

Summary of State Departments of Environment Comments to Proposed C11/3/2009 ELG by URS Corp. Updated 4/07/09

State	Doc ID*	Fully Support Option 2	Fully Support 13 NTU Limit	Support low NTU Numerical Limit	Support Passive Num Limit (50-150 NTU) or Benchmark Limit	Conditions for Option 2 to take effect	Concerns with Option 1	Option or BMP	Other Comments
AK	1245	No	No	No	Limits should be based on background (BG) NTU, WQ	Should be based on disturbed acres, not total site, wants >30" total annual rainfall, not R factor	Does not support; required pond size in AK is very large, alternative must be allowed when not feasible		ADEC believes that ELG should allow local decision making by contractor or SWPPP preparer. NTU limit should be based on water quality, background, not technology. Determining 10% clay not feasible; costly for large sites and especially linear sites.
AL	1123	No	No, for most state regions, 13 NTU is well below WQ standards	No	Conditionally supports regional limits with no polymer addition (see comments)	No comment	No comment		The three major AL comments are that the technology should not require polymers or chemical addition; limits should be adjustable to local and regional condition and should be based on NTU increase above background (upstream) NTU levels. Also, stated that turbidity is the only parameter that should require monitoring.
AR	1260	No, State level review, licensing of high number of new WWTP each year not feasible	No, the limit is much too low and is not economically feasible	For critical sites (Individual permits)	No comment	Wants specific exemption from permit limits for abnormal rain events, should be based on disturbed area	AR wants language to reference discharge flow rates should match predevelopment conditions for 2 yr, 24 hr rain event		AR commented that 13 NTU is far below ambient conditions for most streams in the state. Also, the state has on-going ecological restoration projects (linear projects for river channel restoration) for which there is no area to install ponds and many other BMPs. Monitoring for turbidity is appropriate.
CA	1185	No	Feasible in situations where ATS is required or desirable. Proposed 10 NTU for ATS discharges in Draft CGP	Only for ATS discharges from priority sites; not all discharges from the site require ATS treatment	No comment	No comment	Concerned that Option 1 has removed many narrative requirements from EPA and CA CGP, especially regarding erosion control		CA stated that the proposed rule does not address any post-construction impacts; encouraged sediment starved conditions in some watersheds that posed more harm than uncontrolled sediment discharge; and does not maintain existing narrative effluent limitations.
DE	1220	No	No	Questionable whether a single limit is appropriate even for small State like DE, let alone nationally	Favors passive floc systems as capable of meeting State WQ needs, limits should be relative to wet weather BG conditions	Delaware targets sites with more than 20 disturbed acres as being higher risk sites.	DE already requires grade breaks to reduce slope length. Vegetated buffers behind perimeter silt fences are usually feasible, but can use "compost socks" if not feasible		Discussion about how RUSLE is not appropriate estimate of loadings, especially for single storm events--RUSLE was intended to calculate only relative runoff reduction based on various erosion practices. DE further notes that there is no specific solicitation for comment in the proposal about impact of the rule on State regulators; the proposed rule would add significant costs at a time when resources are already stretched beyond their limits.

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FL	1207	No.	No.	No. Administration of any numeric limits reported to State is costly; issues up to 5,000 CGP permits annually	Do not support any numeric compliance limit, but benchmarks may be possible	Option 2 should be based on disturbed area, prefer no numeric limits, but benchmark limits may be possible for Opt 2 sites	No comment	Effluent limit for pH is not needed, better to require specific BMPs for concrete truck washout. Much additional local control is required in FL MS4 districts, and also through Environmental Resource Permitting Program implemented through the State's five water management districts. Cost to State for implementing any type of reportable numeric limits is high, and prosecution of sites for turbidity not measured by EPA approved methods virtually impossible.
HI	1304	No	Opposed	Opposed	Opposed, but Numeric limits using passive systems would be preferable	Concern about usage of chemicals; lack of land in HI; and any ATS design should consider worst case conditions	2 yr, 24 hr rain event varies extremely in throughout the state	Comments actually from Honolulu located on Oahu. Wants to know the contribution of sediment from other sources compared to construction activity; Noted that, except for a few of the 17 sites used for NTU limit, very little is known; Concerned about huge size of detention ponds being proposed and probability of pond failures due to the tremendous variability in rain events and the state soil properties.
ID	1269	No.	Prefer <50 NTU above BG downstream (25 NTU over 10 consec. days); WQ should be objective	Yes, believe ATS can work with training, but cited first hand experiences with chitosan overuse and toxicity	Prefer limit above background. Passive might work. Rule must contain far more procedures and training for safe operation of ATS	No comment	Rough terrain often requires ponds located essentially in stream bed; many additional design features needed to work. Do not emphasize ponds; do not work well in Cours de Alene.	Comments were submitted by the Cours de Alene branch of ID DEQ (an area with "extreme" topo features). In rough terrain, sediment basin failures have been spectacular and many design criteria must be addressed locally. Other erosion control BMPs work better. The rough terrain and rapid runoff also create problems for ATS operations; Need training for ATS operators; Overuse or mismanagement of polymer is not deliberate, but does happens with toxic results.
KS	1085	No.	No.	No.	No. Recommends passive technology with no numeric limits	No Opt 2, but for ponds with >15 acres drainage, add +1000 cu ft basin size with L= 4 x W	Allow alternatives to ponds for some sites at State/local discretion. No vegetated buffers. If ponds required for <15 acres drainage, then no +1000 cu ft basin size and no L= 4 x W.	KS notes that in preamble rule implementation is to take five years, wants this expressed in final rule, because that time will be needed to reissue CGPs. Wants peak discharge flow to be determined by local regulators and not part of ELG. Concern expressed about impact of low turbidity on stream channel stability. Commented that vegetated strips outside silt fences not always practical, especially in urban settings. Many specific reservations were expressed regarding administration of Option 2.

