

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of the Environment (Department, or DDOE), in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*), the Water Pollution Control Act of 1984, as amended, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01, *et seq.*), the Soil Erosion and Sedimentation Control Act of 1977 (D.C. Law 2-23; codified at 21 DCMR §§ 500-507), the Anacostia Waterfront Environmental Standards Act of 2008, effective March 26, 2008 (D.C. Law 17-138; D.C. Official Code § 2-1226.36), and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the intent to adopt the proposed amendments for soil erosion and sediment control and stormwater management in Chapter 5 of Title 21 of the District of Columbia Municipal Regulations (DCMR) (Water Quality and Pollution).

The Department is proposing these amendments to protect the waters of the District of Columbia, by encouraging environmentally friendly stormwater management practices, and by strengthening the Department's stormwater management and sediment and erosion permitting procedures. Specifically, these amendments will promote the use of low impact development practices such as rain gardens, cisterns, green roofs, and other green technology best management practices to control and treat stormwater. The amendments will also require that a responsible person on a construction site be trained in soil erosion and sediment control; require that persons responsible for the maintenance of stormwater management facilities use a Department-approved contractor if maintenance of the facility is deficient; increase fees to defray the cost of reviewing stormwater management and sediment and erosion control plans and conducting inspections; require the posting of a bond until the successful construction of a stormwater management facility; and authorize property owners to conduct off-site stormwater management mitigation or pay an off-site stormwater management mitigation fee for deficiencies in managing the water quality volume due to technical conditions on the site.

In addition, these amendments would incorporate the Anacostia Waterfront Corporation's enhanced environmental stormwater management standards for publically funded construction undertaken within the Anacostia Waterfront Development zone, which will become effective with this rulemaking. For non-public projects, the standards in the Anacostia Waterfront Development zone will become effective on January 2, 2012. In the Anacostia Waterfront Corporation Development Zone, surface water runoff volume must be reduced by one (1) inch, and an additional two (2) inches treated; in the rest of the District, three quarters of the total volume of surface water runoff must be reduced, and the remaining one quarter treated.

These proposed regulations are designed to promote green roof construction and support green technology best management practices by intercepting runoff from rooftops, parking lots and roads as close as possible to its source, and directing it into vegetative recharge or filtration facilities incorporated into the overall design and runoff conveyance system. Those practices include conservation site design, impervious area disconnection, conveyance of runoff through swales and biofiltration swales, filtration through filter strips, terraces, bioretention facilities, and

recharge through infiltration facilities. The proposed regulations will also regulate land disturbing activities to minimize erosion and sedimentation to prevent sediment deposition to the waters of the District of Columbia and to the District’s sewer system.

These proposed regulations are designed to promote green roof construction and the support of green technology best management practices that are designed to intercept stormwater runoff from rooftops, parking lots, roads and other “impervious surfaces” as close as possible to its source, and to reduce or filter the runoff through improved stormwater management by directing it into vegetative recharge or filtration facilities incorporated into the runoff conveyance system. Those practices, referred to as low impact development or LID, include conservation site design, reduction in impervious area, disconnection of runoff from impervious areas, capture and reuse of stormwater runoff, conveyance and management of runoff through infiltration and bioretention facilities such as swales and rain gardens. The proposed regulations will also regulate land disturbing activities to minimize soil erosion and sedimentation to prevent the flow of sediment in deposition to the waters of the District of Columbia and to the District’s sewer system.

These proposed regulations will implement the prohibition set forth in D.C. Official Code § 8-103.07(e) on the discharge of used motor oil to any District Sewer by requiring that car dealerships and other businesses install oil/water separators.

Chapter 5 of Title 21 of the District of Columbia Municipal Regulations, Water Quality and Pollution, is amended to delete section 502.4, sections 526 through 545, and the definitions in section 599, and to replace these sections and start new sections to read as follows:

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Section 502 is amended to delete section 502.4 and replace it with the following:

502.4 The fees for land disturbing activities and Level III alterations are set forth below:
 Table 1. Stormwater Management and Sediment Control Fee Schedule

Item	Fee
Pre-Development Meeting (for erosion and sediment control, stormwater management, and floodplain management)	\$150.00
Stormwater Management and Erosion and Sediment Control Plan Filing Fee <i>Land disturbance area</i>	
5,000 ft ² or greater	\$750.00
Less than 5000 ft ²	\$150.00
Erosion and Sediment Control Plan Review Fee includes initial review and a second revision review. For additional submissions after the second revision, the fee shall be thirty percent (30%) of the original review fee.	
<i>Clearing and Grading</i>	
50-5,000 ft ²	\$250.00
Each additional 100 ft ² over 5000 ft ²	\$0.10
<i>Excavation, Cutting, Filling</i>	
The first 66 cubic yards	\$250.00
Each additional cubic yard over the first 66 cubic yards	\$0.10

Dewatering Pollution Reduction Plan Review	\$250.00
Stormwater Management Plan Review Fee includes initial review and a second revision reviews. For additional submissions after the second revision review, the fee shall be seventy-five percent (75%) of the original review fee. <i>Land disturbance area</i> 10,000 ft ² or less Greater than 10,000 ft ² <i>Level III Alterations</i>	 \$1500.00 \$2500.00 \$1500.00
Off-Site Stormwater Management Mitigation Review and Approval	\$1,500.00
Review of Stormwater Management As-Built Plans	\$500.00
Flood Plain Review Review and Approval of Floodplain Studies/Reports	\$400.00
Flood Zone Determination	\$50.00
OTHER SERVICES	
Review of Geotechnical Report	\$250.00
Bond Processing Fee	\$325.00
Covenant Processing Fee	\$325.00
Field Visit Review Report	\$75.00
Review of Soil Percolation Test Report	\$75.00
Soil Characteristics Inquiry	\$35.00
General D.C. Soils Map -Only	\$20.00
D.C. Soil Survey Manual – Copy	\$45.00
D.C. Soil Survey – CD	\$15.00
<i>District of Columbia Erosion and Sediment Control Standards and Specifications - Manual</i>	\$30.00

<i>District of Columbia Erosion and Sediment Control Standards and Specifications – CD</i>	\$15.00
Erosion and Sediment Control Standard Details (Single Sheet- 24”x 36”) (Single Sheet- 11”x 17”)	\$10.00 \$7.00
<i>Erosion and Sediment Control Handbook</i>	\$15.00
<i>Stormwater Management Guidebook</i>	\$30.00
<i>Stormwater Management Guidebook – CD</i>	\$20.00
Erosion and Sediment Control Training Certification Fee	\$75.00
District Sponsored Off-Site Stormwater Management Mitigation Fee For example: a one acre site that is 45% impervious would pay \$36,000.00 (0.45 x \$80,000)	\$80,000.00 per impervious acre
After Hours Inspection Fee Each hour	\$59.00

Sections 526 to 599 are deleted and replaced to read as follows:

526 STORMWATER MANAGEMENT: APPLICABILITY

- 526.1 Before engaging in land disturbing activity within the District of Columbia, a person shall obtain a stormwater management permit and install and maintain appropriate storm water management measures to treat, and manage runoff from the site, unless exempt as set forth in § 527 of this Chapter.
- 526.2 Before conducting Level 3 alterations and repairs of existing buildings in which the estimated cost equals or exceeds fifty percent (50%) of the assessed value of the property before alterations and repairs are started, and which have downspouts connected to a sewer, a person shall obtain a stormwater management permit to treat, control, and manage runoff from the site.
- 526.3 Owners of all car dealerships, repair garages, gasoline stations with grease racks, grease pits or work racks; car washing facilities with engine or undercarriage cleaning capability; and facilities where oily or flammable liquid wastes are produced shall obtain a stormwater management permit to install control measures to appropriately dispose of all oil-bearing, grease-bearing, or flammable wastes before it empties into the sewers, in compliance with the requirements of §§ 529.12 and 529.13 and this chapter.

526.4 The applicant shall be the lawful owner of any property where a land disturbing activity, or Level 3 alteration to an existing building, is to take place, or the lawful owner's designated representative who applies to the Department of Consumer and Regulatory Affairs for a building permit. When work is to be done under contract by the lawful owner's designated representative or contractor, the lawful owner of the property is responsible for securing the permit.

526.5 Before engaging in land disturbing activities on a site of one (1) acre or above, a person shall also obtain authorization from the federal Environmental Protection Agency (USEPA) to discharge runoff from the construction site under the National Pollutant Discharge Elimination System (NPDES), in compliance with the Clean Water Act, Title 33 of the United States Code, § 1251 *et seq*

527 STORMWATER MANAGEMENT: EXEMPTIONS

527.1 The following land disturbing activities are exempt from § 526, and do not require a permit for stormwater management:

- (a) Home gardening and individual home landscaping, home repairs, and home maintenance work;
- (b) Single family dwelling utility service connections or utility construction, where the excavated material is removed from the job site;
- (c) Tilling, planting, or harvesting of agricultural or horticultural crops;
- (d) Installation of fence and sign posts or poles that disturb less than five thousand square feet (5,000 ft.²) of land area;
- (e) Emergency work to protect life, limb or property, and emergency repairs. However, for land disturbing activity that would have required an approved stormwater management plan but for the emergency, compliance with all requirements of §§ 528-535 shall be required within forty-five (45) days after beginning the emergency work; and
- (f) Construction or grading operations, or both, that disturb less than five thousand square feet (5,000 ft.²) of land area, unless the construction or grading operation is a part of an approved plan which contains provisions for stormwater management.

