



## DOUGLAS COUNTY TRANSPORTATION & LAND SERVICES

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Municipal Permit comments  
WA Department of Ecology  
Water Quality Program  
P.O. Box 47696  
Olympia, WA 98504

EMAIL: [SWPermitComments@ecy.wa.gov](mailto:SWPermitComments@ecy.wa.gov)

Subject: 2012 Draft Municipal Stormwater General Permit Comment Period

To Whom It May Concern:

While Douglas County appreciates the challenges faced by Ecology in development of the new Phase II NPDES Municipal Stormwater Permit, we are concerned about the overall impact of the proposed permit language as well as the perceived benefits of implementation of these proposed measures. In short, we are uncertain that the benefit versus the costs associated with the proposed language is fiscally or environmentally responsible.

As an interim measure we suggest that Ecology reissue the current permit for a longer period of time, modifying the effective date of the new Permit to early 2015. This would allow:

- Adequate time for Ecology to continue working cooperatively with the permittees to develop effective and fiscally reasonable permit language.
- Adequate time for permittees to continue to implement, and monitor effectiveness and costs associated with the current permit language, which would provide the feedback necessary to develop and implement effective modifications to the current permit language and stormwater programs.
- Adequate time for Ecology to finalize and permittees to review documentation and analyses necessary to understand the impact of the new permit conditions, including provisions to address various programmatic elements on a regional – sub-basin level.

Douglas County has worked cooperatively with neighboring permittees (Chelan County, Wenatchee and East Wenatchee) in the development and implementation a regionally consistent stormwater management program. This has been a long term and successful process. Over the last year these efforts have been expanded through cooperative efforts on an Eastern Washington level through an Eastern Washington Permittee forum. We encourage Ecology to afford permittees the flexibility afforded under EPA's guidance to continue to work cooperatively, yet maintain flexibility to utilize our limited resources to address stormwater priorities on a local level.

**Monitoring**....The effectiveness of a BMP at a specific location will be site specific, and based on proper engineering design for the flow, geology, location and use, quality of construction, sufficiency of materials used, and maintenance. No two sites are the same, even within the same Phase II jurisdictions. It is improbable that regionally applicable data will be gained through proposed

effectiveness studies. Results are likely to be largely inconclusive and potentially detrimental to generally functional BMPs. We risk spending time and resources on studies rather than improving water quality. We request that the effectiveness study proposals in S8.C. be deleted and staff time/funding within the second Permit cycle focus on water quality improvement actions and projects.

If Ecology is insistent that a stormwater discharge monitoring option be available for Permittees, then we request that Option 2 be revised to be consistent with the EPA's permits. This level of monitoring would be much more reasonable and cost effective for Phase II jurisdictions. Option 2 as proposed by Ecology is (details described in Appendix 8) is equivalent to Phase I level monitoring. This is excessive and unreasonable for Phase II communities. (For full monitoring comments see below, Page 53, line 14.)

We request that Option 1 be revised to allow flexibility for permittees to develop partnerships rather than have partnerships identified/dictated within the permit. The Wenatchee Valley has worked had to develop and maintain the Wenatchee Valley Stormwater Technical Advisory Committee. This partnership has been successful in developing and implementing consistent stormwater programs within the Wenatchee Valley. The derived efficiencies in this partnership have been significant and are being expanded to other agencies and secondary permittees. It is unlikely that the same efficiencies would be forth coming in a required partnership expansion to Yakima and Kittitas County permittees.

Local Ordinance Revisions....The new ordinances implemented during the first Permit cycle are just beginning to be understood and accepted by the public. Allow permittees to focus on continuing to educate the public about the current program/permit. The amount of water quality benefit derived from the proposed ordinance revisions would be minimal and not justify the staff time and cost necessary to facilitate the revisions. It is suggested that Ecology consider the lengthy and costly processes required for adoption and revision of local ordinances. We request language within the draft Permit that requires an ordinance revision be deleted or delayed until the third Permit cycle.

O&M Plan revisions.....There are several proposed revisions that impact local O&M Plans that were just finalized in 2011. Allow for the impacts and results of those plans to be fully recognized. Permit amendments that call for revising local O&M Plans should be deleted.

