

Ecology's Updated Priorities for the Reissuance of the Municipal Stormwater Permits

May 16, 2011

In preparation for the reissuance of the municipal stormwater permits Ecology has updated the list of preliminary agency priorities from July 20, 2010. This approach is intended to keep permittees and the interested public informed as the agency moves into the formal permit process in late 2011. The following represents Ecology's thinking as of the release preliminary draft language on LID and monitoring.

SUMMARY

- The current permits are delivering results: improved implementation of existing requirements is an important part of achieving clean water.
- Local and State Government capacity has declined from what it was when the permits were last issued in 2007; maintaining current stormwater investments will be significant challenge.
- Low Impact Development and other permit improvements are needed.
- The most significant stormwater gains will be realized by securing new funding to support improved controls and retrofits.

THE DETAILS

1. Schedule

- What's been done to date:
 - Western Washington advisory groups included the Stormwater Monitoring Workgroup (from 2008 to Present) and the LID Advisory Committees (2009-2010). Both provided recommendations and input for the Phase I and Western Washington Phase II permits.
 - Ecology held eight listening sessions around the state for the public and permittees in Aug-Sept 2010. Ecology has initiated ongoing meetings with permittees and interested parties in southwest WA and eastern WA to solicit input on LID and monitoring requirements.
 - May 2011: Ecology is releasing preliminary draft permit language for LID and monitoring for informal public comment.
 - Ecology notified potential new permittees of the upcoming process to evaluate them for possible coverage prior to May 16, 2011.
- Ecology will send existing permittees a reapplication form and guidance for the next permits by June 1 which is due no later than August 19, 2011.
- October 2011: Complete draft permits out for public comment.
- July 2012: Issue existing permits to be effective from August 31, 2012 to August 1, 2013. At the same time, issue final new permits to be effective on August 1, 2013.

2. Known issues for the next round of permits

Following are issues Ecology must address in the next round of municipal stormwater permits.

- Federal regulations require that new permittees be evaluated for inclusion under the permit (bubble cities) and/or some cities may no longer be eligible for a waiver due to increases in population. Ecology has identified the following cities for evaluation:
 - Previous waiver cities (populations over 1,000 in Urban Areas): Moxie and Woodway.

- New “bubble cities” (populations over 10,000): Lynden, Snoqualmie, Grandview, and Cheney.
- Evaluation of UGAs around “bubble cities” for coverage. Ecology will evaluate the counties around previous bubble cities and possible new bubble cities for coverage under the next permits:
 - Urban Growth Areas around existing bubble city permittees:
 - Island County (Oak Harbor UGA)
 - Clallam County (Port Angeles UGA)
 - Skagit County (Anacortes UGA)
 - Lewis County (Centralia UGA)
 - Yakima County (Sunnyside UGA)
 - Kittitas County (Ellensburg UGA)
 - Grant County (Moses Lake UGA)
 - Urban Growth Areas around potential new bubble cities if they meet the criteria for coverage:
 - Whatcom County (Lynden UGA)
 - Spokane County (Cheney UGA)
- Responding to 2010 Census information. Federal regulations require Ecology to consider any new 2010 census defined urban areas, or expansions to current census defined urban areas that may bring additional jurisdictions under the permits. Ecology may not get census information until after the draft permit is out for public comment in October 2011.
- LID requirements for Phase I and Western Washington Phase II. The Pollution Control Hearings Board required Ecology to incorporate LID “where feasible.” The external LID committee process informed Ecology’s thinking on this issue.
- Monitoring requirements. The Stormwater Work Group has recommended monitoring requirements for permittees in Puget Sound. These recommendations are informing Ecology’s thinking on this issue for Puget Sound permittees. Ecology staff will be working with southwest Washington and eastern Washington permittees and others as we develop monitoring requirements for these areas.
- Incorporating completed TMDLs into the new permits where actions apply to permitted municipal separate storm sewers (MS4s). Federal regulations require this provision.

3. Additional issues for the next round of permits

Following are questions that one or more external stakeholders are interested in having Ecology pursue in the next versions of the municipal stormwater permits and Ecology’s preliminary answers.

- a. Should the permits be expanded to include additional jurisdictions with populations of less than 10,000?
Answer: We will not expand the permits to include additional jurisdictions with populations of less than 10,000. However, the petition process can be used by other entities if they feel additional jurisdictions or areas should be covered. Ecology will respond to petitions as required by federal regulations.
- b. Should the eastern Washington (EWA) permit do more with respect to the use of LID?
Answer: The PCHB rulings applied only to western Washington (WWA), so we have focused on WWA requirements. In EWA, while there is not as much history, interest and experience in LID, we are initiating discussions with permittees and others to identify steps for advancing LID during the next permit cycle.
- c. Should the Phase II permit(s) include a business source control inspection program (a requirement in the current Phase I permit)?
Answer: No, the Phase II permits will not include a stand-alone source control program, which can be complex and costly. We will, however, look at ways the program elements in the current permit can better address source control – for example under public education and outreach and the illicit discharge detection and elimination (IDD&E) program.

- d. Should the Phase II one-acre threshold be reduced to apply the standards for new and re-development and construction site runoff controls at smaller sites?

Answer: The WWA Phase II permit should incorporate the lower thresholds from the Stormwater Manuals for new development, re-development and construction site runoff. This in part relates to the LID discussion. Not reducing the threshold means that the majority of development in Phase II cities and counties would fall outside the permit requirements. Phase I permittees do not have this threshold, and we understand that many WWA Phase II cities are already regulating at lower thresholds. This provision will provide significant clean water gains. Ecology is not proposing to reduce the one-acre threshold with respect to the EWA Phase II permit.

- e. Should the Phase II permit(s) include requirements for a structural retrofit program?

Answer: The Phase II permits will not include requirements for a structural retrofit program. This could change if a funding mechanism is established to fund stormwater retrofits.

- f. Should the administrative framework for the permits be changed?

Answer: Watershed or other administrative approaches are complex and costly. Our thinking is that we will not change the administrative framework, but will retain the three permits.

- g. Should Ecology specifically address or attempt to limit how state vesting applies within the context of these permits?

Answer: Ecology is reviewing requirements for how permittees transition to new requirements for construction and post-construction.

- h. Should Ecology introduce requirements for stormwater basin planning into the Phase I and/or Phase II permits?

Answer: This topic is addressed in the LID preliminary draft language released for informal public comment on May 16, 2011.