

Proposed Framework for Incorporation of LID Requirements in Municipal NPDES Permits for Discussion with LID Advisory Committees

***Updated following January 5, 2010 IAC Meeting
Revised version for consideration by the IAC and TAC***

This is a preliminary description of how LID permit requirements could be structured and implemented. It has been developed to support early discussion and to solicit input from the Advisory Committees.

I. PERMIT FRAMEWORK

To comply with the PCHB ruling, and to protect aquatic resources, Ecology will require use of Low Impact Development stormwater management strategies where feasible. In Municipal NPDES Permit updates, Ecology would set requirements for new development and redevelopment. Ecology would set requirement(s) that intend(s) to prevent degradation of aquatic natural resources from cumulative development impacts and to reduce the impacts caused by existing development. It would be the responsibility of Municipal jurisdictions and development project proponents to determine what specific steps to take to meet these requirements.

Reissued Municipal Stormwater NPDES Permit Requirement

In the permit updates, Ecology would set hydrologic performance standard(s) applicable to new development, and Municipalities would require developers to utilize LID techniques to meet these standards, and would revise development codes to implement LID principles.

For small projects and for redevelopment projects, Ecology would require either: 1) a standardized evaluation process (similar to that proposed by Seattle Public Utilities) that requires projects to use all reasonable and known LID practices; or, 2) performance standards that are keyed to the extent of redevelopment and other site constraints. Ecology is leaning toward #1 in order to incentivize redevelopment over new development, and align with a priority to protect high quality aquatic natural resources that generally exist in undeveloped areas, and to improve the degraded resources that generally exist in developed areas.

Restating the above in outline format:

New Development

- A limited number of hydrologic performance standards, or one standard may be set for new developments of different levels of density and site infiltration capabilities. Performance standards for new development would be set based on evaluation of the hydrologic performance that can be achieved at each level of density with LID techniques and site design principles that are known and readily available.

Redevelopment and Small Sites (less than 10,000 sq. ft. impervious, or 5,000 sq. ft. Pollution-generating impervious surface, or less than ¼ acres land disturbance).

- Different standards or criteria for site evaluation processes could be set for redevelopment projects.

Compliance Schedules

Compliance schedules would be set for municipalities to implement the standards and/or administrative evaluation processes.

Steps for Implementation

Ecology heard a recommendation from several cities and counties at the Jan 5 IAC meeting that the permittees should complete stormwater and broader development code revisions as one amendment process (rather than an incremental approach) in 2-3 years. We would like to receive more input on this, and propose this timeline as a starting point for discussion. The steps identified by IAC committee members include:

1. Review and amend Comprehensive Plan policies for consistency with requiring LID where feasible according to revised permit and manual.
2. Review, amend, and implement stormwater and other relevant development codes and administrative documents to incorporate permit requirements for LID where feasible consistent with the revised permit and manual.
3. Educate, train, and prepare elected officials, staff and development community for changes.

Timing of Implementation

The timing for inserting performance standards into the municipal stormwater permits is a key question for the implementation committee. The PCHB's phase I ruling implied requiring the implementation of some LID requirements this permit term. However the current LID committee schedule and the approaching expiration of the current permits in February 2012 make a permit modification difficult.

In the permits to be reissued in January 2012, Ecology could include a requirement for permittees to amend stormwater and other development codes, rules, and standard plans and drawings to incorporate LID principles and techniques, and to require use of LID techniques and principles in project proposals where feasible by the following deadlines:

- Phase I – two years to amend and begin implementing stormwater and other development codes and administrative regulations to require LID where feasible – January 2014.

- Phase II WWA – three years to amend and begin implementing stormwater and other development codes and administrative regulations to require LID where feasible – January 2015.

Consistent definitions would be used across western Washington for LID techniques, their design guidelines and their expected hydrologic performance (how they are represented in the runoff model). These definitions would be included in the state Stormwater Management Manual.

II. IMPLEMENTATION BY PERMITTEES

Performance Standard Implementation

Given the required performance standards, and consistent definitions for LID techniques, municipalities would make their own decisions regarding specifically how to pass forward the LID requirements to developers. Ecology assumes there are three primary choices (A, B, or C below) for how Municipalities could structure their programs:

- A. Municipalities would require that each development (or redevelopment) proponent demonstrate that their proposed development will meet the hydrologic performance standard. Developers would perform that demonstration by inputting the characteristics of their development (amount of natural vegetation retained, impervious area, engineered LID techniques, soil type, etc) into an accepted hydrologic model provided by the Municipality – using the consistent, accepted definitions and variables for LID techniques.
- B. Municipalities would require use of LID techniques with a prescriptive, standardized, step-by-step approach. The approach could define a hierarchy of required LID techniques and use criteria. To support this approach, the municipality would demonstrate to Ecology, on a programmatic basis, that application of the standardized approach would, in most cases, have an outcome that meets the Ecology performance standards. This would be done through modeling a set of case studies.
- C. Municipalities could also allow individual development proponents to choose between an A or B type approach.

Evaluation Process Implementation for Small Projects and Redevelopment

Municipalities would adopt a standardized step-by-step approach. The approach could define a hierarchy of LID techniques and use criteria. In these situations, compliance with a minimum hydrologic performance standard would not be mandated.

III. ECOLOGY PROPOSAL

Based on comments received to date, Ecology proposes for discussion a hybrid approach requiring:

- New development would be required to meet a hydrologic performance standard established to fully protect aquatic resources.
- For redevelopment and small project sites, Ecology would establish a minimum framework and criteria which local administrative processes for evaluation and selection of LID techniques must satisfy. For instance, Ecology could require the local process must include requirements in regard to: native vegetation retention/restoration; infiltration techniques; pervious pavements; and water re-use.
- Ecology would also define acceptable “off-ramps” to LID requirements – certain conditions under which municipalities could reduce or eliminate the LID requirements, such as presence of contaminated soils, high groundwater, steep slopes, etc.

In the municipal stormwater permit, Ecology could require municipalities to implement an administrative process, involving all affected departments, to evaluate development codes, and identify and implement opportunities for code change to facilitate decreases in effective impervious and disturbed areas (e.g., reduction of street widths) and encourage preservation of native vegetation at development sites.

Ecology could also require municipalities conduct basin level planning that incorporates low impact development strategies as a water quality management tool to prevent degradation of aquatic resources.