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MD	1287	No	No. The single numeric limit was derived only from sites on West Coast	No. EPA should consider relative contribution of construction runoff to total sediment loading & WQ considerations	MD has not incorporated numeric limits at this time due to adverse Limited Impact Development (LID) program	Supports a hybrid approach requirement, i.e., Opt 1 measures, but flexible to use alternative technology and design	By inference from their comments, MD may feel that some provisions (ponds?) could adversely impact recently installed programs, but the comments are not specific as to which ELG requirements concern them.	Effect of coagulants on aquatic life has not been adequately documented. MD recently (in the new CGP) required SW plans to incorporate Environmental Site Design, which includes features for post-construction SW management. MD seriously considered numeric turbidity limits, but did not implement them due to possible adverse impact to LID and other measures taken in MD.
MO	1310	No.	No, unattainable even from many undisturbed settings	Adverse WQ impacts from ATS treatment	Does not support numeric limits	ELG intended to be "floor" from which States add necessary local provisions; Proposed reqts. too stringent to allow this.	If Operator is required to build large detention basins, then likely will be used to manage post construction runoff instead of using green infrastructure or similar BMPs.	The proposed rule will require significant increase in State expenditures for enforcement purposes. Suggests that requirements for better site design and prescribed passive controls for post construction could accommodate temporary construction controls based on performance expectations without numeric limits.
NC	1292	No	Very much opposed	In NC, stream average of 50 NTU adequate for long term aquatic life survival and propagation	If limits required, suggest limits of 25-50 NTU for trout streams, 75-100 NTU otherwise	Do not support Option 2	Very supportive of non-numeric limits in Opt 1. Believes more emphasis is required for temporary ground cover and recommends King Co, WA rules for ground cover	Too much emphasis on size of parcel. Generally support the minimum design criteria for sediment basins. Strongly encourage requirements that result in passive controls at construction sites, but 13 NTU limit is not conducive to this. See problems getting enough technical expertise to reliably operate all the ATS systems. Also, see significant problems in hiring adequate State staff with substantial expertise that would be needed to appropriately review, approve, and enforce the hundreds of ATS permits that would be need to be issued.
ND	1272	No	It is impractical to maintain 13 NTU until the entire project is completed.	No. Too restrictive for streams in State; median turbidity=80 NTU; suggests limit based on receiving water characteristics or total TMDL to water body	Impractical to catch all runoff from many varied discharge locations at both large and small construction sites.	Many comments about the thirty acres as written being impractical with no language to suggest a better plan of development.	No baffles requirement in ponds; may limit other desired features to promote settling. Vegetated buffers impractical for silt fences internal to the site. Truck wash stations not always practical. Winter conditions not discussed.	Notes limitations on soil survey data for 10% clay content; comments that survey cutoff is not at prescribed 2 microns and when excavation is deeper than survey, clay content is not known. Notes that if minimum RUSLE cover factors required, "C" factor controls alone do not account for all BMPs; silt fences and vegetated buffers are more accurately defined as "P" factor controls.

