fereidoon Safdari

Staff

Sue Stepan, Tracy Trunk

Audience

Sean Darcy, Eric Golemo, Andrew Stoeckinger

Mr. McMurry requested the changes to the TAC #2 Notes that he mailed to Ms. Kobluskie. Those will be incorporated. The notes were approved as amended.

Decisions from Last Meeting

Reference handouts "Clark County Stormwater Ordinance Rewrite: Draft Rewrite of Clark County Code 40.380.010 - Purpose," "Clark County Concept Code: Draft Rewrite of Clark County Code 40.380.020 - Applicability," and "Clark County Concept Code: Draft Rewrite of Clark Count Code 40.380.030 - Exceptions/Exemptions."

Mr. Kraft asked the committee to suggest changes to Concept Codes 40.380.010 - .030 that were presented at the last meeting. Submit detailed comments in writing.

Mr. McMurry questioned why regional facilities were removed from section 020.1(C), and some related language in .030, varying from the permit language. Mr. Kraft replied that that language from the *2005 Manual* is guidance to the permittee (Clark County), not code language. The county will have to address variances for redevelopment; the topic will be discussed.

Mr. McMurry questioned why section 030.3.1(12) was deleted. Mr. Kraft and Mr. McMurry discussed how (12) differs from (7), which was not deleted.

Mr. McMurry argued that on a phased commercial development site, such as Home Depot on Andresen, the developer constructs stormwater facilities and other infrastructure, so there should be no reason to require a new stormwater plan when individual retail sites are built. Mr. Kraft agreed. A preliminary stormwater report does not seem necessary, but something should be required at finals.

Mr. Krause asked if the exemption belongs in the section that addresses preliminary stormwater plans, since it is not a general exemption.

TAC agreed that the exemption should remain in code, but it did not conclude where it should be placed.

Action Items

Reference the Action Items handout.

Redevelopment

Mr. Kraft reviewed the previous discussion of 40.380.020.(C), Additional Requirements for Redevelopment Sites. Ecology allows several options for the value section of the criteria for non-road-related projects. Ecology's preferred method, already in the Concept Code, is "if more than a total of 5,000 sq. ft. of total of new plus replaced impervious surfaces and the valuation of proposed improvements including interior improvements exceeds 50% of the assessed value." Other options include:

- 50% of the replacement of the existing site value is determined by the Marshall Value System
- Exceeding a certain dollar value of improvements
- Exceeding a certain ratio of new impervious surfaces to the total of replaced plus new impervious surfaces.

Mr. Kraft: in an analysis of other jurisdictions, staff found that of Seattle, Bellevue, Tacoma, Olympia, and Port Townsend almost all used the verbatim language from Ecology. A notable exception is Olympia — where they say the total of new plus replaced impervious surfaces is 5000 sq. ft. or more AND the new impervious surfaces add 50% or more to the existing impervious within project limits OR the valuation of proposed improvements including interior improvements exceeds 25% of the assessed value.

Mr. Kraft argued that using the "exceeding a certain ratio of new impervious surfaces to the total of the replaced plus new" seems easiest to apply and avoids questions of value, which can be indefinite.

Mr. Safayi asked if just one option can be chosen. Mr. Kraft: yes.

Mr. Grange stated that some redevelopment projects are more like new projects than others.

Mr. Grange suggested determining a dollar amount per sq. ft. if using the value option. Mr. Kraft noted that Tacoma uses "exceeds 50% of the assessed value of the existing improvements as determined from the latest available building evaluation table as published by the International Conference of Building Officials in *Building Standards* magazine." Some examples from the magazine include:

- Residential hotels: \$151 per sq. ft.
- Residential 1 & 2 family: \$100-120 per sq. ft.

Mr. Kraft emphasized that Tacoma applies the building evaluation cost examples to redevelopment.

Mr. Safayi noted that current county code for redevelopment differentiates between pollution-generating and non-pollution-generating impervious surfaces. Current code deals with water quality only because replaced impervious surfaces get credit for quantity control. Mr. Kraft replied that the *2005 Manual* calls for quantity control, as well.

Mr. Kraft stated that the Concept Code will be drafted to meet the permit requirements; county officials will have the authority to decide if redevelopment code will only address water quality.

Mr. Safayi stated that current code restricts the term "redevelopment" to sites with existing impervious surface. Since the developer has to demonstrate that, they don't have to do quantity control because they can still meet the runoff requirements. Mr. Kraft: in an urban area, the *2005 Manual* says the same thing.