Annual Reporting.... The present reporting schedule within the Eastern Washington Phase II Permit is very staff intensive and costly to implement for local jurisdictions. A transition to reports within years 2 and 4 would allow for more staff time directed towards water quality improvement activities, SWMP implementation activities, monitoring, TMDL compliance, etc., as well as reduce Permit implementation costs. From this perspective, reports in years 2 and 4 would be in the best interest of the public as well as in the best interest of spending more staff time improving ground and surface water quality.

In addition, coordinating the review of annual reports is staff and cost intensive for Ecology as well. Reports in years 2 and 4 would also be beneficial to Ecology by reducing their Permit administration costs. We request that Ecology amend the existing Permit language to require reports only within Permit years 2 and 4.

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**Specific comments:**

Page 16, line 22: Language that prohibits modification of existing or adopted codes, prohibits updates to account for new information, advances in technology etc. Backsliding language must be amended.

**Page 16, lines 26-32:** The proposed language indicates required preparation of a new "Stormwater Management Program Report (SWMPR). Permittees are unable to expend funding on generating additional reports for the sake of reporting. This requirement just adds expense to the permittee and to Ecology in administration.

**Page 17, lines 7-12:** Eliminate reference to a "program" rather than a "process". The intent may be the same, but the requirements for implementation and application differ significantly.

**Page 17, line 35:** Retain the word "should" rather than replace it with "shall". The permittees are required to address elements. Specifying how the requirements are satisfied should be the responsibility of the permittee, not dictated by the permit.

**Page 18, lines 1-2:** Eliminate new sentence, which adds to the cost and minimized the long term program stability.

**Page 18, S5.B.1.a:** Draft permit language proposes that the public education and outreach program shall be designed to "achieve measurable improvements in the target audience's understanding of the problem and what they can do to solve it." This task is really a social marketing exercise. Ecology rather than the permittee is best suited to prepare a state-wide and/or regionally specific (Eastern versus Western Washington) campaign to improve the public understanding of the problem of stormwater pollution and what can be done to solve it. This would provide consistency statewide and would be significantly more cost effective. Cities and Counties – permittees do not have staff with expertise in social marketing, preparing marketing campaigns and conducting effectiveness studies. The elements proposed within the Public Education and Outreach component of the permit continue to expand beyond the scope of services to be expected and provided by local government.

**Page 19, lines 9-15, S5.B.1.a.iii:** Ecology has added that the permittee provide information for engineers, construction contractors, developers, development review staff, and land use planners about: technical standards, development of stormwater site plans and erosion control plans, low impact development and stormwater BMPs. Low impact development information for Eastern Washington is severely limited. It is unreasonable for Ecology to require permittees to provide information to the development community, when such information does not exist. Ecology continues to focus on Western Washington LID techniques; these methods are not proven to be effective and have not been shown to effectively protect water quality within Eastern Washington conditions. Even the definition of LID has not been clarified.

**Page 19, lines 22-25, S5.B.1.b:** The permittee should not be tasked with the creation of stewardship opportunities and/or build upon existing organizations to encourage residents to participate in activities. This proposed permit language goes well above the role of local government in addressing stormwater quality associated with operation and maintenance of an MS4.

**Page 19, lines 26-31, S5.B.1.c:** See previous comment regarding permit language S5.B.1.a. This type of activity requires specialized staff and social marketing studies and analysis. This is beyond the scope of the role of local government. This task is a social marketing exercise. Ecology rather than each permittee would be best suited to prepare a state-wide and/or regional specific (Eastern versus Western Washington) campaign to improve the public understanding of the problem of stormwater pollution and what can be done to solve it.

**Page 20, S5.B.3, line 29:** The new words "and prevent" add a whole new element to IDDE that would require revision of the existing Illicit Discharge Detection & Elimination (IDDE) program. This new element adds complexity, additional work load and higher cost to the local jurisdictions. Therefore, we request that the proposed words "and prevent" be deleted.