528 STORMWATER MANAGEMENT: PROJECT SUBMISSIONS

- 528.1 Before a stormwater management permit is issued, the applicant shall provide a submittal package and complete the Site Development Submittal Information Sheet with the location and description of the project, and the name and address of the owner and registered professional engineer of the project. The Site Development Submittal Information Sheet is available in the *Stormwater Management Guidebook*, and on the Department's website at ddoe.dc.gov.
- 528.2 The measures for the management of stormwater runoff used by the applicant shall be among those adopted by the Department in the *Stormwater Management Guidebook*, which is incorporated by reference, or alternative measures approved by the Department when presented as part of the applicant's stormwater management plan.
- 528.3 For the initial review, the applicant shall submit two (2) sets of the stormwater management plans.
- 528.4 For any pre-cast structure included in the stormwater management plan, the applicant shall submit two (2) sets of shop drawings for review and approval by the Department. Upon approval, the applicant shall submit three (3) sets of shop drawings bearing the seal and signature of the registered professional engineer, licensed in the District of Columbia, before beginning construction or installation of the structure.
- 528.5 Following the receipt of an applicant's stormwater management plan, the Department shall approve or disapprove the plan. If a decision cannot be rendered based on the information provided, the applicant shall be notified in writing.
- 528.6 If the Department determines that more information is needed or that a significant number of changes must be made before the stormwater management plan can be approved, the applicant may withdraw the plan, make the necessary changes, and resubmit the plan. All re-submissions shall contain a list of the changes made.
- 528.7 In the final submittal package, the applicant shall provide the following:
- (a) The stormwater management plan demonstrating compliance with this chapter;
 - (b) A copy of a covenant recorded and executed in the Recorder of Deeds that provides for maintenance of the stormwater management facility as approved and designed, as set forth in § 535;
 - (c) A copy of easements for the stormwater management facility recorded and executed by the property owner, granting access to the stormwater management facility for inspections and for maintenance, as set forth in § 536.3; and

- (d) A performance bond, letter of credit, or other improvement security in an amount considered sufficient by the Department to cover all costs of improvements, landscaping, and maintenance of improvements on sites equal to or greater than one (1) acre of land disturbance, until the Department determines on final inspection that the completed work is constructed in accordance with approved soil erosion and sediment control plans, as set forth in § 550.

528.8 The approved stormwater management plan shall constitute the applicant's stormwater management permit, and shall govern all construction requiring stormwater management. The stormwater management plan shall not be considered approved without the date and signature of the Director or the Director's designee stamped on the plan.

528.9 Upon notification of approval, the applicant shall submit two (2) sets of mylar and seven (7) sets of prints, or any other format approved by the Department.

528.10 If a stormwater management plan is disapproved:

- (a) The Department shall notify the permit applicant in writing, providing the reasons for the disapproval of the stormwater management plan;
- (b) The Department may suggest modifications, terms, and conditions which would permit the approval of the stormwater management plan and issuance of a permit if the applicant were to resubmit the plan to the Department; and
- (c) The applicant shall have the right to appeal the Department's decision to disapprove the stormwater management plan to the Office of Administrative Hearings within seven (7) business days of receipt of the Department's written notice of disapproval.

528.11 The permittee shall keep the permit and approved stormwater management plan on the site while work is being performed. The permit and approved stormwater management plan shall be made available upon request by the Department during the entire time of progression of the work, until the work is completed. If an on-site location is unavailable to store the approved stormwater management plan when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

528.12 Upon completion of the project, the permittee shall request a final inspection from the Department to determine whether the stormwater management facility is constructed as designed. The permittee shall submit one (1) set of mylar signed and sealed by a professional engineer licensed in the District of Columbia and one

(1) electronic copy with the professional engineer’s certification of the “As-Built” Plans to the Department, within twenty-one (21) days of the final inspection.

529 STORMWATER MANAGEMENT: REQUIREMENTS

529.1 Each applicant for a Level 3 alteration to an existing building shall disconnect the roof downspouts to allow stormwater to be discharged from roofs, paved areas, yards, courts, courtyards, downspouts, rain barrels, cisterns or rooftop storage facilities to vegetated areas, such as lawns, gardens, grassy swales, or bioretention cells on the same record lot, to meet the requirements of this section. The stormwater shall flow away from the building, and shall not flow over property lines onto adjacent lots, unless it runs into natural water courses.

529.2 Each applicant shall submit stormwater management measures necessary to maintain post-development peak discharges for a twenty-four (24) hour, two (2)-year and fifteen (15)-year frequency storm event at a level that is equal to or less than the respective twenty-four (24) hour, two (2)-year, and fifteen (15)-year pre-development peak discharge rate through measures that control the volume, timing, and rate of flows.

529.3 Any stormwater management facility which may receive stormwater runoff shall manage the stormwater runoff through a combination of techniques intended to prevent, reduce, and treat stormwater runoff. The water quality volume of runoff (WQv) managed at a site shall be determined as follows:

$$WQv = \frac{P \times (Rv_I \times \%I + Rv_C \times \%C + Rv_N \times \%N) \times SA}{12}$$

- WQv = volume, in acre feet
- P = 1.0 inch (90th percent rainfall event for the District)
- Rv_I = 0.95 (runoff coefficient for impervious cover)
- Rv_C = 0.25 (runoff coefficient for compacted cover)
- Rv_N = 0.05 (runoff coefficient for natural cover)
- %I = percent of site in impervious cover
- %C = percent of site in compacted cover
- %N = percent of site in natural cover
- SA = total site area, in acres

529.4 To satisfy the requirements of § 529.2 and § 529.3, the applicant shall employ the following practices:

- (a) Runoff Prevention (RP) practices, including natural area conservation, soil conservation or restoration, reforestation, sheetflow to buffers, and impervious cover removal;
- (b) Runoff Reduction (RR) practices, including:

- (1) Infiltration and evapotranspiration, such as on green roofs, bioretention cells, expanded tree pits, grass channels, dry swales, foundation planters, and permeable pavements; and
 - (2) Water reuse for irrigation and recycling, using storage devices such as cisterns, rain tanks and other applications as approved by the Department; and
- (c) Runoff Treatment (RT) practices including extended detention ponds, wet ponds, wetlands, large filtered cells for growing trees and vegetation, and surface and underground sand filters.

529.5 The combination of practices in § 529.4 shall manage the WQv required as set forth in § 529.3, so that Runoff Prevention Volume (RPv) + Runoff Reduction Volume (RRv) + Runoff Treatment Volume (RTv) = WQv.

529.6 Any stormwater management facility which may receive stormwater runoff shall address water quantity and quality concerns, including but not limited to volume control, pollutants, total suspended solids, and small particulate matter, to meet the following requirements:

- (a) The Runoff Reduction volume (RRv) shall, at a minimum, equal 75% of the WQv; and
- (b) The Runoff Treatment volume (RTv) shall achieve, at a minimum, 25% of the WQv and achieve an 80% reduction in Total Suspended Solids (TSS).

529.7 The applicant shall use on-site stormwater management techniques to the maximum extent practicable, with a preference for vegetated techniques

529.8 Where any development is planned in which the stormwater runoff will increase the downstream discharge into an area designated as a Special Flood Hazard Area (SFHA), as delineated on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), the applicant shall complete an analysis of the downstream peak discharge for a one-hundred (100) year frequency storm event, and shall install the appropriate controls to avoid exceeding this peak discharge. A link to the FEMA website is provided on the Department's website at ddoe.dc.gov.

529.9 Where the applicant proposes a land use activity that has the potential to pollute stormwater runoff, referred to as a "stormwater hotspot," or where the Department has defined site-specific contamination issues that may result in polluted stormwater runoff, the Department may restrict use of infiltration runoff management practices to prevent contamination of ground water and require submission of a pollution prevention plan by the applicant.

- 529.10 Any stormwater management facility which may receive runoff from soil contamination or ground water contamination shall be designed with an impermeable liner or other measures to prevent stormwater migration into underlying soil or ground water.
- 529.11 Any stormwater management facility which may receive runoff from areas which may be potential sources of oil and grease contamination shall include a baffle, skimmer, oil separator, grease trap or other mechanism which prevents release of oil and grease in concentrations exceeding ten (10) milligrams per liter (mg/l) that would violate or contribute to the violation of applicable water quality standards in the receiving waters of the District of Columbia set forth in Chapter 11 of Title 21 of the District of Columbia Municipal Regulations. Oil separators shall have:
- (a) A depth of not less than two (2) feet (610 mm) below the invert of the discharge drain. The outlet opening of the separator shall have not less than an 18-inch (457 mm) water seal.
 - (b) A minimum capacity of 6 cubic feet (0.168 m³) for the first 100 square feet (903 m²) of area to be drained, plus one (1) cubic foot (0.28 m³) for each additional 100 square feet (9.3 m²) of area to be drained into the separator, where automobiles are serviced, greased, repaired, washed or where gasoline is dispensed.
- 529.12 Any stormwater management facility which receives runoff from an animal confinement area shall be connected to a sanitary or combined sewer. The discharge into the public sewer shall meet pretreatment requirements of the District of Columbia Water and Sewer Authority.

529.13 The applicant shall not use coal tar sealants for paved surfaces.

530 STORMWATER MANAGEMENT: ANACOSTIA WATERFRONT DEVELOPMENT ZONE REQUIREMENTS

530.1 Before any person engages in any land disturbing activities within the Anacostia Waterfront Development Zone, the person shall comply with the minimum stormwater management requirements in this section, in addition to all other requirements of §§ 526 - 535. If this section conflicts with any other provision of §§ 526 - 535, the applicant shall be subject to the more stringent standard.

530.2 Within the Anacostia Waterfront Development Zone, any person engaging in Level 3 alterations to an existing building in which the estimated cost equals or exceeds fifty percent (50%) of the assessed value of the property before alterations and repairs are started, and which have roof drains connected to a sewer, shall control or manage runoff from the site to comply with the provisions of this section.

