

The Precautionary Group

Protecting Cascade Forests and Puget Sound

WATER QUALITY PROGRAM
DEPARTMENT OF ECOLOGY

January 27, 2012

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Bill More
Washington Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

RE: Draft Municipal Stormwater General Permits

Dear Mr. Moore,

Thank you for the opportunity to comment on the Draft Municipal Stormwater Permits. We are writing as members of various economic, social, cultural, governmental, and environmental interests throughout Puget Sound concerned about water quality and ecological problems facing Puget Sound and other waters of the state from polluted runoff.

As the recently released Puget Sound Toxic Loading Study indicates, stormwater from urban areas remains the most common pathway for toxic chemicals to enter Puget Sound. The cost in terms of closed shellfish beds, loss of salmon runs, toxic waste cleanups, combined sewer overflows, and other related problems is hard to calculate. We need to make fundamental changes in how we manage this runoff and believe that these permits could be the vehicle for many of those changes that will yield positive results. We support the inclusion of new Low Impact Development (LID) requirements, expanded requirements to monitor discharges, and expansion of permit coverage in key areas (e.g. Elimination of the "1 acre exemption" for Phase II jurisdictions). These are essential elements of a successful program. We do, however, have many concerns with specific elements of the permit, particularly with regard to the LID standard. We ask that you address these concerns in the final version of the permit.

Low Impact Development Standard: As mentioned above, traditional stormwater management techniques such as "curb and gutter" collection of stormwater and detention ponds have failed to stop the flow of pollutants into our waters and maintain healthy streams. The rest of the nation is already moving towards mandatory LID standards, which have been found necessary to meet the Clean Water Act's goals. While this permit requires the development of such programs at the local level, we believe the approach outlined has serious flaws.

First, the new standard fails to fully embrace the most crucial LID techniques, notably protection of vegetation on site and reduction of impervious surfaces. Experts agree that these techniques are the most effective means of reducing runoff from a given site. While there are passing references to protection of vegetation and reduction of impervious surfaces, the language is vague and potentially permissive. Without a core foundation of protecting vegetation and reducing new impervious area, the remaining LID approaches (e.g., pervious concrete, rain gardens, etc.) are unlikely to succeed.

Moreover, the permit contains no requirement to consider water reuse, and its standards for green roofs are weak. This leaves rain gardens and pervious pavement as the primary LID techniques for most sites. Without full application of all LID tools, these techniques by themselves will make only a marginal difference. To make matters worse, the new draft utilizes an extremely conservative soil standard for engineered rain gardens. Studies by WSU and others indicate that rain gardens perform well in less than ideal soils. This standard should be revisited.

The draft permit also contains very broad "feasibility" and "competing needs" exemptions. While we support the need for some flexibility in application of the new standard, these loopholes could potentially

allow jurisdictions and developers to avoid compliance with the new requirements. While many of the exemptions in this section are legitimate, a number are either very vague, or overly conservative.

Update of Local Codes and Watershed Planning: We very much support requirements S5(C)5(b) which call for an update of local codes, particularly given recent improvement in the Puget Sound Partnership guidance manual on this subject. Updates to codes may lead to some of the most significant improvements in terms of vegetation retention and reduction of impervious surfaces. Having said that, the permit language lacks detail in this area and the guidance is not prescriptive, which will lead to challenges in implementation. We also support watershed/basin planning requirements in S5(C)5(c), but suggest that it be expanded to include additional jurisdictions. We appreciate the fact that the proposal calls for “full build-out analysis” of future growth in these basins. While we support language which requires the plans to achieve protection of “beneficial uses,” we believe that a more specific performance standard which includes a vegetation goal is needed here. Finally, it should be made clear that Ecology not only reviews plans, but has authority to approve or reject such plans.

Monitoring: We support new monitoring requirements contained in Section S8 of the permit. Ecology recognizes and incorporates the recommendations of the Stormwater Work Group, which worked for three years to recommend a system which will result in a more coordinated, cost-effective approach for monitoring the impacts of stormwater runoff on receiving waters. This approach will result in data which fits together and is useful for adaptive management purposes. The regional monitoring approach represents a paradigm shift in how monitoring will be conducted in the basin. However, the total funding that will be generated for the project under Monitoring Option #1 is inadequate to pay for the type of monitoring necessary to evaluate success of stormwater programs.

One Acre Exemption: We strongly support the decision by Ecology to harmonize the Phase I and II permits in terms of the size of projects regulated. Projects under one acre have very significant impacts on our receiving waters, and Phase II jurisdictions should be required to evaluate and minimize those impacts. Again, thank you for the opportunity to provide our input on this very important matter.

Sincerely,



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