

Comments for the Triennial Review of the WAC 173-201A
Comments by P. Wendling, City of Bellingham Department of Public Works
December 10, 2010

Thank you for the opportunity to present comments to the Department of Ecology (DOE) during this triennial review of the State Surface Water Quality Code. These standards are an important cornerstone to water quality protection in the state of Washington.

Prioritization of Change to the WAC 173-201A

In the determination of the prioritization list for changes to the standards, we understand that the DOE looks at various factors including:

- Expected environmental benefit vs. cost
- Technical complexity
- Available staff resources
- Federal mandates
- Magnitude of the change

In assessing the available staff resources we hope that the DOE looks beyond its own staffing shortages to realize that the regulated community has similar scarcity of staff resources and has additional regulatory mandates beyond this specific code to respond to. In the instance of the City of Bellingham, we are currently operating with a hiring freeze, and the anticipation of losing 40 additional positions. At the same time, we are working towards a 45 million dollar expansion of our wastewater plant due to requirements in our NPDES permit, anticipating stricter new regulations on incineration emissions as well as new incineration reporting requirements, anticipating a change in EPA policy on blending, expecting enhanced regulation on industrial and commercial industrial users to our wastewater system, working on additional Water Quality Improvement Plans in Squalicum, Padden, and Whatcom Creeks in addition to TMDLs in Lake Whatcom and most of its tributaries, and needing system improvements for stormwater treatment due a revised general permit. There are additional regulatory actions occurring beyond the ones mentioned above, but, the point has been made. The listed regulatory actions above are in addition to the regulations that we currently work to maintain full compliance.

We strongly support efforts to protect water quality, we just ask the DOE to realize that increasing regulatory action stretches our resources even thinner, so that we continue the scramble to get more from less to the point where we have less to give to existing programs as we strive towards meeting new requirements. You understand the need to have staff and material resources to support the revisions to this important regulation. Please also understand that your regulated community has the same limitations.

Fish Consumption

We understand that Oregon is intending to increase its assumption of local fish consumption to a much higher level (~30x). Since the DOE is tasked with protecting sensitive populations, we

believe that if the consumption assumption were changed that this could be accomplished in a more realistic manner than the Oregon approach, but also be more protective.

If the DOE were to change the fish consumption assumption, we would suggest the Agency conduct a survey of a wide sampling of Washington residents' local fish consumption habits. Utilizing the survey data, the local fish consumption value could then be based on the actual consumption of the 90th percentile of this population. The 90th percentile local fish consumption value should be a reasonable value that is also sufficiently protective of a wide spectrum of Washington residents. We do not believe that Oregon has selected a reasonable value to base these important fish consumption assumptions on.

Ephemeral and intermittent or low-flow conditions

We applaud the inclusion of low-flow conditions in the WAC and look forward to seeing how the DOE drafts the language on how the rule applies in those circumstances when a listed creek has no running water. There are several instances in our urban boundaries of creeks with WAC 173-201A listings where this condition applies. This phenomenon is observed in our region in the late summer.