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NJ	1099	No	No	No	No comment	Opposes Option 2, but should be based on disturbed acres only	No. See comments	NJDEP commented that there was conflict where ponds were required for drainage >10acres, but ATS must treat even small drainages not requiring a sediment pond, such as minor side slopes. Option 1 pond should be "only where attainable" as in the EPA CGP. Treatment costs for ATS did not consider economy of scale; site sizes >30 acres were not evaluated. Many comments as to lack of regulatory definition of terms used in text, i.e. "steep slope". Vegetated buffers impractical where none exist without additional construction.
NY	1209	No	No	No	Sometimes for priority sites	Should be based on disturbed acres	Conditionally supports Option 1 with changes, i.e., additional BMPs and post construction narrative.	NY Indicated that major failings of rule were ignoring post-construction stormwater management and too much emphasis on sediment removal, but none on erosion prevention measures. Indicated that turbidity monitoring and limits could be feasible, but expensive and time-consuming for State to administer.
PA	1225	No	No, the limit is not feasible in most parts of the country	No	Too restrictive if applied to all situations	Opposes Option 2, but should be based on disturbed acres only	Supports BMP narrative rule, but there should be narrative for additional BMP controls, and no mandatory sediment basin for 10 acre drainage	PA DEP believes that mandating use of traditional sediment basins inhibits more protective approaches and will undercut more effective erosion and sediment control BMP standards established in PA CGP
SD	1298	No	No; too stringent; below WQ standards; and expensive	No, opposes polymer addition; needs highly trained plant operators	Approves of passive treatment as effective at some sites, but prefers an action level (benchmark) as most practical.	No support for Opt 2, but should be >30 disturbed acres. If sites deliberately phase construction to <30 acres, that is good.	Supports Opt 1, but for prescriptive BMPs, one size does not fit all. Some of the BMP requirements are impractical for SD climate, etc.	For Opt 1, would like EPA to list many more BMPs with guidance as to where and under what conditions they would be most effective, and let locals decide. Concerned that "off the shelf" ATS treatment will not work consistently at all sites and in all kinds of temperature and weather. States that the sole reason for monitoring turbidity is that it is a quick substitute for TSS, but being non-conventional forces the use of BAT. (Implies either use TSS or call Option 1 BAT.) Believes costs for Options 2 and 3 are beyond the benefits.

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UT	1283	Yes, but UT also comments that entire State is exempt from NTU limit as it applies to Option 2.	See next	Not really. UT specifically supports Option 2, from which the entire State is exempt.	No comment	No comment	Retain narrative BMP for sites with R<50	Utah comments that no place in the State has an annual R factor greater than 30, so they are exempt from all Option 2 requirements. UT opposes any "seasonal" R factor since this might be >50 and trigger Option 2 in some mountainous regions of the State. This would occur during winter as snowfall, which they argue is less impactive.
WA	1142	No	No, well below water quality standards	For critical sites (Individual permits, suggested 25 NTU)	Prefers two tiered benchmark approach and passive controls, as in WA CGP (See comments)	Supports nationwide sampling for turbidity	Recommends 3 acre threshold for requiring sediment ponds. Wants more on erosion protection.	The WA CGP currently utilizes two tier benchmark: 25 NTU = site corrective actions, WQ based; 250 NTU = State notification and additional actions. WA also has a pH benchmark, with CO2 used to neutralize, suggests EPA pH limit of 6 - 9. (We believe this is not a problem as long as truck washout is contained.) WA Ecology also states that a 2 yr 24 hr size pond will not always meet numeric limits because, especially in Pacific NW, a series of rainy days, not one of which exceeds 2 yr/24 hr, will still result in overflow.
WI	1215 (four docs, 0.1, .2, .3, .4)	No.	No. limit is too low to be scientifically defensible for protecting water resource	No. Proposed technology to meet low limits are not environ. safe or tested.	No. a "by measurement" rule requires far greater logistics and support from agency.	Opposes Option 2, but should be based on disturbed acres only	See full WS comments	The WI comments are far too lengthy to summarize here. The State points out that Option 2 as written is impractical, not only because it is not based on disturbed acreage, but also because it apparently applies regardless of whether the site discharges to a water of the US or not. For more information, consult WI comments at the docket ID provided.
WY	1119	No	No	No	No	Opposes Option 2, but should be based on disturbed acres only	No, believes specific goals should be stated, but allow flexibility	WYDNR believes that many of the BMPs and specific language in all the Options are not appropriate to WY; for example, stream crossings are often dry draws that can be rerouted during construction. Much of WY construction is rural. State also wants 10 acre criteria for pond to be specified contiguous; however, pond specification is incompatible with linear projects.

*All Docket ID numbers are preceded by the alphanumeric "EPA-HQ-OW-2008-0465-". Most of the above comments have a ".1" suffix appended.