530.3 For non-publicly owned or non-publicly financed projects, this section shall be effective January 2, 2012.

530.4 Any stormwater management facility which may receive stormwater runoff shall manage the runoff through a combination of techniques intended to prevent, reduce, and treat stormwater runoff. The volume of runoff that shall be managed at a site, the water quality volume (WQv), shall be determined as follows:

$$WQv = \frac{P \times (Rv_I \times \%I + Rv_C \times \%C + Rv_N \times \%N) \times SA}{12}$$

- WQv = volume, in acre feet
- P = 3.2 inches (2-year 24 hour rainfall event for the District)
- Rv_I = 0.95 (runoff coefficient for impervious cover)
- Rv_C = 0.25 (runoff coefficient for compacted cover)
- Rv_N = 0.05 (runoff coefficient for natural cover)
- %I = percent of site in impervious cover
- %C = percent of site in turf cover
- %N = percent of site in forest cover
- SA = total site area, in acres

530.5 The stormwater management facility which may receive stormwater runoff shall satisfy § 530.4 using the runoff prevention, runoff reduction, and runoff treatment practices listed in the order of preference, as follows:

- (a) Vegetated controls, including:
 - (1) Green roofs, rain gardens or bioretention cells;
 - (2) Infiltration planters and vegetated swales; and
 - (3) Large filtered cells for growing trees;
- (b) Where compatible with ground water protection, non-vegetated controls designed to promote infiltration, including:
 - (1) Permeable asphalt, concrete, or pavers;
 - (2) Infiltration trenches and dry wells; and
 - (3) Downspout disconnections to areas designed to infiltrate runoff;
- (c) Other low-impact development practices;

- (d) Collection, treatment, and reuse of stormwater using cisterns and rain tanks, and other devices; and
- (e) On-site stormwater best management practices as described in the *Stormwater Management Guidebook* or as approved by the Department.

530.6 The combination of practices in § 530.5 shall manage the WQv required in §530.4, so that $RP_v + RR_v + RT_v = WQ_v$.

530.7 To address water quantity and quality concerns, including but not limited to volume control, pollutants, total suspended solids, and small particulate matter, the stormwater management facility shall achieve the runoff reduction volume (RRv) equal to one (1) inch, at a minimum.

530.8 Any stormwater management facility which may receive stormwater runoff shall be designed to ensure that the runoff treatment volume (RTv) discharged from the site passes through a filtering medium designed to meet the following requirement:

- (a) Stormwater discharged to the sewer system shall pass through on-site controls designed, constructed, and maintained to substantially remove pollutants of concern, including:
 - (1) Total suspended solids;
 - (2) Bacteria;
 - (3) Metals (arsenic, copper, lead, and zinc);
 - (4) Total phosphorous;
 - (5) Total nitrogen; and
 - (6) Petroleum.

530.9 Where runoff is discharged into a stormwater management facility placed in the public space, the applicant shall provide controls using on-site stormwater management practices.

530.10 As part of the stormwater management plan requirement of § 531, the applicant shall submit a plan to prevent overuse of fertilizers, herbicides, and pesticides.

531 RESERVED

532 STORMWATER MANAGEMENT: PLAN

532.1 The stormwater management plan shall contain the following information:

- (a) Supporting computations, drawings, and information sufficient to evaluate the environmental composition of the site and affected areas;
- (b) The potential impacts of the proposed development on water resources;
- (c) The effectiveness and acceptability of measures for managing stormwater runoff including demonstration of compliance with the requirements of § 529 or § 530 and demonstration that $RP_v + RR_v + RT_v = WQ_v$;
- (d) Maintenance and construction schedules; and
- (e) A description of construction and waste materials expected to be stored on-site, and the pollution control measures, including storage practices and spill prevention responses, which will be implemented as part of the construction activity to minimize exposure of the materials to stormwater discharges.

532.2 Each plan shall include the following:

- (a) Site characteristics:
 - (1) Property boundaries and the complete address of the property;
 - (2) Lot number, square number or parcel number designation (if applicable);
 - (3) North arrow, scale, date;
 - (4) Property lines (include longitude and latitude);
 - (5) Location of easements (if applicable);
 - (6) Existing and proposed structures, utilities, roads and other paved areas;
 - (7) Existing and proposed topographic contours;
 - (8) Soil information for design purposes, including borings for construction of small ponds and infiltration practices, where applicable;
 - (9) Structure classification (U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) Pond Standard 378). A copy of this standard may be found on the Department's website at ddoe.dc.gov;
 - (10) Area(s) of soil disturbance;

- (11) Location of existing stream(s), wetlands, or other natural features within the project area;
 - (12) Location and size of existing utility lines including gas lines, sanitary lines, telephone lines or poles, and water mains; and
 - (13) Applicable flood boundaries for sites lying wholly or partially within the 100-year floodplain.
- (b) Pre- and post-development hydrologic computations sufficient to evaluate the ecological characteristics of the site, which computations shall be included on the plan, including:
- (1) A summary of soil conditions and field data;
 - (2) Pre and post-development curve number or runoff coefficient computation;
 - (3) Time of concentration calculation;
 - (4) Travel time calculation; and
 - (5) Peak discharge computation for each subwatershed for the 24-hour storms of 2-year and 15-year design frequencies.
- (c) Hydraulic computations for the final design of water quality and quantity control structures, which may be accomplished by hand or through the use of software using equations or formulae generally accepted in the water resources industry. The summary of collection or management systems shall include the following:
- (1) Existing and proposed drainage areas shall be delineated on separate plans with the flow paths used for calculation of the times of concentration;
 - (2) Hydraulic capacity and flow velocity for drainage conveyance, including ditch, swales, pipes, inlets, and gutter;
 - (3) Plan profiles for all open conveyance and pipelines, with hydraulic gradients shown;
 - (4) The proposed development layout including:
 - (i) Stormwater lines and inlets;

- (ii) Location and design of stormwater management facility on site;
 - (iii) A list of design assumptions (for example, design basis, and 15-year design frequency);
 - (iv) The boundary of the contributing drainage area to the stormwater management facility;
 - (v) Schedule of structures (including a listing of the structures, details, elevations including inverts); and
 - (vi) Manhole to manhole listing of pipe size, pipe type, slope, computed velocity, and computed flow.
- (c) Structural computations.
- (d) Other items:
- (1) Vicinity maps;
 - (2) Drainage area map showing the watershed boundaries, drainage area, and stormwater flow paths;
 - (3) Proposed improvements including location of buildings or other structures, impervious surfaces, and storm drainage facilities;
 - (4) Structural details for all components of the proposed drainage systems and stormwater management facilities;
 - (5) Timing schedules and sequence of development clearing, including stripping, rough grading, construction, final grading, and vegetative stabilization;
 - (6) Maintenance responsibility and schedule;
 - (7) Notes on drawings specifying materials to be used;
 - (8) Construction materials and specifications as specified by NRCS or American Society for Testing and Materials (ASTM);
 - (9) Location of easements;
 - (10) Estimate of stormwater management construction cost;

- (11) All stormwater management plans shall be prepared utilizing a standard drawing size of twenty four inches times thirty-six inches (24 in. x 36 in). Unless otherwise approved, the following scales shall be used for the detailed stormwater management plan and profile: one inch equals ten feet (1" = 10'), one inch equals twenty feet (1" = 20'), one inch equals thirty feet (1" = 30'), one inch equals forty feet (1" = 40'), one inch equals fifty feet (1" = 50'), or one inch equals eighty feet (1" = 80'). The drafting media used to prepare all plans shall yield first or second generation reproducible drawings with a minimum letter size of No. 4 (1/8 in.);
- (12) Vertical scale for profiles shall be one inch equals two feet (1" = 2'), one inch equals four feet (1" = 4'), one inch equals five feet (1" = 5'), or one inch equals ten feet (1" = 10');
- (13) A legend identifying all symbols used on the plan; and
- (14) Information regarding the mitigation of any off-site impacts anticipated as a result of the proposed development.

532.3 The applicant shall certify on each drawing that all clearing, grading, drainage construction, and development shall be accomplished in strict accordance with the Department-approved plan. Each plan submitted shall be signed by a registered professional engineer, licensed in the District of Columbia.

532.4 The applicant shall submit a maintenance agreement and maintenance schedule as part of the stormwater management plan, and shall state the maintenance to be completed, the time period for completion of maintenance, and who shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan. The plan may indentify the governmental agency that has been assigned by law to perform the maintenance.

532.5 The plan shall include design and "As-Built" certification by a registered professional engineer licensed in the District of Columbia that the design of the stormwater management facility conforms to engineering principles applicable to the treatment and disposal of stormwater pollutants. The "As-Built" stormwater management plan requirements are provided in the *Stormwater Management Guidebook*.

532.6 The stormwater management plan shall conform with all other project submissions, including but not limited to any approved erosion and sediment control plans for the location.

533 STORMWATER MANAGEMENT: VARIANCES

- 533.1 The Director may grant a variance to the stormwater management design requirements where it is technically difficult to meet the WQv requirements of §§ 529 and 530.
- 533.2 Any request for a variance shall be submitted in writing to the Director, and shall state the specific variance sought and the reason for seeking a variance.
- 533.3 In determining whether to grant the variance, the Department may consider one or more of the following:
- (a) Post-development peak discharge practices that control volume;
 - (b) Zoning requirements or restrictions;
 - (c) Space restriction; or
 - (d) Restrictive site conditions.