Mr. Harbison asked how far back to go for existing condition. Mr. Kraft: forested, unless you are in an urbanized area that was greater than 40% impervious in 1985, and then it goes back 20 years.

Mr. McMurry added that in the definition of pollution generating impervious surfaces, unpainted metal roofs are included. Mr. Safayi: that is new.

Mr. Krause asked the group which option it prefers.

Mr. Harbison preferred the ratio option because it is easier for small applicants to understand.

Mr. Kraft asked if there is a downside to using the ratio option. Mr. Krause replied that the county would have to demonstrate that it would capture an equivalent number of projects as Ecology's preferred criteria (using historical projects). Mr. Grange replied that it will always miss those projects in commercial areas that are already almost entirely impervious. Mr. Krause agreed, unless the projects replaces the pavement down to the base rock.

Mr. Safayi said that current code has similar difficulties. For example, a 99% impervious site in Hazel Dell will be redeveloped. Current code requires water quality but will not require quantity control.

Mr. Misiak suggested using this criteria to get stormwater control in previously developed areas - similar to how a home remodel might require the owner to bring the electrical or plumbing up to current code.

Mr. Harbison asked how to determine the assessed value.

The Committee agreed that the ratio option is not sufficient by itself.

Mr. Harbison asked if the intent of this provision in the *2005 Manual* is a) to fix what happened in the last 30 years, or b) keep the status quo? Mr. Misiak warned against provisions that might invite litigation.

Mr. Kraft asked for real-world examples of how valuations for redevelopment have been done in the past. Please e-mail him or Mr. Krause.

Mr. Misiak suggested promoting LID in redevelopment, perhaps giving breaks for using it.

Single-Family Rural Home Exemption

Mr. Kraft reviewed previous discussion on the existing exemption in county code for construction of rural single-family homes. He stated that staff analyzed several examples of recent rural construction projects that were exempt under current code; they found that most would have needed to meet stormwater requirements under the *2005 Manual*. For most, the dispersion BMPs would have been OK, therefore, in his opinion, the proposed requirements will not be too onerous. The remaining issue, then, is the county's submittal requirements - a stamped TIR or a little site plan?

Mr. Soliwoda worried that dispersion BMPs might be more complicated than they appear at first glance. Depending on the specific BMP, there are limits on flow, flow path after dispersion, trench length, discharge to geologically hazardous areas, and provisions for setbacks, and dispersion only through native vegetation. Mr. McMurry thought dispersion through turf is allowed. Ms. McClure: no, areas on non-native vegetation and turf are considered contributing areas and are not eligible for dispersion.

TAC compared timing of grading for home construction in the rural vs. the urban area. Grading for home-building is exempt from grading permit; grading for an entire development is not. discussed placement of the house on a sloped lot. When could submittal be required?

Mr. Krause: there will be a Technical Memo on this topic.

Itemizing Industrial Activities

Reference current code 40.380.040(B)7, Oil/Water Separators.

Mr. Kraft asked if the Committee would like to keep the current more stringent threshold (1,000 sq. ft.) for the seven types of industrial uses listed in 40.380.040(B)(7), which require flow control and runoff treatment. Other uses are not required to do so until 2,000 sq. ft.

Mr. Kraft: TAC will discuss later whether the oil/water separator sections in the *2005 Manual* match current code.

Definitions

Reference the handout "Definitions."

Please send comments to Mr. Kraft or Mr. Krause. Mr. Harbison requested a definition for "Certified Erosion Control Lead." Mr. Safayi: it is part of the Notice of Intent to Ecology.

Minimum Requirement #6, Water Quality Treatment

Reference the *2005 Manual, Volume I - 2.5.6, Minimum Requirement #6: Runoff Treatment* and Concept Codes 40.380.040(A) & (B).

Mr. Kraft reviewed the options for incorporating the Minimum Requirements:

- Write them into code
- Keep existing code format
- Reference the *2005 Manual*
- Reference the "current BMP manual"

Mr. Kraft noted that the Concept Code presented today is very rough. He asked TAC to review it and Minimum Requirement #6 thoroughly and give comments. Mr. Kraft offered to provide the document to TAC in any format to help their review.

Mr. Kraft: 40.380.040(A), Design Standards adopts the *2005 Manual* as part of code. There might be slight adjustments in code, but this is the first place where we bring the manual in.