Page 22, S5.B.3.b.iii, lines 20-21: The addition of the new words "but not limited to" expands the applicability of the existing requirements and would require an ordinance revision for local jurisdictions to be in compliance. Ordinance revisions are staff intensive and costly for local jurisdictions to implement. Therefore, we would request that the existing language remain unchanged.

Page 22, S5.B.3.b.iii, line 31, and 35-36: The proposed new words "spa and hot tub" and "Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water", expand the applicability of the existing requirements and would require an ordinance revision for local jurisdictions to be in compliance. Ordinance revisions are staff intensive and costly for local jurisdictions to implement. In addition, the city has not identified this as a local stormwater concern. Therefore, we would request that the existing language be restored.

Page 23, S5.B.3.b.vi, line 25 and lines 29-41: The proposed new language, "that includes information compliance actions such as public education and technical assistance as well as", creates new work, policies and ordinance revisions. Permittees have just adopted IDDE ordinances and need the opportunity to enforce them before taking them back to the public and elected officials. Further, requiring additional informal compliance periods may also water down the enforcement ability for illicit discharges, which will result in a negative effect on water quality. Mandating informal compliance actions removes the enforceability of the existing IDDE ordinances by creating the opening for violators to argue that they weren't afforded adequate opportunity for "informal compliance actions". Therefore, we request that the proposed words, "that includes information compliance actions such as public education and technical assistance as well as", and page 23, lines 29-41, all be deleted and the original language restored.

Page 24, S5.B.3.b.vi.2, lines 1-3: The additional ordinance revision necessary to the requirements of this section create a burden on local governments that requires additional staff time and finances. The new IDDE ordinance implemented during the first permit cycle are just beginning to be understood and accepted by the public. To facilitate additional requirements on the heels of the recent changes may not be in the public's best interest. We contend that the limited amount of time and funds local jurisdictions have available for IDDE should be focused during the second permit cycle on continuing to educate the public about the (first cycle) IDDE ordinance and conducting enforcement where necessary. In addition, the amount of benefit derived from the proposed new ordinance revisions would be minimal and not justify the considerable amount of staff time and cost necessary facilitate the revisions. Therefore, we recommend that any proposed new language within the IDDE section that requires an additional ordinance amendment be deleted.

Page 24, lines 9-12, S5. B 3. c. i.: This section will essentially require the use of "stormwater police", with the primary focus of investigating the MS4 for illicit discharges. Previous language allowed training of various staff, which during their daily activities may have the opportunity to encounter illicit discharges, in the identification of illicit discharges and proper action to address an illicit discharge. The addition of this language is overkill and an excessive burden upon the local jurisdiction, with no long term funding to support this requirement.

Page 24, S5.B.3.c.iii, lines 25-27: Adding the new words, "field assessing at least 40% of the MS4 within the Permittee's coverage area no later than February 2, 2016 and 20% each year thereafter..." creates additional long-term work and cost for local jurisdictions. In addition, this language is duplicative as this assessment schedule is already in the O&M plans developed during the first permit cycle. Therefore, we request that this proposed new requirement be deleted.

Page 25, lines 3-12, S5. B.3.c.v.: This requirement for ongoing training for all municipal field staff which, as part of their normal job responsibilities, might come into contact with or observe an illicit discharge, when put together with i. and iii. is excessive. Suggest that Ecology remove the requirements associated with i. and iii. in lieu of maintaining section v. along with normal Good

Housekeeping Pollution Prevention activities, which appears to overlap the field assessments required in section iii.

Page 25, S5.B.3.c.vi, lines 13-15: The proposed new language, "Permittees shall inform public employees, business, and the general public of hazards associated with illicit discharges including spills, and illicit connections and improper disposal of waste" is all encompassing. As a result, achieving full compliance by local jurisdictions is virtually impossible. Therefore, we request that this language be deleted.

Page 26, S5.B.3.d.iv, lines 10-17: The word "Immediately" is a subjective statement and an impossible requirement in some cases. These two bullets are not necessary because IDDE procedures were required in the first permit cycle and emergency services for spill response currently exist. Therefore, we request that the new language be removed.