534 STORMWATER MANAGEMENT: OFF-SITE MITIGATION

- 534.1 Where the Department grants a variance in accordance with § 533, the applicant shall conduct off-site mitigation for the estimated deficiency.
- 534.2 The applicant shall install stormwater management measures sufficient to manage a WQv equal to 1.5 times the WQv deficiency in another previously developed public or private property within the District of Columbia that lacks sufficient stormwater management facilities.
- 534.3 The applicant shall submit an application for a permit to use off-site stormwater management mitigation for each site.
- 534.4 An application to use off-site stormwater management mitigation measures shall include:
- (a) An off-site stormwater management mitigation application;
 - (b) An application fee;
 - (c) Two (2) sets of plans showing:
 - (1) A vicinity map;
 - (2) Existing and proposed topographic areas;
 - (3) Impervious areas and site improvements plan;

- (4) Existing and proposed drainage divide areas;
 - (5) Off-site drainage and outfalls;
 - (6) Downstream conditions;
 - (7) Schematic drawing of the storm drain layout on a 10-200 feet scale topography detailing the system up to the existing outfall, if draining to an existing storm drain system; and
 - (8) Existing and proposed structures, utility roads and other paved areas;
- (d) Justification for the use of off-site stormwater management mitigation that meets the requirements of § 532.2;
 - (e) Hydrologic computations reflecting 2-year and 15-year pre-development, existing development, and post-development runoff peak discharges using appropriate hydrologic methodology;
 - (f) Stormwater management plans for the off-site stormwater management mitigation facilities that comply with the requirements of §§ 529 and 530;
 - (g) A letter stating the availability of a public storm sewer, sanitary sewer, or combined sewer from the District of Columbia Water and Sewer Authority;
 - (h) A one-hundred (100) year frequency analysis for peak discharges into designated Special Flood Hazard Areas downstream; and
 - (i) The proposed ownership arrangements and long term maintenance strategy for the mitigation site.

534.5 In general, applicant sponsored off-site stormwater management mitigation is preferable to participation in the Department sponsored off-site mitigation program. Thus the applicant must demonstrate to the satisfaction of the Department that applicant sponsored off-site mitigation is not feasible, before the applicant may be authorized to pay a fee for the Department sponsored off-site stormwater management mitigation program. The basis for authorization for entry into the Department sponsored off-site stormwater management mitigation program must be documented in the record for the permit.

534.6 Off-site stormwater management mitigation fees shall be used by the Department to fund stormwater management activities such as retrofit projects, watershed or stream restoration, and research and studies within the watershed.

535 STORMWATER MANAGEMENT: MAINTENANCE

- 535.1 The owner of the property on which a stormwater management facility has been constructed, or any other person or agent in control of the property, or any governmental agency charged with the maintenance responsibility, shall maintain the facility in proper working condition, and promptly repair and restore whenever necessary all grade surfaces, walls, drains, structures, vegetation, erosion and sediment control measures, and other protective devices.
- 535.2 The Department may inspect the stormwater management facility to see if the facility is being maintained in proper working condition.
- 535.3 If an inspection by the Department shows that the stormwater management facility is not being properly maintained, the owner, agent in control of the property, or governmental agency charged with the maintenance responsibility shall perform the required maintenance, or correct the deficiencies as directed by the Department.
- 535.4 Failure or refusal to maintain a stormwater management facility in proper condition may result in corrective action by the Department. Any costs incurred from corrective measures by the Department shall be assessed against the property on which the facility is located. Additionally, any violator may be fined in accordance with § 515 of this Chapter.
- 535.5 If an inspection by the Department shows that the condition of a stormwater management facility presents an imminent and substantial danger to public health or welfare, including danger to the livelihood of members of the public because of an unsafe condition or improper maintenance, the Department may take action as may be necessary to protect the public health and safety and the environment. Any costs incurred by the Department shall be assessed against the property owner.
- 535.6 If the Department’s inspection determines that the stormwater management facility is not being maintained in proper working condition, the Department shall require that the owner or governmental agency charged with the maintenance responsibility hire a contractor qualified by the Department in accordance with § 535.7 to perform maintenance on the stormwater management facility.
- 535.7 A stormwater management facility maintenance contractor is qualified to perform maintenance on a stormwater management facility by submitting to the Department for review and approval, proof that the contractor has:
- (a) A current District of Columbia business license;

- (b) Staff trained to work in confined spaces according to the requirements of the Occupational Safety and Health Administration (OSHA), set forth at 29 CFR 1910.146;
- (c) Demonstrable experience in maintenance, construction, and inspection of stormwater management facilities;
- (d) Available equipment to perform appropriate maintenance; and
- (f) An employee who directly supervises (or who primarily and directly assists in the supervision of) maintenance service in the field, which employee has attended a District-sponsored or approved maintenance service training course.

535.8 The Department reserves the right to remove a contractor from the list of approved maintenance contractors for any of the following reasons:

- (a) Failure at any time to meet the requirements of § 535.7; and
- (b) Failure to comply with the requirements and guidance of the Department in the performance of maintenance service to the stormwater management facility.

535.9 Waste materials resulting from the repair or maintenance of a stormwater management facility shall be transported, and the maintenance contractor shall submit a report to the Department within forty-eight (48) hours after disposing of the waste materials. The report shall include:

- (a) The name, address and phone number of contractor transporting the waste materials;
- (b) The address of the stormwater facility;
- (c) Type(s) of the stormwater facility serviced;
- (d) The date, amount and type of waste material removed; and
- (e) The name and location of the facility where the waste material was properly disposed of, in compliance with applicable Federal, and District requirements.

536 STORMWATER MANAGEMENT: COVENANTS AND EASEMENTS

536.1 Before a permit for construction of the stormwater management facility is issued, the owner of the property shall record a covenant with the specific maintenance responsibilities approved by the Department with the owner's deed at the

Recorder of Deeds. A governmental agency shall not be required to record a covenant.

536.2 A covenant shall:

- (a) Require approval as to form and legal sufficiency by the Office of the Attorney General;
- (b) Be binding on all subsequent owners of land served by the stormwater management facility;
- (c) Include but not be limited to an agreement to indemnify the District of Columbia, its officers, agents, and employees from and against all claims or liability that may arise out of or in connection with, either directly or indirectly, any of the owner's actions or omissions with regard to the construction, operation, maintenance or restoration of the stormwater management facility;
- (e) Provide for inspection and access to the facility at reasonable times by the Department or its authorized representative; and
- (d) Be recorded with the Recorder of Deeds by the owner, and be made an official part of the land records of that property.

536.3 The property owner shall record in the land records, all easements required to provide adequate access for inspection and maintenance for the stormwater management facility.

537 RESERVED

538 SOIL EROSION AND SEDIMENT CONTROL: APPLICABILITY

538.1 No person shall engage in any land disturbing activity including, but not limited to, stripping, grading, excavating, and filling of land without obtaining a soil erosion and sediment control permit.

538.2 The applicant shall submit a soil erosion and sediment control plan to the Department for review and approval that meets the requirements of § 544, unless exempt under § 539.

538.3 The applicant shall be the lawful owner of any property where a land disturbing activity is to take place, or the lawful owner's designated representative who applies to the Department of Consumer and Regulatory Affairs for a building permit. When work is to be done under contract, the lawful owner of the property is responsible for securing the permit.

538.4 The applicant shall be required to file with the District of Columbia a performance bond, letter of credit, or other improvement security in an amount considered sufficient by the Department to cover all costs of improvements, landscaping, and maintenance of improvements on sites equal to or greater than one (1) acre of land disturbance, until the Department determines on final inspection that the completed work is constructed in accordance with approved soil erosion and sediment control plans, as set forth in § 550.

538.5 The approved soil erosion and sediment control plan shall constitute the applicant's soil erosion and sediment control permit, and shall govern all construction requiring soil erosion and sediment control. The soil erosion and sediment control plan shall not be considered approved without the date and signature of the Director or the Director's designee stamped on the plan.

538.6 The permittee shall employ a responsible person certified under § 545 on site on all days when construction is occurring during the land disturbing phase.

538.7 The permittee shall keep the permit and approved soil erosion and sediment control plan on the site while work is being performed. The permit and approved soil erosion and sediment control plan shall be made available upon request by the Department during the entire time of progression of the work, until the work is completed. If an on-site location is unavailable to store the approved soil erosion and sediment control plan when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

539 SOIL EROSION AND SEDIMENT CONTROL: EXEMPTIONS

539.1 The following minor land disturbing activities are exempt from the requirement to obtain a soil erosion and sediment control permit:

- (a) Home gardening and individual home landscaping, home repairs, and home maintenance work;
- (b) Single family dwelling utility service connections or utility construction, where the excavated material is removed from the job site;
- (c) Tilling, planting, or harvesting of agricultural or horticultural crops;
- (d) Installation of fence and signposts or poles;
- (e) Emergency work to protect life, limb or property, and emergency repairs. However, in all the land disturbing activities that would have required an approved soil erosion and sediment control plan but for the emergency, compliance with the requirements of §§ 538-545 shall be required within forty-five (45) days after beginning the emergency work; or
- (f) Land disturbing activity in an area that is less than fifty (50) square feet.

540 SOIL EROSION AND SEDIMENT CONTROL: REQUIREMENTS

- 540.1 Erosion and sediment control measures shall be applied to erodible material exposed by any project activity, and shall be set forth in the soil erosion and sediment control plan. The erosion and sediment control measures used by the applicant shall be among those adopted by the Department in the *District of Columbia Standards and Specifications for Soil Erosion and Sediment Control*, which is incorporated by reference, or approved by the Department as part of the applicant's soil erosion and sediment control plan. A copy of the *District of Columbia Standards and Specifications for Soil Erosion and Sediment Control* is available from the Department, or on its website at ddoe.dc.gov.
- 540.2 Soil erosion and sediment control measures shall prevent transportation of sediment from the site, and the plan shall meet the design criteria set forth in §§ 540.4 - 540.25 and in the *District of Columbia Standards and Specifications for Soil Erosion and Sediment Control*.
- 540.3 Waterway crossings and stream bank protection measures shall be designed according to the criteria outlined in the *District of Columbia Standards and Specifications for Soil Erosion and Sediment Control*.
- 540.4 Erosion control measures shall be in place before and during the time the areas are exposed as soon as practicable in portions of the site where construction has temporarily or permanently ceased, and as described in this section, but in no case more that fourteen (14) calendar days after the construction activity in that portion has temporarily or permanently ceased.
- 540.5 Measures shall be implemented to prevent the discharge of waste materials, including building materials, to storm drains, storm sewers or the receiving waters.
- 540.6 The maximum area that may be exposed at any one time during grading shall be limited to two hundred and twenty thousand square feet (220,000 ft²).
- 540.7 Within seven (7) calendar days of initial soil disturbance or redisturbance from installation of perimeter controls, including dikes, swales, ditches and perimeter slopes, permanent or interim stabilization shall be installed on the surface of all disturbed areas, and all slopes greater than 3 horizontal to 1 vertical (3:1), except those areas being used for material storage other than stockpiling, or those areas on which actual construction activities are being performed.
- 540.8 Following the initial soil disturbance or redisturbance of any area, permanent or interim stabilization shall be completed within fourteen (14) calendar days except for the areas covered by § 540.13, areas being used for material storage other than

stockpiling, or those areas on which actual construction activities are being performed.