Mr. Kraft: (B), Water Quality Treatment adopts 2.5.6 of the *2005 Manual* with the following revisions:

- Phosphorous treatment for Lacamas watershed
- Defined the 6-month storm as 70% of the 2-year

Mr. Safayi asked if there is a requirement for phosphorous treatment elsewhere in the manual. Mr. Kraft: not unless it is on a 303(d) list or to meet local requirements. There are no streams on the 303(d) list for nutrients in Clark County.

Mr. Kraft: (d), the county has its own stormwater facility maintenance manual in 13.26A, which will be reviewed, too.

Offsite Analysis

Mr. Kraft: we thought this belonged outside of Water Quality Treatment. Some jurisdictions have made it its own Minimum Requirement. Mr. Krause: it is Optional Guidance in the *2005 Manual*.

Mr. Safayi: for offsite control, does it include capacity/quantity control? Currently, offsite analysis is just for erosion control. Mr. Krause: Ecology covers it under Optional Guidance #2.

Mr. Soliwoda: the ¼ mile analysis is not sufficient in some cases.

Mr. Safayi: the manual requires capacity (quantitative) analysis to supplement offsite analysis? That is a good thing.

Mr. Krause and Mr. Kraft stressed that these will be discussed in further detail later.

(3) Redevelopment

Mr. Krause: in current code, redevelopment is under the Water Quality section because that is the only requirement. Under new requirements, it will be covered more likely in Applicability.

Mr. Kraft: the county has stop-loss provisions in current code, excepting requirements that are too onerous. Ecology allows these provisions to a degree. The question is: will the county keep these provisions? Our assumption is that redevelopment should be moved out from under 40.380.040(B) and into Applicability. Does this make sense?

Mr. Safayi recommended a review of the variance process in Concept Code 40.380.(B)(3)(c) and the associated requirements in 40.500. The current standards are so high that only three have been granted in the past 10 years, to his knowledge, and they require a Type III review. Perhaps smaller variances could be granted administratively, while larger ones could go to public review.

Mr. Krause asked if variances belong better in .020 rather than in .040. Mr. Safayi guessed that variances belong under Exemptions/Exceptions. Mr. McMurry recommended Applicability. Mr. Kraft liked the idea of all stormwater variances being together in code, rather than divided between the Minimum Requirements.

Mr. Kraft asked how (c), modification to requirement, differs from (d), stormwater variance. Mr. Krause (c) is the process, (d) is the standard by which the variance is reviewed.

(4) Standard BMPs

Mr. Kraft asked if TAC prefers to maintain the format of the current code, which contains a specific list of BMPs, or reference "standard stormwater treatment BMPs." Did the county purposefully want to leave out some BMPs and delay adoption of new BMPs? By changing to "standard stormwater BMPs" will we inadvertently allow BMPs the county wishes to exclude?

Mr. McMurry supports "standard treatment BMPs." Already there are several useful BMPs, such as using infiltration as treatment where soils allow, which can be used in other jurisdictions, such as Vancouver, but not in the county.

Mr. Kraft: are there BMPs from the new manual that the county specifically wants to exclude?
Mr. Soliwoda recommended getting an opinion from county Maintenance & Operations staff.

Mr. Harbison suggested limiting the allowed designs to keep a handle on maintenance ability. What if you need numerous types of vac trucks? Should it be in code? Mr. McMurry disagreed. Good emerging technology should be embraced. Ecology already has an acceptance and adoption policy for BMPs. Why should the county duplicate that effort unnecessarily?

Mr. Darcy noted that selecting or excluding specific manufacturers in code may invite lawsuits. Mr. Harbison: then would a policy work? Mr. Darcy replied that a policy is different, yes, than code; city of Portland has had an internal list of approved manufacturers for the last 10 years.

Mr. Safayi stated that the county standard operating procedure is to prefer explicit code rather than internal policy memos.

Mr. Misiak and Mr. McMurry pointed out that a BMP can be generally accepted by the county, and more specifically included or excluded as a BMP under certain conditions or for certain uses.

Mr. McMurry requested allowing sites in Clark County to be used for pilot projects. The existing experimental BMP county policy is too onerous. Mr. Darcy suggested that Ecology might be taking care of this.

Ms. McClure asked if specifically adopting the 2005 version of the manual in code then excludes amendments to emerging technologies chapter? Mr. Krause: we are seeking legal opinion on that right now. Adopting the "current version" of a document means the county loses some control over its own code. Mr. Kraft: the manual itself adopts the emerging technologies as they are added to the list on the Web site.

Mr. Misiak: so the question remains, does the county list all the BMPs or reference the manual?
Mr. Kraft: staff will make a list of all the BMPs and work on it. Mr. Misiak: the *Highway Runoff Manual* filters out certain BMPs; some are in the manual while some are referenced on a Web site. This effectively steers users to preferred BMPs and away from non-preferred ones.

