

Maryland Department of the Environment (MDE)
The Stormwater Management Act of 2007 (Act)
Proposed Redevelopment Policy
Draft - July 25, 2008

Based on responses from the Redevelopment Committee, there was a lot of concern about applying the same policy to all redevelopment sites, whether located in a rural, suburban, or urban setting. Several people suggested a sliding scale that would allow for greater management on sites with low levels of imperviousness, but also provide incentive for redevelopment within urban core areas. MDE has drafted a policy that considers these comments.

Current Policy:

1. Existing site impervious area shall be reduced by 20%;
2. BMPs shall be implemented to treat water quality for 20% of the existing impervious area; or
3. A combination of impervious area reduction and the area treated by BMPs shall equal 20% of the existing impervious area.

Proposed Requirements

This proposal will change the current 20% criterion for redeveloped sites according to the policy described below. In addition, new development criteria will apply to any net increase in impervious area for any project.

1. An approving agency shall require that stormwater management be addressed according to new development requirements when existing site impervious area is less than or equal to 40%.
2. An approving agency shall require that stormwater management be addressed for redevelopment when existing site impervious area is greater than 40%. Proposed redevelopment project designs shall:
 - a. Reduce existing impervious area by at least 50% according to MDE's stepwise planning process;
 - b. Implement ESD practices to the MEP to provide water quality treatment for at least 50% of the existing impervious area; or
 - c. Use a combination of impervious area reduction and ESD implementation for meeting stormwater management requirements.
3. Where impervious area reduction or ESD implementation cannot meet the management requirements, alternative stormwater management measures may be used when the developer demonstrates to the satisfaction of the approving agency that ESD and impervious area reduction have been implemented to the MEP. Alternative stormwater management measures include but are not limited to:
 - a. Structural stormwater management measures to provide water quality treatment for an area equal to at least 50% of the existing impervious area;

- b. Off-site BMP implementation to provide water quality treatment for at least 50% of the existing impervious area; or
 - c. A combination of impervious area reduction, ESD implementation, and on-site or off-site structural BMPs to provide water quality treatment for at least 50% of the existing impervious area.
4. An approving agency may develop separate programmatic policies for providing water quality treatment for redevelopment projects when the above requirements cannot be met. These policies shall be reviewed and approved by MDE and may include but are not limited to:
 - a. Retrofitting existing structural BMPs
 - b. Stream restoration;
 - c. Watershed management plans;
 - d. Trading policies that involve other pollution control programs;
 - e. Fees paid in an amount specified by the approving agency; or
 - f. Other practices approved by the appropriate authority;
5. Existing site impervious area is determined based on the entire parcel of land in one ownership. Any land protected using forest preservation, natural area conservation easements, or other protection mechanism allowed by the approving agency may be subtracted from the total site area.
6. Stormwater management requirements will apply to impervious areas within the project limit of disturbance. New development requirements will apply to any net increase in impervious area.

Rationale

Stormwater management for redevelopment projects is based on exceeding a threshold for existing site impervious area. Any site with 0 – 40% existing site imperviousness is roughly equivalent to land cover conditions with a density of ¼ acre lot size. MDE believes development at this density can meet new development criteria. However, the challenge of placing a strict requirement on sites that already have a significant level of impervious area is recognized. This requirement is intended to provide incentive to protect green space and minimize proposed impervious areas as much as possible.

Any project exceeding the 40% existing site impervious area threshold will be required to meet the redevelopment criteria established above. Development at this density can be difficult. However, reducing impervious area by 50% and/or providing water quality treatment for a comparable area using ESD techniques will be the target. These criteria will more than double the redevelopment requirements in MDE's existing regulations. This will provide an opportunity to achieve greater management and contribute toward other efforts for watershed restoration and water quality improvement. However, because all redevelopment sites present a wide range of constraints and limitations for achieving management requirements, the policy also allows for flexibility and an evaluation of options that can work in conjunction with broader watershed wide goals and local initiatives.

Redevelopment ESD Design Process

MDE will require that redevelopment and new development projects receive concept approval from the appropriate plan review authority during initial project design. The process described below outlines the steps for concept plan approval for redevelopment projects. These steps will ensure that all available opportunities for implementing ESD are explored in order to meet stormwater management requirements. The process applies to both redevelopment projects and new development/redevelopment combinations.

Step 1: Develop a site map and assess existing natural resources, existing buildings, impervious areas, utilities, and storm drain systems and identify any environmental and infrastructure constraints.

Step 2: Identify opportunities to reduce impervious cover by using a combination of site design techniques outlined in section 5.1.4. (e.g., minimize parking areas, and narrowing roadway and driveway widths).

Step 3: Plan the proposed site layout so that existing and proposed impervious areas are hydrologically connected to landscaped features (e.g., islands, vegetated planters, and green spaces). Evaluate opportunities for implementing ESD practices on all open space and vegetated areas for storage, filtration, infiltration, and water quality treatment of stormwater runoff.

Step 4: Demonstrate that all practical options for meeting stormwater management requirements using ESD strategies and techniques have been explored.

Step 5: After all ESD options have been explored, evaluate alternative management strategies including structural stormwater practices, off-site management, retrofit projects, stream restoration, a fee-in-lieu, or other practice approved by the appropriate authority. Provide a narrative to the local approving authority to support the design for concept approval.

Redevelopment Definitions

“Redevelopment” is currently defined in COMAR as:

means any construction, alteration, or improvement exceeding 5,000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential.

MDE’s proposed definition of “redevelopment:”

means any construction, alteration, or improvement exceeding 5,000 square feet of land disturbance to existing impervious areas located on commercial, industrial, institutional, or multifamily residential areas, and where the existing site impervious area is greater than 40%.

MDE’s proposed definition of “site,” (adapted from our existing model ordinance):

means any combination or single tract, lot, or parcel of land in one ownership, or is contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

Impervious cover is defined in the 2000 Manual as:

those surfaces in the landscape that cannot infiltrate rainfall consisting of building rooftops, pavement, sidewalks, driveways, etc.

As a matter of policy, if gravel is compacted to the point where it will no longer infiltrate, then it is impervious. Any gravel driveway or parking area that is regularly used is likely to become impervious over time. However, a gravel road that is infrequently used may have grass growing on it and that would be considered pervious. This determination should be done on a case-by-case basis.