- 540.9 The maximum period of exposure shall not exceed fourteen (14) calendar days, except that streets and parking areas where underground utilities will be installed may be exposed for a period greater than fourteen (14) days before permanent stabilization can be achieved. Permanent stabilization should be accomplished in these areas as soon as rough grading work is done.
- 540.10 All streets and parking areas shall be stabilized within fourteen (14) calendar days of final grading with base course crushed stone.
- 540.11 Runoff from the site shall be controlled by either diverting or conveying the runoff through areas with erosion and sediment control measures.
- 540.12 All cut and fill slopes shall be protected against erosion from stormwater runoff by use of diversions, which shall be paved or otherwise protected by vegetation or matting. On cut and fill slopes of equal or greater inclination than three horizontal to one vertical (3:1), critical area stabilization methods shall be applied. Slopes flatter than 3:1 may require the application of critical area stabilization depending on soil characteristics.
- 540.13 Cut and fill slopes shall be protected in five foot (5 ft.) vertical increments as each increment is completed. When construction is out-of-season for planting, critical area stabilization shall be used for protection until permanent protection can be provided.
- 540.14 Stockpiled material shall be protected with mulch, temporary vegetation, or plastic within seven (7) calendar days after its stockpiling, except for areas on a steep slope, which shall be protected immediately.
- 540.15 Sediment traps or basins and other appropriate erosion and sediment control structures shall be installed prior to or during the first phase of land grading.
- 540.16 Debris basins, diversions, waterways and related structures shall be seeded and mulched, or have sod or stabilization blanket installed immediately after they are built.
- 540.17 Sediment traps shall be employed to protect inlets or storm sewers below silt-producing areas.
- 540.18 Construction site access measures to minimize off-site vehicle tracking shall be installed prior to beginning construction, and shall include:
- (a) A temporary access road or stabilized construction entrance at the site; and

- (b) Other measures as required by the Department so that sediment is not tracked onto public streets by construction vehicles or washed into storm drains. Off-site accumulations of sediment shall be removed at a frequency sufficient to minimize off-site impacts.

540.19 Maintenance shall be performed as necessary to stabilized areas continuously as set forth in the *District of Columbia Standards and Specification for Soil Erosion and Sediment Control*.

541 SOIL EROSION AND SEDIMENT CONTROL: ROADWAY PROJECTS

541.1 If land disturbing activity involves a roadway project, the applicant shall prevent transportation of sediment from the site, and shall meet the following criteria, in addition to those set forth in § 540:

- (a) Rough graded rights-of-way awaiting installation of utilities or pavement shall be protected by the installation of interceptor dikes across rights-of-way so located as to limit roadway grade to a length between dikes of not more than five hundred feet (500 ft.);
- (b) Temporary diversion dikes and flumes shall be used to carry runoff down fill slopes to an outlet approved by the Department as part of the erosion and sediment control plan; and
- (c) Permanent drainage structures including diversions at top-of-slope cuts and diversions to lead runoff to storm sewers or other suitable outlets shall be installed at the completion of rough grading.

542 SOIL EROSION AND SEDIMENT CONTROL: BUILDINGS, DEMOLITION, RAZING, OR SITE DEVELOPMENT

542.1 If land disturbing activity involves building, demolition, razing, or site development, the applicant shall:

- (a) Slow erosion by the installation of gutters and downspouts as soon as practicable;
- (b) Take precautions to dissipate the velocity of water exiting from downspouts to a non-eroding velocity or provisions made to pipe directly to storm drains;
- (c) Retain natural vegetation on the site, as practicable. Removal of vegetation shall be limited to that which is necessary for construction or landscaping activities; and

- (d) Allow vegetated areas retained to act as a filter to trap sediment and keep it on site.

542.2 Where site conditions preclude employment of other means of erosion control, the Department may approve and allow the applicant to install small dikes constructed around the low lying perimeters of a job site to trap any sediment and keep it on site.

542.3 In areas close to a water body, the applicant shall establish a buffer by preserving or restoring native vegetation to the area of land immediately adjacent to the water body.

542.4 The buffer referenced above in 542.3 shall be a minimum of twenty-five (25) feet on both sides of the water body, measured perpendicular to and horizontally from the top of bank. The buffer may act as a filter to trap sediment and keep it on site.

543 SOIL EROSION AND SEDIMENT CONTROL: UNDERGROUND UTILITIES REQUIREMENTS

543.1 If the land disturbing activity involves work on underground utilities, the applicant shall comply with the following requirements:

- (a) No more than five hundred feet (500 ft.) of trench shall be open at any one time;
- (b) All excavated material is to be placed on the uphill side of trenches;
- (c) Interim or permanent stabilization will be installed immediately upon completion of refilling; and
- (d) When natural or artificial grass filter strips are used to collect sediment from excavated material, mulches and matting shall be used in order to minimize erosion of these materials.

544 SOIL EROSION AND SEDIMENT CONTROL: PLAN

544.1 The applicant shall submit a soil erosion and sediment control plan to the Department demonstrating compliance with the standards and meeting the criteria set forth in §§ 540- 543.

544.2 A separate soil erosion and sediment control plan shall not be required for demolition projects, but proposed erosion and sediment control measures shall be incorporated into the demolition plan.

544.3 A soil erosion and sediment control plan shall be required for projects that include razing activities.

- 544.4 A separate permit and a separate erosion and sediment control plan are required if an engineered fill will be used at a site after a raze activity has occurred. Engineered fill shall contain soil that is free of organic material, construction debris, cobbles and boulders. In general, granular soils classified as SP, SM and SC (sand, silty sand and clayey sand respectively) by the United States Department of Agriculture's Unified Soil Classification System (USCS) are suitable for use as engineered fill.
- 544.5 The title shall indicate the plan is a soil erosion and sediment control plan.
- 544.6 The applicant shall submit two (2) sets of prints of the soil erosion and sediment control plan to the Department for review.
- 544.7 The applicant shall, at a minimum, provide the following information on the soil erosion and sediment control plan:
- (a) A project narrative;
 - (b) The address of the property including the lot, square or parcel numbers;
 - (c) The name, address, and telephone number of:
 - (1) The property owner;
 - (2) The developer; and
 - (3) The plan designer;
 - (d) A vicinity sketch indicating north arrow, scale, and other information necessary to locate the property;
 - (e) The plan and profile which shall be drawn at a scale of
 - (1) One inch equals ten (10) feet (1" equals 10');
 - (2) One inch equals twenty (20) feet (1 " equals 20');
 - (3) One inch equals thirty (30) feet (1 " equals 30');
 - (4) One inch equals forty (40) feet (1" equals 40');
 - (5) One inch equals fifty (50) feet (1" equals 50'); or
 - (6) One inch equals eighty (80) feet (1" equals 80');

- (f) Vertical scale for profiles shall be:
 - (1) One inch equals two (2) feet (1" equals 2');
 - (2) One inch equals four (4) feet (1" equals 4');
 - (3) One inch equals five (5) feet (1" equals 5'); or
 - (4) One inch equals ten (10) feet (1" equals 10');
- (g) Existing features that may be relevant factors in the development of an erosion prevention plan, such as vegetation, wildlife habitat, water areas, and topsoil conditions;
- (h) The existing and proposed topography;
- (i) The proposed grading and earth disturbance including:
 - (1) Surface area involved;
 - (2) Volume of spoil material;
 - (3) Volume of borrow material; and
 - (4) Limits of clearing and grading including limitation of mass clearing and grading whenever possible;
- (k) Storm drainage provisions, including:
 - (1) Velocities and quantities of flow at outfalls; and
 - (2) Site conditions around points of all surface water discharge from the site;
- (l) Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation including:
 - (1) Provisions to preserve topsoil and limit disturbance;
 - (2) Details of grading practices;
 - (3) Methods to minimize, to the extent practicable, off-site vehicle tracking of sediment and generation of dust; and
 - (4) Design details for structural controls including size and location of all erosion and sediment control measures including:

- (i) Use of a crushed stone dike on all access roads that are above grade; and
 - (ii) Use of a stabilized construction entrance for construction projects on all access roads;
- (m) Details of interim and permanent stabilization measures including placement of the following statement on the soil erosion and sediment control plan:

“Following initial soil disturbance or redistribution, permanent or interim stabilization shall be completed within seven (7) calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1); and fourteen (14) days as to all other disturbed or graded areas on the project site. The requirements of this subparagraph do not apply to those areas which are shown on the plan and are being used for material storage other than stockpiling, or for those areas on which actual construction activities are being performed. Maintenance shall be performed as necessary so that stabilized areas continuously meet the appropriate requirements of the *District of Columbia Standards and Specifications for Soil Erosion and Sediment Control*;
- (n) Sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and interim stabilization and the various stages or phases of earth disturbance and construction. The sequence of construction shall, at a minimum, include a schedule and time frame for the following activities:
 - (1) Clearing and grubbing for those areas necessary for installation of perimeter controls;
 - (2) Construction of perimeter controls;
 - (3) Remaining clearing and grubbing;
 - (4) Road grading;
 - (5) Grading for the remainder of the site;
 - (6) Utility installation, including the use or blocking of storm drains after construction;
 - (7) Final grading, landscaping, or stabilization; and

- (8) Removal of controls;
- (o) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available from NRCS;
- (p) A soils report, including recommendations for areas with unstable soils, identified in the Christiana-Sunnyside Association by the District of Columbia Soil Survey. This soils report shall be obtained from a geotechnical engineering entity; and
- (q) A statement placed on the soil erosion and sediment control plan indicating that the applicant shall request a pre-construction meeting before the commencement of any land disturbing activity.

