



Oregon

Tina Kotek, Governor

HPAC Work Group Recommendation Template

Stormwater Standards

Work Group

- Availability of land
- Land development permit applications
- Codes and design
- Workforce shortages
- Financing

Recommendation

DEQ to provide clear and objective criteria for cities applying for MS4 permits. Stormwater standards shall not limit methods used for providing water quality and quantity controls unless specifically required by DEQ.

On infill and middle housing subdivision lots, stormwater facilities shall be allowed to deviate from geometric dimensional standards in order to provide stormwater treatment and detention.

Related Work Plan Topics

Increase affordability and housing choice, including middle housing, through the refinement of overly restrictive standards.

Adoption Date

October 17, 2023

Method of Adoption

Discussed in work group meeting on October 10 and 17, 2023. Approved on October 17, 2023 in work group meeting.

Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

Sites that are available for housing often have lots of constraints. Things like topography, wetlands or soils with low infiltration rates, natural resources, and required infrastructure can limit the number of housing units that can be developed and increase the per unit cost. Stormwater standards can be extremely challenging to achieve without some kind of deviation from the jurisdiction's standards.

Because stormwater facilities are so site specific and challenging to site, they are often the longest portion of the project to get approved.

As a part of the MS4 permit process, jurisdictions are required to develop stormwater standards to mitigate for quality and quantity. However, the standards differ between jurisdictions. Some of these deviations are because of site conditions. But some of this deviation is based on maintenance staff.

However, stormwater standards based on city maintenance staff poses a unique problem for private storm systems. Private developments (i.e., apartment projects) are constrained by usable open space requirements, parking, landscaping requirements, topography, and accessibility concerns. Flexibility for things like underground detention, mechanical treatment, and parking lot detention are often not outright allowed, special permission from the jurisdiction is required.

Having to conform to rigid standards can also result on the loss of productive land. Where a deviation of the standard might result in a smaller facility, jurisdictions have not approved the design because it does not match the standards.

On infill and middle housing lots, lot frontage can be crowded with water meters, sewer laterals, street trees, and other utilities. This can make curbside facilities a challenge when considered things like minimum widths and maximum depths.

2. Provide a quantitative, if possible, and qualitative overview of the housing production issue.

Stormwater is often the last piece of a project to be approved. Siting and sizing stormwater facilities can pose significant challenges for site constrained with things like topography, wetlands, trees, or shallow outlets. Often, designing systems that meet city standards outright would require extremely expensive construction methods, if possible at all.

Even if the design is possible, it is not always the most efficient. Alternatives to the standards can result in smaller facilities which allow for the generation of more housing and/or the facilities needed to accompany housing (i.e. parking, open space, sidewalks). Smaller facilities not only take up less productive land, they are cheaper to maintain for the jurisdictions as well.

Cities have often mentioned in work group meetings that the reason for the long and multiple approvals is because of DEQ requirements. It is unclear if DEQ is requiring many specifics about how water quality is to be achieved. If DEQ were to give more specifics about what is required for the standards, and cities were restricted from limiting the standards, especially for private property, additional flexibility would be granted for developers.

The same flexibility is needed for infill and middle housing lots. These lots often have frontage that is crowded with other requirements such as utilities, street trees, and the driveway. This can leave limited space for a curb side planter. Placing facilities on the lot can be challenging with setback requirements and the public utility easement. Allowing slight deviations for things such as maximum depth of water or drain rock could allow for better placement of the facilities on these smaller lots. For infill lots, they can often be the only lot on a street/in an area that is providing water quality treatment.

3. To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

The following SME's attended a Codes and Design work group meeting:

Rian Hoff, Department of Environmental Quality

Benjamin Benninghoff, Department of Environmental Quality

Stephen Himes, City of Portland Bureau of Environmental Services

4. Provide a quantitative, if possible, and qualitative overview of the outcome of the recommended action(s).

This recommendation would allow private developments to provide water quality and quantity controls in a method that work better with the site, rather than necessarily fully comply with the jurisdiction's standards.

Having cities have to comply with clearer criteria from DEQ would allow for more cohesive standards across the state.

Allowing infill and middle housing lots to exceed geometric standards will allow stormwater quality and quantity to be achieved in the remaining small spaces.

5. Provide an estimate of the time frame (*immediate, short, medium, long-term*), feasibility (*low, medium, high*), and cost (*low, medium, high*) for implementation of the recommended action(s).

Time Frame:

Medium for MS4 standards, as standards likely wouldn't be changed until the renewal of the MS4. Interim mandates could be given to adjust standards to make this timeframe short term.

Immediate for deviations for infill/middle housing lots

Feasibility:

High

Stormwater standards often are enacted after community involvement. Consultants are often hired to write the standards and they are reviewed by a committee. Having DEQ specify clear and objective criteria that jurisdictions are to achieve would help the consultants craft the standards before going to committee.

Cost:

Low to medium

Some additional time would be needed from DEQ's standpoint. But overall, having more flexible standards for private development to utilize could limit the need for design exception requests and the meeting/reviews that accompany them.

6. Provide a general overview of implementation, the who and how for the recommended action(s).

DEQ would provide clear and objective criteria for jurisdiction's consultants to draft the stormwater standards. Jurisdictions often have a stormwater committee or send the standards out to design professionals in the area to review.

For infill/middle housing lots, jurisdictions would rely on the engineer of record's design to specify the deviations from the standards. As long as there is no fire, life, safety issues, the design should be approved.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

DEQ MS4 permits should be able to be tracked by the governor's office. City standards are public record. The jurisdictions could track the number of review needed for the average approval of a stormwater design.

8. Identify any major unknowns, tradeoffs, or potential unintended consequences.

Allowing for more varying methods of stormwater management can be a challenge for public jurisdictions to operate and maintain. This is partially why we have the standards we do, with individual jurisdictions tailoring the standards to meet their maintenance procedures. Should a private development not maintain their facility, the jurisdiction can perform the maintenance and charge the property owner. If the facility is not conventional or different than most of the other public facilities, this could be harder to maintain for the public. This could be mitigated with a higher fee to the private property owner for that maintenance.

Allowing for geometric deviations from the standards for infill lots could make the facilities deeper. This can pose a possible fall hazard for curb side facilities. Precautions can be made with short railings around the facility for cane detection to alleviate that.

Additional maintenance could be necessary for homeowners on their private facilities if they are allowed to be placed, for example, under the driveway. Should the facility need to be replaced, the affected portion of the driveway would need to be removed to reconstruct the facility.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.