

GOVERNMENT OF THE DISTRICT OF COLUMBIA



District Department of the Environment



Office of the Director

MEMORANDUM

TO: District of Columbia Stakeholders

FROM:  Keith A. Anderson 
Director

DATE: December 23, 2014

SUBJECT: Clarifications for the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control

Attached are clarifications of questions and issues that stakeholders or the District Department of the Environment (DDOE) have raised regarding the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control (2013 SW Rule), which was published as final in the *D.C. Register* on July 19, 2013. These clarifications were vetted through the process described in a memorandum dated May 5, 2014, which is posted on DDOE's website at ddoe.dc.gov/swregs.

This clarifications document describes each issue and provides information about how DDOE is implementing the 2013 SW Rule. DDOE will update this document as issues surface that require clarification and post the updated version at ddoe.dc.gov/swregs. DDOE will also send notifications about updates to its stormwater management email list. To be added to this list, please email Matthew Espie at matthew.espie@dc.gov (and mention stormwater management listserv), or call (202) 715-7644.



**Clarifications for the
2013 Rule on Stormwater Management and
Soil Erosion and Sediment Control**

District Department of the Environment

December 23, 2014

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List of Issues for Clarification (December 23, 2014)

1. Examples of Major Substantial Improvement Projects

DDOE has received several requests for clarification of projects that qualify as major substantial improvement (MSI). DDOE understands that some of these questions relate to how Section 599 defines MSI versus how Section 522.1 discusses MSI projects relative to major land disturbing projects. To clarify DDOE's intent and how it is implementing the regulations, examples of projects that involve an MSI are provided below, along with the applicable stormwater retention performance standard. The next section presents examples of projects that do not involve an MSI.

To paraphrase the regulations, an MSI is a renovation or addition to a structure that exceeds both of the following cost and size thresholds:

- Construction costs for building renovation/addition are greater than or equal to 50% of the pre-project assessed value of the structure.
- Combined footprint of structure(s) exceeding the cost threshold and any land disturbance are greater than or equal to 5,000 square feet.

The following seven examples are MSI:

Example 1

Building 1 Footprint = 5,000 square feet Construction cost \geq 50% assessed value of building
--

Retention Standard for 5,000 square feet (Building 1)

0.8 inches

Example 2

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building
--

Building 2 Footprint = 1,000 square feet Construction cost \geq 50% assessed value of building
--

Retention Standard for 5,000 square feet (Building 1 and Building 2)

0.8 inches

Example 3

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building
--

Land Disturbance = 1,000 square feet

Retention Standard for 4,000 square feet (Building 1)

0.8 inches

Retention Standard for 1,000 square feet (Land Disturbance)

0.8 inches

Example 4

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building	Land Disturbance = 5,000 square feet
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Retention Standard for 4,000 square feet (Building 1) 0.8 inches
 Retention Standard for 5,000 square feet (Land Disturbance) 1.2 inches

Example 5

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building	Land Disturbance = 5,000 square feet	Public Right-of-Way (PROW) Land Disturbance = 1,000 square feet
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Retention Standard for 4,000 square feet (Building 1) 0.8 inches
 Retention Standard for 5,000 square feet (Land Disturbance) 1.2 inches
 Retention Standard for 1,000 square feet (PROW Land Disturbance) 1.2 inches to the maximum extent practicable (MEP)

Note: Stormwater from PROW must be managed.

Example 6

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building	Land Disturbance = 4,000 square feet	Public Right-of-Way (PROW) Land Disturbance = 1,000 square feet
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Retention Standard for 4,000 square feet (Building 1) 0.8 inches
 Retention Standard for 4,000 square feet (Land Disturbance) 1.2 inches
 Retention Standard for 1,000 square feet (PROW Land Disturbance) 1.2 inches to the MEP

Note: Stormwater from PROW must be managed.

Example 7

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building	Public Right-of-Way (PROW) Land Disturbance = 1,000 square feet
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Retention Standard for 4,000 square feet (Building 1) 0.8 inches
 Retention Standard for 1,000 square feet (PROW Land Disturbance) 1.2 inches to the MEP

Note: Stormwater from PROW must be managed.

2. Examples that are not Major Substantial Improvement Projects

DDOE has received several requests for clarification of projects that do not qualify as major substantial improvement (MSI).

The following five examples are not MSI:

Example 1

Building 1 Footprint = 4,000 square feet Construction cost \geq 50% assessed value of building
--

Retention Standard for 4,000 square feet (Building 1)

N/A

Example 2

Building 1 Footprint = 5,000 square feet Construction cost < 50% assessed value of building

Retention Standard for 5,000 square feet (Building 1)

N/A

Example 3

Building 1 Footprint = 4,000 square feet Construction cost < 50% assessed value of building	Land Disturbance = 5,000 square feet
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Retention Standard for 4,000 square feet (Building 1)

N/A

Retention Standard for 5,000 square feet (Land Disturbance)

1.2 inches

Example 4

Building 1 Footprint = 5,000 square feet Construction cost < 50% assessed value of building	Land Disturbance = 5,000 square feet
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Retention Standard for 5,000 square feet (Building 1)

N/A

Retention Standard for 5,000 square feet (Land Disturbance)

1.2 inches

Example 5

Building 1 Footprint = 4,000 square feet Construction cost < 50% assessed value of building	Building 2 Footprint = 1,000 square feet Construction cost ≥ 50% assessed value of building
Retention Standard for 4,000 square feet (Building 1)	N/A
Retention Standard for 1,000 square feet (Building 2)	N/A

3. Typographical errors in definition of Anacostia Waterfront Zone

In the definition of “Anacostia Waterfront Development Zone,” there are two minor typographical errors that refer incorrectly to other paragraphs within the same definition. In paragraph (g), the reference to paragraph (6) should be to paragraph (f). In paragraph (i)(1), the reference to paragraph (8) should be to paragraph (h).