544.8 The applicant shall provide the stages of construction in the soil erosion and sediment control plan for areas in excess of five thousand (5,000) square feet of land disturbance.

544.9 The applicant shall request approval of the Department at the stages of construction specified below:

- (a) Installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading; and
- (b) Final stabilization of the site before the removal of erosion and sediment controls. Final stabilization means that:
 - (1) All soil disturbing activities at the site have been completed and either of the two following criteria are met:
 - (i) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
 - (ii) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
 - (2) For individual lots in residential construction, final stabilization means that either:
 - (i) The developer has completed final stabilization as specified above, or

- (ii). The developer has established interim stabilization including perimeter controls for an individual lot before occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

544.10 When polluted or contaminated ground water is encountered during excavation, the applicant shall submit to the Department for review and approval, a separate detailed dewatering pollution reduction plan for reducing discharges of the contaminated water. The plan shall include:

- (a) A site description and contact information;
- (b) Identification of the potential source of the pollution or contaminant(s);
- (c) The description of control measures to reduce pollutant discharges;
- (d) The monitoring procedures and a monitoring schedule;
- (e) A maintenance and inspection schedule; and
- (f) Recording keeping and reporting.

544.11 Effective January 1, 2012, the applicant shall certify that:

- (a) Any clearing, grading, construction, or development, shall be done in accordance with this plan, and that responsible personnel involved in the construction project will have completed a D.C. Soil Erosion and Sediment Control Certification of Training at a Department or Department-approved training program for the control of sediment and erosion before beginning the project. The Department may waive the Certification of Training for responsible personnel requirement for a project less than five thousand (5,000) square feet;
- (b) The Department has the right to conduct on-site inspections; and
- (c) The plan has been designed by a professional engineer, land surveyor, or architect registered in the District, in accordance with approved erosion and sediment control regulations.

544.12 The applicant shall provide any additional information or data considered necessary or appropriate by the Department.

544.13 The applicant's erosion and sediment control plan shall compliment all other project submissions, including but not limited to any relevant stormwater management plan.

544.14 The permittee shall retain a copy of the approved plans at the construction site from the date of commencement of the construction activities to the date of final stabilization.

545 SOIL EROSION AND SEDIMENT CONTROL: TRAINING AND CERTIFICATION OF RESPONSIBLE PERSONNEL

545.1 Effective January 1, 2012, all construction projects involving land disturbing activity for soil erosion and sediment control in an area equal to or greater than five thousand (5,000) square feet shall be conducted by responsible personnel.

545.2 Responsible personnel shall ensure that land disturbing activity at the construction site is conducted in accordance with the requirements of §§ 538-549.

545.3 Responsible personnel shall be certified in an approved training program, and shall carry the District of Columbia Soil Erosion and Sediment Control Certification Card during construction.

545.4 The District of Columbia Soil Erosion and Sediment Control certification and training shall be valid for a three (3) year period and is automatically renewed unless the Department notifies the individual in writing or announces to the public that re-certification is required due to a change in course content.

545.5 Enrollment of responsible personnel is the responsibility of employers.

545.6 Responsible personnel certified by the Department shall retain their certification status when changing employment.

545.7 The Department may approve programs for the training of responsible personnel other than those developed by the Department.

545.8 Acceptable training programs shall include at a minimum, educational materials covering the following topics:

- (a) The detrimental effects of sediment pollution to the waters of the District of Columbia;
- (b) The benefits of proper and effective erosion and sediment control implementation and maintenance;
- (c) The purpose and provisions of the erosion and sediment control laws and regulations;
- (d) A description of sediment as a pollutant;

- (e) The process of:
 - (1) Erosion;
 - (2) Sediment transport; and
 - (3) Sediment deposition;
- (f) Proper implementation of erosion and sediment control;
- (g) Recognition and correction of improperly implemented erosion and sediment controls;
- (h) Proper maintenance of erosion and sediment controls; and
- (i) Responsibilities of supervisory and enforcement personnel.

545.9 The training instructor shall hold a professional engineering license or Certified Professional in Erosion and Sediment Control certification, and have knowledge of the principles of:

- (a) Erosion;
- (b) Sediment transport;
- (c) Sediment deposition;
- (d) Erosion and sediment control technology;
- (e) Erosion and sediment control implementation;
- (f) Erosion and sediment control maintenance;
- (g) *District of Columbia Standards and Specification for Soil Erosion and Sediment Control*;
- (h) District of Columbia Soil Erosion and Sediment Control Handbook; and
- (i) The soil erosion and sediment control regulations in this Chapter.

545.10 Training instructors shall submit the following information to the Department:

- (a) Names, addresses, e-mail addresses, and telephone numbers of responsible personnel who complete a training program;
- (b) Card certification numbers issued to responsible personnel; and

(c) Responsible personnel employer's name and address.

546 RESERVED

547 DUTY TO COMPLY

547.1 The permittee shall comply with all conditions of the stormwater management, erosion and sediment control, or Level 3 alteration project permit. Any permit noncompliance constitutes a violation, and is grounds for enforcement action, for permit termination, for revocation and reissuance, or for modification.

547.2 The Department is authorized to institute a civil action for a prohibitory or mandatory injunction or other appropriate relief by way of a temporary restraining order, preliminary or permanent injunction, or other judicial decree, or for a civil penalty of no more than \$50,000 for each violation, or \$250,000 for each willful violation. Each violation of the regulations shall be considered a separate offense.

547.3 Any person who willfully or negligently violates the provisions in this chapter shall be guilty of a misdemeanor, and fined at least \$ 2,500 or no more than \$25,000 for each day of the violation, imprisoned for no more than one (1) year, or both fined and imprisoned. If the person has been previously convicted under this section, then the person shall be fined at least \$2,500 or no more than \$50,000 for each day of the violation, imprisoned for no more than two (2) years, or both fined and imprisoned.

547.4 It is a crime to knowingly make a false statement in an application, record, report, plan, or other document maintained under this chapter shall be guilty of a misdemeanor. Upon a determination of guilt, the penalty is no more than \$10,000, or imprisonment for no more than six (6) months, or both fine and imprisonment.

547.5 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of the Water Pollution Control Act, or any rules or regulations issued under the authority of the Act, pursuant to Chapter 18 of Title 2. Adjudication of any infraction shall be pursuant to Chapter 18 of Title 2.

548 INSPECTIONS

548.1 The Department shall conduct periodic inspections of all land disturbing activity to ensure compliance with the approved plan for stormwater management, erosion and sediment control, or Level 3 alteration project and to determine whether the measures in the plan are effective in controlling erosion, sedimentation, and stormwater runoff resulting from the land disturbing activity and Level 3 alteration project.

- 548.2 The permittee shall conduct all work in accordance with the approved plans for which the permit has been issued, and any later-approved amendments to the plans. Any changes to the plans or course of activity made during construction that deviate substantially from the approved plans shall be resubmitted to the Department for approval in accordance with this Chapter.
- 548.3 The permittee or his agent shall contact the Department at least three (3) business days before the start of any land disturbing activity or Level 3 alteration project to schedule a pre-construction meeting, and within fourteen (14) days after completion of the project to request final inspection.
- 548.4 The applicant or his agent shall notify the Department when the stages of construction that require inspection are completed, and of other critical deadlines as directed by the Department.
- 548.5 The applicant may request that an inspection of stormwater management work be scheduled outside of the Department's normal business hours of operation. The Department shall be given at least forty-eight (48) hours notice for the inspection, and the applicant or his agent shall pay an after-hour inspection fee at the rate specified in § 502.4.
- 548.6 The permittee shall allow the Department, or the Department's authorized representative, upon presentation of credentials, to:
- (a) Enter upon the premise where the facility or activity is located or conducted, or where records are kept under the conditions of the permit;
 - (b) Access and copy, at reasonable times, any records that are kept under the conditions of the permit;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and
 - (d) Sample or monitor at reasonable times or order sampling of any substances or parameters at the location, for the purposes of assuring permit compliance or as otherwise authorized by the Water Pollution Control Act of 1984 and its implementing regulations.
- 548.7 The permittee shall be given the opportunity to accompany the inspector.
- 548.8 If the Department's approval is required at a scheduled stage of construction, the permittee shall not proceed to the next stage of construction before the Department, accompanied by the professional engineer responsible for certifying the "As-Built" plans, inspects and approves proceeding to the next stage.

- 548.9 The permittee shall promptly correct any portion of the work which does not comply with the approved plans, as directed by the Department.
- 548.10 Whenever there is any change in design, construction, operation, or maintenance that affects any portion of the stormwater management or soil erosion and sediment control plan, including but not limited to any element submitted under § 531 or that has a significant effect on the discharge of pollutants to the waters of the District, the stormwater management plan or soil erosion and sediment control plan shall be resubmitted to the Department for approval.
- 548.11 The permittee shall notify the Department within fourteen (14) calendar days of the completion of the stormwater management facility. A final inspection shall be conducted by the Department upon completion of the project to determine if the completed work is constructed in accordance with approved plans, as set forth in § 532.
- 548.12 The permittee shall not utilize the stormwater management facility until the Department, accompanied by the registered professional engineer responsible for certifying the "As-Built" plans, inspects and approves the construction.
- 548.13 The permittee shall submit the "As-Built" certification within fourteen (14) calendar days of approval of the construction of the stormwater management facility by the Department.