Mr. Darcy: the county should include as many tools as possible, not eliminate them.

Mr. Harbison suggested first cross-checking the Underground Injection Control (UIC) regulations before striking (d), as shown.

Mr. Kraft stated that (e) has been updated to a nine minute residence time.

Mr. McMurry noted that there are at least three types of biofiltration in the runoff treatment in the manual; perhaps revise language to match the definitions.

(5) Advanced BMPs for Nutrient Control

Mr. Kraft: it was addressed in the Minimum Requirements changes. There is the same issue of whether to specifically list BMPs or adopt Ecology's list.

(6) Source Control BMPs

Mr. Krause recommended striking this paragraph. He stated that source controls belong under Minimum Requirement #3, wherever that will fall in the proposed code, instead of here.

TAC agreed that (6) may not be necessary. Mr. McMurry and Mr. Harbison suggested first ensuring that criteria are in the Applicability section.

(7) Oil/Water Separators

Mr. Kraft: the Concept Code includes the county's specific list of uses requiring oil control. The *2005 Manual* lists specific uses under source control and sites under oil control. A Technical Memo is being prepared.

The group discussed using a planning tool to define roads eligible for average daily traffic (ADT) counts. Mr. Soliwoda: but other BMPs can be used for that situation. Reevaluate in terms of high-risk areas. Mr. Safayi recommended combining both.

Mr. Misiak: in many situations, the systems are too small. It does not make sense to put oil/water separators everywhere.

Mr. McMurry requested a list of duplication of requirements between oil control and source control for these specific uses.

Mr. Harbison asked for some definitions, i.e. railroad.

(8) Infiltration BMPs

Mr. Kraft asked TAC to review it. It was left essentially alone.

Mr. Soliwoda suggested eliminating (c); there are issues with galvanized roofing on industrial areas. Mr. Darcy suggested cross-referencing with UIC.

(9) Experimental BMPs

Mr. Kraft: it will be deleted unless there is something TAC suggests keeping.

(10) Drainage Structure Labeling and Signage

Mr. Harbison: why is labeling and signage under Water Quality? Mr. McMurry: maybe it goes under onsite management. Mr. Krause and Mr. Harbison stated that every catch basin should have a stencil. Mr. Krause: I have received comments about adding signage for filter vaults. Those are frequently invisible to commercial site owners, and tend to fall off the radar when operators change. Maintenance agreements could get recorded. This is a question for many BMPs - how to communicate existence and maintenance responsibility?

Low Impact Development (LID)

Mr. Kraft: we are reviewing other jurisdictions' approaches to LID.

Mr. Krause asked TAC to comment on the draft LID scope of work handout.

Mr. Kraft noted some constraints on the process. For instance, TAC only has time to consider revisions to the stormwater code, so LID practices that would require revisions to transportation or building code will not be reviewed by the committee.

Mr. Soliwoda recommended consulting county Maintenance & Operations staff on all LID practices.

Mr. Darcy asked if the county is considering giving water quality credits. Mr. McMurry: the *2005 Manual* has them built in to a degree.

Mr. Harbison asked if porous pavement counts as UIC? No.

Mr. Soliwoda recommended reviewing the city of Eugene LID draft manual. Ms. McClure: the city of Bellevue did a good job creating design criteria and spreadsheets for calculations. Mr. Krause: yes, so did Gresham.

Mr. Krause: public education requirements are key. Ms. McClure: yes, in Seattle, green streets are maintained by owners and are frequently planted with vegetables and/or filled in.

Mr. Harbison asked how to enforce maintenance agreements. Mr. Krause: there are inspection programs for private facilities.

Next Steps

Staff will distribute Technical Memo. The next meeting will cover Flow Control. Read Minimum Requirement #7 from the permit and .040(C).

The group discussed the process. It is fast. Are the meetings in-depth enough? Mr. Kraft appreciated the details and examples. Mr. McMurry requested real-world examples for all the new requirements and applicability. See what the impact of the proposed code will be on projects on the ground.

Mr. Kraft suggested making a list, then selecting a project for each item on the list and apply proposed code. Mr. McMurry requested projects that might raise conflicts between density and stormwater code. Mr. Darcy asked for examples of treatment flows on different size sites.

Public Comment

None. Some public comments were given during the body of the meeting.

Respectfully Submitted,

Tracy Trunk and Trista Kobluskie