

Late Season Stabilization

Waukesha County Storm Water Management and Erosion Control Program

As developers and contractors often take advantage of mild weather to grade as late as possible into the Fall and early Winter, and then fail to adequately stabilize the construction sites due to inclement weather conditions, our department has developed the following policy to address the issue of late-season stabilization. All construction sites must be permanently or temporarily stabilized by November 1 of each year. Criteria for stabilization are:

1. Seeding of all disturbed areas with permanent vegetation by September 15, with appropriate follow-up to address erosion problems, wash-out, etc.
2. Seeding of all disturbed areas with temporary seed mix (oats, winter wheat, annual rye) by October 15, with appropriate follow-up to address erosion problems, wash-out, etc. Permanent seed mix must then be implemented by June 1 of the following year.
3. If the October 15 deadline is missed, coverage of all disturbed areas by November 1 with:
 - a. Topsoil, seed, and the material called for in the approved stabilization plans, where topsoil, seed, and erosion control matting is called for.
 - b. Topsoil, seed, and Type A Soil Stabilizer from the WDOT Product Acceptability List or other method approved by the LRD for all areas where seed, topsoil, and mulch is called for in the approved plans.

Definitions

4. "Disturbed areas" includes all areas where land disturbing activity has occurred, with the following exceptions:
 - a. Roads and parking areas that have been graded and stoned.
 - b. The immediate vicinity (i.e. 30 feet) of buildings that are actively under construction, where exterior work (eg. roofing, siding, electrical) is still going on, and have effective temporary BMPs to control sediment. The department staff person responsible for inspections may meet with the permit applicant to determine what a reasonable boundary is for the building construction BMPs. If building exterior work is concluded during the Winter, this exception may be removed for the site.
5. "Permanently stabilized" means 70% vegetative coverage density, as defined in the ordinance. Stabilization must be uniform, and it is not acceptable to leave large patches of the site unstabilized, on the concept that dense coverage in other areas makes up for the lapses. Determination of percent coverage, if contested, will follow the transect survey protocol laid out in the Planting Verification procedures.
6. "Temporarily stabilized" means:
 - a. 70% coverage of disturbed areas with vegetation, as described above, where the site restoration plan calls only for seed and mulch.
 - b. 100% coverage of disturbed areas with topsoil, seed, and Type A soil stabilizer or other method approved by the LRD, as described above, where the site restoration plan calls only for topsoil, seed, and mulch.
 - c. 100% coverage of disturbed areas with erosion control matting where the site restoration plan calls for EC matting.
 - d. 100% coverage of disturbed areas with riprap where called for in the plans.
 - e. 100% coverage of future road surfaces with stone subgrade.
 - f. 100% coverage of ditches with ditch checks as described above.

Implementation and Enforcement

7. Department inspectors will inventory all active construction sites as soon after the September 15 deadline as possible. Permit applicants whose sites that have not met the deadline will then be contacted by phone, email, or fax with a reminder of the October 15 stabilization deadline.
8. Department inspectors will inventory all active construction sites that did not meet the September 15 stabilization deadline as soon after the October 15 deadline as possible. Permit applicants whose sites that have not met the October 15 deadline will then be contacted by phone, email, or fax with a reminder of the November 1 stabilization deadline.
9. Department inspectors will inventory all active construction sites that did not meet the October 15 stabilization deadline as soon after the November 1 deadline as possible. Permit applicants whose sites that have not met the November 1 deadline will then be subject to enforcement:
 - a. The inspector will conduct inspections on a daily basis, or as close to daily as possible, and will document the condition of stabilization with notes and photographs.
 - b. The inspector will inform the permit applicant of the violation and that they are now subject to enforcement.
 - c. The permit applicant will be cited on a daily basis for failure to follow approved plans until the violation is corrected. If other violations are occurring, such as failure to perform erosion control inspections, permit applicants may simultaneously be cited for those other violations.
10. Permit applicants may plead that they were unable to meet a stabilization deadline due to bad weather. Our department standpoint is that the likelihood of bad weather should have been accounted for in their planning and scheduling. The biggest issue is going to be the re-application of topsoil during a rainy Fall season, after the site and the stockpiles have turned into a sea of mud.
 - a. Inspectors shall aggressively push the permit applicants to anticipate that this may happen.
 - b. Inspectors shall have some discretion in negotiating compromise solutions in the event that the permit applicants have made a genuine effort to comply with the approved plans, but rain from mid-September to November has been essentially continuous.
11. Permit applicants may plead that they could not meet a stabilization deadline due to delays in utility installation. Our standpoint will be that this is not a valid excuse, and if the permit applicant has to re-stabilize areas disrupted by the utility contractors, so be it.

Notes

12. Requiring use of PAL soil stabilizers in areas that would otherwise have been seeded and mulched is likely to be expensive. This requirement is purposely intended to dissuade permit applicants from submitting plans with excessive site grading.
13. Permit applicants are often reluctant to invest much effort in topsoiling and stabilizing future building pads. Our viewpoint is that if they don't want to stabilize building pads, then they shouldn't grade them in the first place.