549 STOP WORK ORDERS

- 549.1 Upon notice from the Department that work involving a land disturbing activity or Level 3 alteration and repair is being conducted contrary to any provision of this Chapter, or in an unsafe and dangerous manner, or in a manner that poses a threat to the public health or the environment, the owner, owner's agent, or person authorized by the owner or owner's agent to do work shall stop immediately until the situation is corrected.
- 549.2 A stop work order shall contain notification of the owner's right to appeal the order, and shall be provided to the owner of the property involved or to the owner's agent, if either are on-site, or to the person doing the work.
- 549.3 The stop work order shall state the address of the property and the specific section or sections of the regulation violated.
- 549.4 The stop work order along with notification of the owner's right to appeal shall be sent by the Department to the owner by first class mail, and the property shall be posted.
- 549.5 It shall be unlawful to remove a stop work order posted on the site.

549.6 Any person who shall continue any work related to the particular land disturbing activity for which a stop work order has been served, except work as that person is directed to perform to correct a violation or unsafe condition, or eliminate a threat to the public health or the environment, shall be subject to the penalties set forth in § 502.3.

549.7 The imposition of penalties prescribed in § 549.6 shall not preclude the Office of the Attorney General from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation on or about any premises, or seek cost recovery.

550 BOND REQUIREMENT

550.1 Each applicant shall be required to file with the District of Columbia a performance bond, letter of credit, or other financial security in an amount considered sufficient by the Department to cover all costs of improvements, landscaping, and maintenance of improvements on sites equal to or greater than five thousand (5,000) square feet of land disturbance, until the Department determines on final inspection that the completed work is constructed in accordance with approved plans.

550.2 Each applicant shall file with the Department a surety or cash bond, irrevocable letter of credit, or other means of security, acceptable to the Department, before the Department's approval of a permit.

550.3 The required security will be submitted to the Director. Upon the approval of the bond by the Director, the applicant shall register with the Director, stating the applicant's full name, residence, and place of business.

550.4 The amount of the security shall not be less than the total estimated construction cost of the stormwater management measures (structural and nonstructural), sediment and erosion control, and stabilization, plus a ten percent (10%) contingency, running to the District of Columbia, with corporate surety authorized by the Secretary of the Treasury in accordance with Title 6, U.S. Code (1958 Ed.) and by the Superintendent of Insurance of the District of Columbia to do business in the District.

550.5 The security required under this section shall:

- (a) Be conditioned upon the performance in accordance with law and regulations in force in the District of all licensed work undertaken by the applicant;
- (b) Indemnify the District of Columbia from the consequences of all acts performed by that applicant in connection with the construction during the period covered by the bond;

- (c) Provide for forfeiture for failure to complete work specified in the approved stormwater management plans;
- (d) Be in favor of the District (running to the benefit of the District of Columbia); and
- (e) Be approved in form and content by the District of Columbia Office of the Attorney General.

550.6 The surety on any bond may terminate its liability under the bond by giving thirty (30) days written notice of termination, served either personally or by registered mail, to the principal and to the Director.

550.7 The bond shall not be fully released:

- (a) Without submission and approval of as-built plans to the Department; and
- (b) Without final inspection by the Department to verify that all work has been completed in accordance with the approved plans.

550.8 Upon giving notice under § 550.6, the surety shall be discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of service of the notice.

550.9 If a surety becomes insolvent or bankrupt, or ceases to be authorized by the Secretary of the Treasury to do business in accordance with § 3 of the Act of August 13, 1894 (28 Stat. 279), as amended (6 U.S.C. § 8), or by the Department of Insurance, Securities, and Banking to do business in the District, the principal shall, within ten (10) days after notice of this event given by the Director, file a new bond in like amount and conditioned as the original. If the principal fails to do so, the permit of the principal shall terminate.

550.10 If a recovery is had on any bond, the principal shall restore the bond to its original amount.

550.11 Upon making any payment on account of its bond, the surety shall immediately notify the Mayor.

551 PERMIT EXPIRATION

551.1 Any stormwater management or soil erosion and sediment control permit issued in accordance with this chapter shall expire if the authorized work is not begun within one year after the permit is issued, or if the authorized work is suspended or abandoned for any one-year period.

- 551.2 The applicant may submit a written request for approval by the Department of an extension of time before a stormwater management permit expires. Up to three (3) extensions of time may be granted, not to exceed six (6) months each.
- 551.3 Permits allowed to expire shall not be extended.
- 551.4 A permit may be transferred to a new permittee only with the approval of the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate any other requirements as may be necessary under this Chapter.

552 PERMIT SUSPENSION AND REVOCATION

- 552.1 Any permit issued for stormwater management or soil erosion and sediment control may be suspended or revoked after a written notice to the permittee for any of the following reasons;
- (a) Violation of the conditions of the stormwater management plan;
 - (b) Changes in site runoff characteristics upon which an off-site stormwater management mitigation was granted;
 - (c) Construction which is not in accordance with the approved plans;
 - (d) Noncompliance with correction notice(s) or stop work order(s);
 - (e) The existence of an immediate danger in a downstream area as determined by the Department;
 - (f) Where there is a material false statement or misrepresentation of fact in the application or on the plans on which a stormwater management permit or approval was based;
 - (g) When the permit holder has been cited for one or more violations of this Chapter which by the determination of the Department threaten the health and safety of the public in the District of Columbia, or when the permit holder fails to restore safety or otherwise remedy the situation under the terms and conditions of the order and within the time period specified;
 - (h) When the construction has been posted with two (2) or more stop work orders, and the permit holder fails to comply with conditions stated in the orders before resuming construction in two (2) or more instances; or
 - (i) When the permit is issued to a contractor whose license had expired, or is suspended or revoked by the agency having jurisdiction.

552.2 The Permittee may request a hearing from the Office of Administrative Hearings on the proposed action of suspension or revocation taken under § 552.1.

552.3 Suspensions and revocations based on § 552.1 are proposed actions and shall become final upon occurrence of the following conditions:

- (a) If the permittee's right to a hearing is waived by failing to request a hearing within ten (10) business days of receipt of the proposed order; or
- (b) If so determined by the Office of Administrative Hearings as the result of a hearing requested by the permittee in accordance with § 552.2.

552.4 Once the notice of suspension or revocation has been served the following shall apply:

- (a) The respondent shall notify the Department or other entity stated on the notice in writing of all changes of address or of a preferred address to receive all future notices; and
- (b) All other notices, orders, or any other information regarding these hearings may be sent by the Department via first class mail, postage prepaid.

552.5 A request for a hearing on a stormwater management or soil erosion and sediment control permit suspension or revocation shall be made by the respondent directly to the Office of Administrative Hearings.

Section 599 is amended to delete the section and replace it with the following:

599 DEFINITIONS

599.1 When used in this Chapter, the following terms and phrases shall have the meanings ascribed

Alteration - any construction or renovation to an existing structure other than repair or addition, including: (1) reconfiguration of any space; (2) addition or elimination of any door or window; (3) reconfiguration or extension of any system; or (4) installation of any additional equipment. Alterations are classified as Level 1, Level 2 and Level 3.

Anacostia Waterfront Development Zone - includes the following areas of the District of Columbia:

- (a) Interstate 395 and all rights-of-way of Interstate 395, within the District, except for the portion of Interstate 95 that is north of D Street, N.W., and N.E.;
- (b) All land between that portion of Interstate 395 that is south of D Street,

- N.W., and N.E., and the Washington Channel;
- (c) All land between that portion of Interstate 395 that is south of D Street, N.W. and N.E., and the Anacostia River;
 - (d) The portion of Interstate 295 that is north of the Anacostia River, within the District, and all rights-of-way of that portion of Interstate 295;
 - (e) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;
 - (f) The portion of the Anacostia Freeway that is north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;
 - (g) All land between that portion of the Anacostia Freeway described in paragraph (6) of this section and the Anacostia River;
 - (h) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map, dated January 2002, except for the land that is:
 - (1) North of New York Avenue, N.E.;
 - (2) East of the Anacostia Freeway;
 - (3) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King, Jr. Avenue; and
 - (4) South of a line drawn along, and as a continuation both east and west of, the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;
 - (i) All land, excluding Eastern High School, that is:
 - (1) Adjacent to the land described in paragraph (7) of this section;
 - (2) West of the Anacostia River; or
 - (3) Designated as a local public facility on the District of Columbia Generalized Land Use Map, dated January 2002;
 - (j) All land that is:
 - (1) South or east of that portion of Potomac Avenue, S.E., between Interstate 295 and 19th Street, S.E.; and

- (2) West or north of the Anacostia River;
- (k) The portion of the Anacostia River within the District; and
- (l) The Washington Channel.

Animal confinement area - an area used to stable, kennel, or otherwise confine animals, not including confinement of domestic animals on a residential property.

Applicant - the lawful owner of any property where a land disturbing activity or Level 3 alteration to an existing building is to take place, or the lawful owner's designated representative who applies to the Department of Consumer and Regulatory Affairs for a building permit. When work is to be done under contract the lawful owner of the property is responsible for securing the building permit.

As-Built Plans - a set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.

Best management practice (BMP) - a structural device or non-structural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

Buffer - a zone of variable width located along both sides of a natural feature (for example, a stream or a forested area) and designed to provide a protective area along a corridor.

CFR - Code of Federal Regulations

Clearing - the removal of trees and brush from the land, excluding the ordinary mowing of grass, pruning of trees or other forms of long-term landscape maintenance.

