

To: Julie Lowe and Harriet Beale
Washington State Department of Ecology
Municipal Permit Comments
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

Re: Department of Ecology (DOE) Proposed Modifications to: Phase I Municipal Stormwater General Permit, Western Washington Phase II Stormwater General Permit, and Eastern Washington Phase II Stormwater General Permit

Thank you for the opportunity to comment on the proposed modifications to the referenced permits. The Association of Washington Cities represents cities that fall under the jurisdiction of all three permit actions. We appreciate the efforts put forth by DOE staff to respond to various actions and directives of the Pollution Control Hearings Board (PCHB) in the Phase I and Phase II cases and we also appreciate the efforts made by DOE to reach out to cities and other interested parties for comments.

As the Association of Washington Cities, our comments will focus on broad issues associated with these proposed revisions to the permits. However, we commend to your careful review comments received from individual cities as you complete your work and modify the permits.

As you know, we have an overarching concern regarding unfunded mandates resulting from these permit actions. Given the budget recently approved by the Legislature which included a funds diversion from the Public Works Trust Fund, reductions in surface water grant funding and declining revenue for most cities, there must be a reduction in the cost of compliance with the permits. Similar to the State, few cities are capable of adding new staff resources or expanding programs and many jurisdictions are reducing their workforce. We urge DOE to keep cost issues in focus as you revise the permits.

Timing of Compliance

NPDES compliance is designed to provide a coordinated effort between Phase I and Phase II jurisdictions. The distinction of phases recognizes the difference in resources and capabilities between larger and smaller jurisdictions. This is intended as an iterative process where the Phase I experience would inform the standards and procedures for Phase II jurisdictions. The development and application of the stormwater manual(s), evaluation of experience and application of standards,

determination of equivalent programs for runoff control and other aspects of compliance are not given sufficient time in the proposed rules.

It appears that delays in Phase I compliance, and DOE's challenges in meeting deadlines, will result in significant hardships for Phase II jurisdictions to meet "equivalent program runoff control" under Sec. S5.C4 and other aspects of permit compliance (see City of Renton April 28 comment letter). We recommend revising the Phase II permit deadlines for all requirements, under Sec. S5.C4, for controlling runoff from new development, redevelopment, and construction sites to reflect the time period between August 16, 2008, and completion of the final modification process for the NPDES Municipal Stormwater General Permit, or no earlier than March 18, 2010.

Similar changes would be desirable regarding updates of the manual and training. It appears clear that DOE and local jurisdictions are struggling to comply with requirements and deadlines. Anecdotal information suggests that DOE is receiving requests to modify existing conditions and requests for additional time. We are concerned that DOE, like local governments, does not have sufficient staff resources to accomplish these tasks in a timely fashion. It would be in all our interests to build sufficient time into the process to bring about positive compliance outcomes.

As a general comment, more discussion is necessary to better understand and address technical compliance with the rule and training responsibilities. Many smaller jurisdictions (Phase II) do not have the capacity to bring new capital facilities and personnel on board to address various permit requirements. This includes requirements such as: upgrading manuals, cleaning catch-basins, having sufficient vector equipment capacity and TMDL training. In some instances, the additional time necessary to accomplish these tasks is less than one year. We request that you have further discussions with smaller cities and the Association of Cities staff to better understand these issues and to respond to the needs of smaller Phase II jurisdictions.

Low Impact Development (LID) S5 & S9

The PCHB correctly found that no broadly accepted performance standards currently exist for the application of LID. We agree that minimum performance standards need to be defined. Furthermore, there are significant technical issues associated with the application of LID that need to be more fully vetted and addressed if this tool is to be effectively applied where it is appropriate. The Association of Washington Cities applauds DOE's efforts to convene a technical advisory group and is eager to engage in this discussion with DOE staff and other stakeholders. Local city practitioners need to have an equal place at the table with other experts at both technical and policy levels.

It would be helpful for this discussion to commence as soon as possible in order to yield meaningful results as jurisdictions attempt to incorporate LID into their stormwater management plans, programs and development regulations. We are concerned that this discussion may be delayed as a result of funding limitations within DOE. We

believe the PCHB decisions require this discussion, and cities are concerned about workload, permit compliance and potential liability if we fail to incorporate LID into our development regulations.

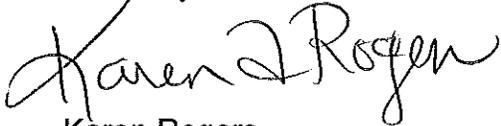
Watershed Characterization S9.E.12

The Association of Washington Cities supports the development of strategies for basin or watershed planning. We appreciate the value in this larger perspective for watershed characterization efforts and cities want to be included in any discussions that may address these efforts.

Thank you for the opportunity to comment on the proposed modifications. Our limited comments should not be interpreted to be all inclusive regarding the proposed modifications to the rules. Again, we commend to you the comment letters and communication from individual cities regarding these proposed rule modifications.

Please feel free to call on AWC staff should you have any questions or seek additional input from cities. We stand ready to partner with DOE staff to better understand these proposed changes and to work with you towards compliance with the Phase I and II rules.

Sincerely

A handwritten signature in cursive script that reads "Karen Rogers".

Karen Rogers,
President,
Association of Washington Cities

Cc: Mike McCarty; AWC Acting Exec Director
Andy Meyer; Special Projects Coordinator