

ISSUE ALERT

Municipal Phase II NPDES Permit



Prepared by AWC in consultation with Western and Eastern Washington Stormwater Managers

The State of Washington Department of Ecology (DOE) issued a Municipal Stormwater Permit on January 17, 2007, that will affect 101 cities (see list on following page) throughout Washington. Information about the permit, including scheduled workshops, can be found on DOE's website at www.ecy.wa.gov/programs/wq/stormwater/municipal/index.html. Proposals over the past year to DOE from AWC to help craft this permit towards one that cities can fully support have been met with mixed results.

Issues/Status/Impacts

1. Meeting permit requirements in cities with varying levels of Stormwater Management experience and expertise presents a challenge.

- DOE is sensitive to this and because the Federal Clean Water Act recognizes that the permit is implemented in stages, DOE is allowing what some consider to be "reasonable" implementation timeframes over the next five years.
- Cities that haven't yet done much with stormwater will have the most difficult time meeting requirements and DOE is prepared to work with AWC to provide information and briefings to impacted cities and elected officials.
- The permit will likely be appealed by multiple stakeholders. There will be uncertainties associated with trying to meet implementation timelines and obligations during the appeal period as the "clock" continues to tick.

2. Meeting Permit Requirements will be COSTLY and ONGOING.

- Beyond new public and private infrastructure requirements, for most jurisdictions this permit will lead to significant programmatic cost increases. Required cost increases will be a result of increased staffing, expanded programs such as system mapping, system cleaning, and monitoring of outfalls. Further, the proposed permit will require extensive annual reporting in the first permit cycle and expensive water quality monitoring in future cycles. Some firefighting programs may even be affected.

- Most of the requirements come as a result of an unfunded Federal Mandate through the Federal Clean Water Act requirements.
- Cities can (and most do) establish Stormwater Utilities and commit the revenue to capital and administrative obligations included in the permit.
- Requirements, like the redevelopment standards applicable in Western Washington, are being added by the state. There are costs and potential legal liability associated with these provisions that if maintained in the permit, cities will need the state to help cover. Currently the Governor's proposed 2007-2009 Budget includes some funding, but clearly not enough. It also does not address potential legal liability.

3. The Redevelopment Standards, applicable in Western Washington to property already developed, aren't required by the Federal Clean Water Act and burden cities and property owners in Western Washington with significant added costs and potential liability with questionable environmental benefit.

- They greatly increase economic development costs. Stormwater system costs would increase up to 1200% for private developments and could be "triggered" by actions such as a small business remodel.
- Transportation CIP stormwater system costs could double. Costs would not be apportioned equally across jurisdictions.
- Redevelopment of tightly constrained sites may become cost prohibitive due to "forested" conditions analysis requirements (i.e., manage run-off as if the site was forested and bare of impervious surfaces, even though it may have been completely paved for years). Such requirements do not take into consideration vested rights, relocation of existing utilities, existing site constraints, and the potential to trigger other requirements such as street frontage improvements that further drive up redevelopment costs.

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- They could result in potential property rights takings claims for which local governments in Western Washington will be responsible. The permit will require most jurisdictions to achieve the same stormwater runoff characteristics from developing and redeveloping areas as would be expected from forest lands.
- Property owners may decide to abandon redevelopment projects because of added costs – thus thwarting state and local Growth Management efforts to redevelop and intensify uses of urban lands.

4. In tandem with the State’s Construction Stormwater Permit (currently under appeal), require duplicative permitting for construction sites greater than an acre by the State and local jurisdictions

- DOE is aware of this and is willing to approach the Legislature with ways to “fix” this regulatory overload.

- Cities want to help, but don’t want to take on added permitting, inspection and liability issues.

5. Requiring Cities to adopt and use DOE’s “Advisory” Stormwater Manual which has never been adopted through an official rulemaking process.

- Cities choosing not to use it must demonstrate that any alternative results in equal or better stormwater management.

For More Information

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NPDES Phase II – West

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|---------------------------|---------------------------|
| City of Aberdeen | City of Everett |
| City of Algona | City of Federal Way |
| City of Anacortes | City of Ferndale |
| City of Arlington | City of Fife |
| City of Auburn | City of Fircrest |
| City of Bainbridge Island | City of Gig Harbor |
| City of Battle Ground | City of Granite Falls |
| City of Bellevue | City of Issaquah |
| City of Bellingham | City of Kelso |
| City of Black Diamond | City of Kenmore |
| City of Bonney Lake | City of Kent |
| City of Bothell | City of Kirkland |
| City of Bremerton | City of Lacey |
| City of Brier | City of Lake Forest Park |
| City of Buckley | City of Lake Stevens |
| City of Burien | City of Lakewood |
| City of Burlington | City of Longview |
| City of Camas | City of Lynnwood |
| City of Centralia | City of Maple Valley |
| City of Clyde Hill | City of Marysville |
| City of Covington | City of Medina |
| City of Des Moines | City of Mercer Island |
| City of DuPont | City of Mill Creek |
| City of Duvall | City of Milton |
| City of Edgewood | City of Monroe |
| City of Edmonds | City of Mountlake Terrace |
| City of Enumclaw | City of Mount Vernon |

NPDES Phase II – East

- City of Asotin
- City of Clarkston
- City of East Wenatchee
- City of Ellensburg
- City of Kennewick
- City of Liberty Lake
- Town of Millwood
- City of Moses Lake
- City of Pasco
- City of Pullman
- City of Richland
- City of Selah
- City of Spokane
- City of Spokane Valley
- City of Sunnyside
- City of Union Gap
- City of Walla Walla
- City of Wenatchee
- City of West Richland
- City of Yakima



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