Page 26 S5.B.3.d.iv, lines 29-30: The proposed new language, "All illicit connections to the MS4 shall be eliminated.", is an impossible task for permittees. This proposed revision goes beyond reasonable and feasible. Therefore, we request that this language be deleted.

Page 32, lines 1+, S5.B.5.a: Suggest Ecology review permit language that stipulates requirements be placed upon projects that may otherwise be vested under state law. Typically projects are vested under the regulations in place at the time the applications are deemed complete. While there is some delay in implementation of requirements included in the permit language, the permit does not address the situation where applications or development projects are clearly vested under previous regulations, even if construction has not yet started. This is an inconsistency between state rules and should be cleared up prior to inclusion within the draft permit language, for application by the local jurisdictions.

Page 32, line 30+, S5.B.a.i: The requirements proposed within this section are related more to land use than management of the MS4. The permit language in various section of the permit appears to be creeping beyond the scope of stormwater management to land use and social activities, including the stewardship program. In development of the permit language Ecology needs to understand the roles and functions, including the limitations of local government. Stormwater Management, while a county function is administered by a completely different department than land use issues, similar to the way State government and even the Department of Ecology itself is structured. Another concern with this section is that Ecology has proposed language that the local government SHALL allow non-structural actions such as Low Impact Development (LID) when at this time has not been clearly defined within the permit nor Ecology documents. The level of expertise at the regulatory level and the private design/development level at this time is limited, yet Ecology is stipulating that the local jurisdictions allow practices, that at this time are not clearly defined nor proven to protect water quality.

Page 33, lines 17+, S5.B.a.i: This section requires (must) that projects retain at a minimum the 10 year, 24 hours rainfall event. In some instances this requirement may contradict local governments comprehensive plans, which may include plans for construction of regional collection, conveyance and treatment systems in order to: address stormwater runoff and treatment in a cost effect manner including provisions for long term operation and maintenance and provide stormwater as a utility/service to the community which will also free up more land for development within the urbanized areas in an efficient manner, which is consistent with Growth Management. Including multiple small stormwater systems, which require long term maintenance and operation is burdensome to the local jurisdiction and the private property owner who may also be responsible, but not knowledgeable with regard to maintenance and operation of a stormwater system.

Page 40, S5.B.6.a.ii, line 9: The proposed new language, "...every two years..." will require additional labor and equipment expenses. Our current O&M Plan schedule calls for the inspection of

all facilities once on a 3 year cycle, with problem facilities requiring more frequent inspection schedule. This schedule works efficiently, allowing effective use of staff and time in between inspections for analysis and repairs. In addition, this requirement will require that we update our just completed Operations and Maintenance Plans, requiring additional staff time and cost. Therefore, we request that the time frame be revised to be as described within the local adopted O&M Plan.

Page 52, lines 6+, S8, C: Option 1: Ecology has proposed that Chelan, Douglas, Kittitas and Yakima County form one sub-region and that the sub-regions enter into collaborative agreements to select, develop, and conduct Ecology approved effectiveness studies. Chelan County, Douglas County, Wenatchee and East Wenatchee have been successfully working together to develop and implement the requirements of the first permit term. That being said, the cooperative work has not been without its challenges. While these four (4) Wenatchee Valley permittees are essentially adjacent to each other, they are separate entities, with separate elected officials and separate Stormwater Utility rate payers to which we are ultimately responsible. Entering into agreements within the Wenatchee Valley group has at times been difficult; sharing of expenditures also has unique accounting procedures that must be followed. Adding more parties to this type of arrangement, and being able to maintain fiscal responsibility will be problematic. While meeting and coordinating within the Wenatchee Valley is typically a phone call or a meeting (15 minute travel time) away, the geographical distance between sub-region permittees is also significant, 2 hours, one-way Wenatchee to Yakima. How does Ecology propose to incorporate the stakeholder process, established by each entity during the first permit cycle to be continued on a sub-regional basis? Coming to agreement at the staff and elected official level including all entities within the sub-region is unlikely. What is one entity does not participate, is the entire sub-region out? It appears that if an agency is not a part of the sub-region plan, then they are required to "select" Option 2, which is monitoring discharges to receiving waters within the permittees jurisdiction. The type of monitoring required is of a technical nature, the local governments do not currently have staff qualified to undertake monitoring of this nature. Additional specialized staff will be costly and burdensome. Long term funding is not available to develop, implement and sustain these measures.