Compacted cover - an increase in soil bulk density and a decrease in soil permeability of the surface which impedes infiltration caused by grading and other construction activities

Control measure - any stormwater management technique or other method used to prevent or reduce the discharge of pollutants from the site.

Construction - any on-site activity which will result in the creation a new stormwater discharge facility, including the building, assembling, expansion, modification or alteration of the existing contours of the property, the erection of buildings or other structures, or any part thereof, or land clearing

Critical area stabilization – stabilization of areas highly susceptible to erosion, (including all down slope boundaries and those side slope boundaries as appropriate) through the use of measures including brick bats, straw, erosion control blanket mats, and gabions.

Demolition - the removal of interior non-bearing walls, interior finishes and other interior non-bearing elements of a building or a structure, or the removal of part of a building or a structure but of a lesser scope than the razing of the entire building or structure down to the ground.

Department - the District Department of the Environment.

Design frequency - the average interval of time within which the magnitude of the storm event will be equaled or exceeded during a specified period.

Design storm - a selected rainfall hyetograph of specified amount, intensity, duration and frequency that is used as a basis for design.

Detention structure - a permanent structure for the temporary storage of runoff which is designed to prevent the creation of a permanent pool of water.

Dewatering - removing water from an area or the environment using any approved technology or artificial method, such as pumping.

Director - the Director of the District Department of the Environment.

District - the District of Columbia.

Drainage area - area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line or topographic divide.

Easement - a right granted by a land owner, allowing the use of a private land for stormwater management purposes.

Erosion - the process by which the ground surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan - an erosion and sediment control strategy or plan to minimize erosion and prevent off-site sedimentation, by containing sediment on-site or passing sediment laden runoff through a sediment control measure prepared and approved in accordance with the specific requirements of an approval authority, and designed in accordance with the "Standards and Specifications for Soil Erosion and Sediment Control," which is incorporated by reference in § 501.4 of this Chapter.

Excavation or cut - an act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and the conditions resulting from those actions.

FEMA - Federal Emergency Management Agency.

FIRM - an official map of a community on which FEMA has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community available in the Department.

Grade - to cause disturbance of the earth. This includes but is not limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of them.

Grading - any stripping, excavating, filling, stockpiling, grubbing, root mat or topsoil disturbance, or any combination thereof including the conditions resulting from those actions.

Hotspots - land uses or activities that generate highly contaminated runoff. Examples include fueling stations, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, vehicle service and maintenance facilities, fleet storage areas, and facilities that generate hazardous waste.

Hyetograph - a graph of the time distribution of rainfall over a watershed.

Impervious cover - a hardened surface, such as asphalt, concrete or roof area, that prevents or impedes the penetration of water into the ground.

Infiltration - the passage or movement of water into the soil surface.

Land disturbing activity - any earth movement or land change which may result in soil erosion from water or wind and the movement of sediments in the District of Columbia, including, but not limited to, stripping, grading, excavating, transporting and filling of land, construction or demolition of buildings or structures.

The term "land disturbing activity" shall not include any minor land disturbing activity such as the following:

- (a) Home gardening an individual home landscaping, repairs, and maintenance work;
- (b) Single family dwelling utility service connections and construction of connections or utility construction where the excavated material is removed from the job site;
- (c) Tilling, planting, or harvesting or agricultural or horticultural crops;
- (d) Installation of fence and sign posts or poles; or
- (e) Emergency work to protect life, limb or property, and emergency repairs. Provided, that if the land disturbing activity would have required an approved erosion and sedimentation control plan if the activity were not an emergency, then the land disturbed shall be shaped and stabilized in accordance with the requirements of the Department of Consumer and Regulatory Affairs. (D.C. Law 10-166)

Landscaping - the arrangement of land for human use and enjoyment involving the placement of structures, vehicular and pedestrian circulation, plantings, and relationships of each to with adjacent areas.

Level 3 alterations - applies where the work area exceeds fifty percent (50%) of the aggregate area of the building, as provided in the Existing Building Codes in Chapter 3, Title 12J of the District of Columbia Municipal Regulations.

Low impact development practices - stormwater management practices that are used to mimic pre-development site hydrology by using site design techniques that store, infiltrate, evaporate, and detain runoff.

Mayor - the Mayor of the District of Columbia or his or her designee.

Maintenance - the upkeep of stormwater management facilities to prevent failure or decline.

Natural cover - vegetation consisting of trees, grasses, meadows, and shrubs, that cover the land surface and intercept and absorb rainfall.

Nonstructural - a stormwater runoff treatment technique which uses natural measures to reduce pollution levels, which does not require extensive construction efforts, or which promotes pollutant reduction by eliminating the pollutant source.

Off-site stormwater management - the design, construction, and maintenance of a facility necessary to control stormwater from one or more developments from a parcel of land which is not part of the original.

On-site stormwater management - the design, construction and maintenance of systems necessary to control stormwater within an immediate development.

Peak discharge - the maximum rate of flow of water at a given point and time resulting from a storm event.

Performance bond - a bond to secure performance and fulfillment of the contractor's obligations under the contract.

Permit - authorization for construction activities or other regulated actions specified in § 105A of the most current District of Columbia Building Code Supplement and issued by the Department of Consumer and Regulatory Affairs.

Person - any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, cooperative, or any other legal entity, including the District and federal governments.

Pollutants of concern - pollutants in stormwater discharges that may cause impairment to the district's waterbodies.

Post-development - conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Pre-cast - components that are cast and partly matured in a setting other than their final position prior to installation.

Pre-development - land that is in a grass-like condition, or treated as a meadow, or exists in the condition that the runoff would have been in before man's influence.

Private projects - projects which are not publicly-owned or publicly-financed non-residential and residential new construction or substantial improvement projects.

Publicly-owned or publicly-financed projects - means projects which are:

- (a) Initially funded in the Fiscal Year 2008 budget or later; or
- (b) Constructed or substantially improved:
 - (1) As a result of a property disposition by lease or sale where District-owned or District instrumentality-owned property is leased or sold to private entities; or
 - (2) Where 15% or more of a project's total project cost is publicly financed in Fiscal Year 2009 or later.

Raze - the complete removal of a building or a structure down to the ground.

Responsible personnel - construction personnel knowledgeable in the principles and practices of erosion and sediment control and who is certified by a Department-sponsored or approved soil erosion and sedimentation control training program to assess conditions at the construction site that would impact the effectiveness of any sediment and erosion control measures selected for the construction activity.

Retrofit - the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a non-structural practice to improve water quality over current conditions.

Runoff - that portion of precipitation (including snow-melt) which travels over the land surface, and also from roof tops, either as sheet flow or as channel flow, in small trickles and streams, into the main water courses.

Sediment - products of erosion, including soils or other surface materials transported or deposited by the action of wind, water, ice, or gravity.

Sedimentation - the deposition or transportation of soil or other surface materials from one place to another as a result of an erosion process.

Site - any tract, lot or parcel of land, or a combination of tracts, lots, or parcels of land which is in a single ownership (or is contiguous and in diverse ownership) where development is to be undertaken as part of a unit, sub-division, or project.

Soil - all earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Soils report - a geotechnical report addressing all erosion and sediment control-related soil attributes, including but not limited to site soil drainage and stability.

Special Flood Hazard Area (SFHA) - the base floodplain or the 100-year floodplain displayed on FEMA FIRM. The SFHA is designated as Zone A, AE, A1-30, AO, AH, V, VE or V1-30.

Storm sewer - a system of pipes or other conduits which carries or stores intercepted surface runoff, street water and other wash waters, or drainage, but excludes domestic sewage and industrial wastes.

Stormwater - the flow of surface water which results from, and which occurs immediately following, a rainfall event, snow melt runoff, and surface runoff and drainage.

Stormwater management - (a) for quantitative control, a system of vegetative or structural measures, or both, which controls the increased volume and rate of surface runoff caused by man-made changes to the land; and (b) for qualitative control, a system of vegetative, structural, and other measures which reduce or eliminate pollutants which might otherwise be carried by surface runoff.

Storm Water Management Guidebook - a manual of the minimum standard criteria to be used by design engineers and planners for the planning, design and construction of best management practices (BMPs) in order to comply with the District of Columbia's stormwater management regulations.

Stormwater management (SWM) plan - a set of drawings, calculations, and documents submitted by an applicant as a prerequisite to obtaining stormwater management approval. This plan shall contain all the information and specifications required for stormwater management.

Stripping - any activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and rock mat, and top soil removal.

Surety - a business legally liable for the debt, default, or failure of a principal to satisfy a contractual obligation.

Swale - a narrow low-lying stretch of land which gathers or carries surface water runoff.

USEPA - United States Environmental Protection Agency.

Variance - the modification of a specific stormwater management design parameter where strict adherence will result in technical or practical difficulty and which will not fulfill the requirement(s) of this Chapter.

Waste materials - includes construction debris, dredged spoils, solid waste, sewage, garbage, sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Watershed - the total drainage area contributing runoff to a single point.

Wetland - a marsh, swamp, bog or other area periodically inundated by tides or having saturated soil conditions for prolonged periods of time and capable of supporting aquatic vegetation.

Copies of these proposed rules may be obtained from the District Department of the Environment at the address below. The Department will consider all comments received before publishing a final rulemaking. The final rulemaking will become effective nine (9) months after it is published as final in the D.C. Register in order to give the regulated community time to comply with the new requirements. The public may also present its views on the proposed amendments to the soil erosion and sediment control and stormwater management regulations at a public hearing. Notice of this public hearing will be published elsewhere in this D.C. Register.

All persons desiring to comment on the proposed amendments should file comments in writing not later than (30) days after the publication of this notice in the D.C. Register. Comments should be filed with the District Department of the Environment, Watershed Protection Division, 51 N Street, N. E., 5th Floor, Washington D.C. 20001, Attention: Shelia Besse, or e-mail shelia.besse@dc.gov.