4. Definition of site drainage area

The definition of “site drainage area” is stated as “The area that drains to a point on a site from which stormwater discharges.” The question has arisen as to whether the term “point” exclusively refers to flow from a pipe, ditch, or similar discrete conveyance. This interpretation would result in the conclusion that a site without a point conveyance does not have a site drainage area. This conclusion would not address all of the runoff from the site and would be contrary to DDOE’s intent. DDOE’s interpretation and implementation of the existing requirement has been that a site drainage area can also be defined relative to the sheetflow departing from a site.

5. Fee payment for supplemental review

The definition of “supplemental review” in Section 599 is stated as “A review that the Department conducts after the review it conducts for a first re-submission of a plan.” Section 501.2, as well as Tables 1 (Section 501.3), 2 (Section 501.4), and 4 (Section 501.7) indicate that the payment requirement for supplemental review is due before the building permit is issued. However, DDOE recognizes that supplemental reviews may also occur after the building permit is issued. In such cases, the supplemental review fee applies, and the supplemental review fee must be paid when the plan is submitted for supplemental review.

6. Engineer requirement for plans with slopes greater than 15%

For slopes in excess of 15% (Sections 542.9(f) and 543.11), the engineer required to sign and seal the soil erosion and sediment control plan is generally stated as “a professional engineer licensed in the District of Columbia.” Section 543.15 is more specific in stating that for cut and fill slopes the required engineer must be “a geotechnical or civil engineer licensed in the District of Columbia.” DDOE’s intent for Sections 542.9(f) and 543.11 is that the licensed professional engineer doing this work should have the expertise required to specify appropriate protection strategies for steep slopes, similar to the requirement specified in Section 543.15. DDOE considers that this required expertise can be demonstrated by being 1) a licensed engineer with geotechnical experience or 2) a licensed engineer

whose work is being reviewed by a professional engineer with geotechnical experience.

7. Stormwater management exemption for utility trenches

Section 517.3 provides an exemption from stormwater management requirements for utility trenches in certain circumstances. The exemption applies to the area of a utility trench that is the only land-disturbing activity in that portion of the project, unless the utility work itself requires reconstruction of the roadway from curb to curb or curb to centerline. This exemption applies equally to public and private space. However, the area of a utility trench that is located within the footprint of other land-disturbing activity is considered part of the limits of disturbance that must meet stormwater management requirements and is not exempt.

The following are some examples of utility trench areas that are part of the limits of disturbance that must meet stormwater management requirements (also see figures below):

- The portion of a utility trench under a building that is being constructed or replaced. See Figure 1.
- The portion of a utility trench under a sidewalk or driveway that is being constructed or replaced for purposes other than utility work. See Figure 2.
- Utility trenches for utility work that requires road reconstruction from curb to curb or from the curb to the centerline of the roadway. See Figure 3.

Key:




-  Stormwater management limits of disturbance for project (i.e., area that is not solely for utility work)
-  Trench area that is part of the stormwater management limits of disturbance
-  Trench area that is exempt

Figure 1

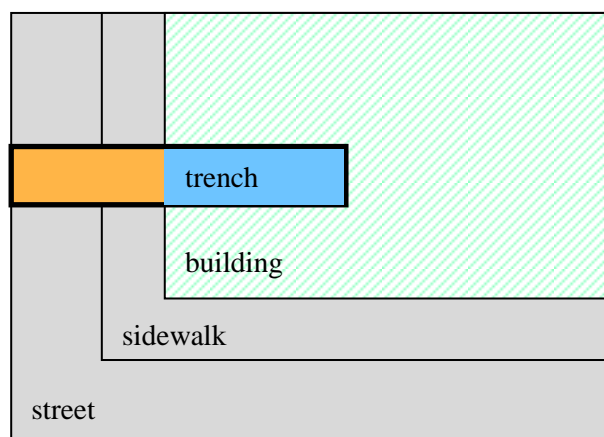


Figure 2

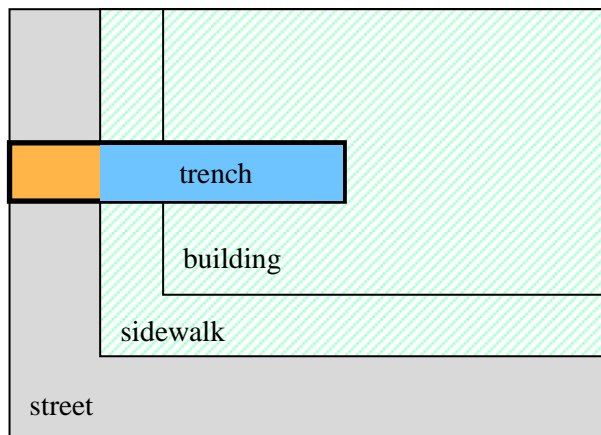
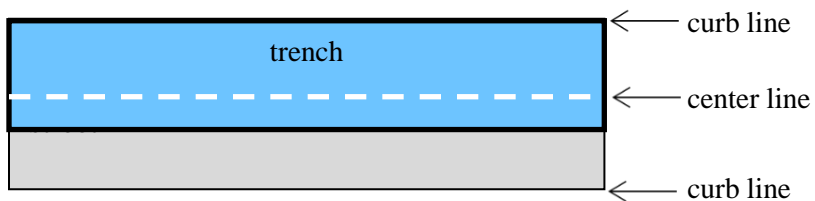


Figure 3



Please note: Most land disturbance over 50 square feet for a utility trench is required to comply with soil erosion and sediment control requirements. See Chapter 5 of Title 21 of the District of Columbia Municipal Regulations for more details.