Option 1 will produce minimally defensible answers for BMP effectiveness monitoring and will likely fall short of producing locally beneficial and actionable data. This option is expected to be costly. Eastern Washington Permittees should be given the extent of the second permit cycle to develop partnerships, establish the monitoring plan, and develop the study for implementation within the third permit cycle, similar to the opportunity that was extended to the Western Washington Phase II Permittees. 2014 is not enough time to effectively develop the multi-regional monitoring program that Ecology is proposing

Additionally section S8.C1.c.vi. states that the permittee provide final results of the study not only to Ecology, but to all other cities and counties covered under the Eastern Washington Phase II permit. It is suggested that the permittee provide the final results to Ecology and Ecology in turn can make the information available to all other cities and counties covered under the Eastern Washington Phase II permit. Ecology could provide this information to the Washington Stormwater Center which we believe was funded and intended to serve as a stormwater resource for all interested parties, although at this time the focus of the Washington Stormwater Center has been Western Washington Stormwater issues.

Page 53, lines 14+: With regard to Option 2, which requires the local jurisdiction to conduct stormwater discharge monitoring additional clarification is requested. Previous discussion with Ecology included that the jurisdictions would perform monitoring of the receiving waterbody, which is also unacceptable. Ecology has access or can gain access to existing waterbody monitoring data performed by other agencies. This data should be utilized to determine what if any issues or concerns need to be addressed and would be able to be utilized to dial into areas where there may be non-stormwater or polluted discharges entering the water body. As previously stated staff at the local level is not qualified to perform the level of monitoring/testing being proposed. Having

numerous permittees performing monitoring/testing at various levels of expertise will provide inconsistent and useless data. Option 2 does not clearly identify how many discharge locations will be required to be tested.

Page 53 – 54: S9: The draft permit language proposes submission of annual reports electronically using Ecology's WWebDMR program unless otherwise directed by Ecology. This is a moving target. Appendix 3 alone includes 53 elements for reporting. Experience and feedback from the public with regard to the WWebDMR has not been positive. Just the process of getting registered to utilize the program has been problematic. Concerned about the logistics and staff time involved. If the permittee already has an account established for reporting Construction Stormwater Permit data will this conflict or require the same "responsible" party. Construction Stormwater Permits and the Municipal Stormwater Permits are most often handled by not only different staff, but in some instances different departments within the jurisdiction. Ecology should be mindful of this if this is the mechanism required for reporting.

In the past the annual report and included attachments of large documents. Any electronic/boiler plate method required for submission of data should be equipped to address submittal and acceptance of large attachments.

Appendix 6 appears to be information that should be incorporated into the permittees Pollution Prevention and Good Housekeeping – Operation and Maintenance document. Is this information necessary for inclusion within the permit?

Appendix 8: Line 10 specifies that the QAPP shall be developed by qualified staff or contractors with experience in applying Ecology's or EPA's QAPP Guidelines. Incorporation of the "option" of providing stormwater discharge monitoring is something completely new within the permit language that was not discussed with permittees prior to issuance of the draft permit. Many Phase II communities do not currently have experience or qualified staff to satisfy this permit language. Meaning that new specialized staff or contractors will need to be hired to perform these tasks. Funding to meet this requirement is not available. Given that new and/or out of the area contractors may be required to fulfill these duties the monitoring frequency standards (six qualifying events) may be difficult to achieve.

We welcome the opportunity to continue to work with Ecology on these issues. We encourage Ecology to continue to promote the implementation of the existing six SWMP components and solicit feedback from permittees with regard to the success of these elements in effort to evaluate and prioritize modifications to permit requirements as needed. This approach is in the best interest of the state and local economies and the environmental goals of the clean Water Act. We look forward to continuing to work with Ecology and stakeholder to development and implement effective stormwater management programs for Eastern Washington.

Sincerely,



Jennifer Lange, P.E.  
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