

Ecology Seeks Feedback on Proposed Sections of 2012 Municipal Stormwater Permits

The Department of Ecology (Ecology) is in the early stages of updating and reissuing three National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater General Permits by July 2012. The State Legislature recently enacted legislation affirming this deadline (ESHB 1478).

These water quality permits are critical tools to help local governments manage and control discharges of polluted runoff into surface waters. The permits cover approximately 100 cities and 15 counties across the state.

Two requirements of the permits have received considerable public attention because they represent the most significant changes in the permits: low impact development (LID) and stormwater monitoring. Consequently, Ecology is taking the extraordinary step of sharing preliminary draft permit language on these two important issues in advance of the formal permit process.

LID and stormwater monitoring were issues appealed in the 2007 Phase I and Western Washington Phase II permits. The proposed new language responds to the Pollution Control Hearings Board's decisions on those appeals. Since the Board's decisions, Ecology has worked extensively with interested parties on monitoring for Puget Sound, and on LID for Western Washington. The preliminary draft language requirements reflect the input from those stakeholder efforts.

LID actions taken during new construction and redevelopment can help reduce and manage stormwater runoff. LID projects use vegetation, healthy soils, pervious pavement, dispersion, and other infiltration techniques to manage stormwater close to where it originates. LID projects result in fewer hard surfaces, less runoff, and more water absorption into the earth.

Stormwater monitoring is an important tool that tells us how our investments in stormwater management are working and, more importantly, how we can improve them. Without monitoring, we cannot understand what works and what does not work, when it comes to managing stormwater runoff.

MORE INFORMATION

Ecology invites your feedback on the preliminary draft permit requirements from May 16 to June 17, 2011. All feedback will help Ecology develop the draft permits.

Stormwater runoff is the leading threat to our waters in urban areas. Water quality (NPDES) permits are important tools to help local governments address this pollution.

Since 2005, local governments have received approximately \$105 million for stormwater needs from state funding and from the 2009 American Reinvestment and Recovery Act. Local governments also collect money for stormwater through a local stormwater utility fee.

To find out more about the permit language, visit Ecology's website at:

www.ecy.wa.gov/programs/wq/stormwater/municipal/2012Reissuance.html

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Permit language proposals for LID and monitoring

For LID: The preliminary draft language for LID in the *Phase I and the Western Washington Phase II* permits requires three levels for local government implementation:

Adopt site and subdivision requirements that require a list of LID BMPs, or compliance with a performance standard using methods of choice. The LID techniques are mandatory unless infeasible for the site as determined using proposed feasibility criteria.

Update development codes, rules, and standards to require LID principles, such as ways to conserve native vegetation and minimize impervious surfaces, in site design. Perform watershed-scale stormwater planning in areas where urban areas are expanding or impervious surface is increasing, in order to identify and prevent urban stormwater pollution and habitat damage.



There is considerable experience with the first two levels of LID. While there is less experience with watershed-scale LID, it is clear that the approach is essential to protect water quality and that legally it will be necessary. Scientists recognize that it is not possible to maintain water quality and habitat in Puget Sound lowland streams and elsewhere in Washington State without considering land-use and how the landscape is developed.

Ecology considered several watershed-scale stormwater planning recommendations from the advisory group, including:

- Requiring permittees to collaborate in planning for priority watersheds. This would have required a mandate for cities and counties to cooperate in watershed-based land use planning;
- Requiring permittees to conduct a water quality assessment of full build out scenarios, which could have required cities and counties to revisit previous zoning decisions.

Instead, Ecology is proposing to require that the jurisdiction taking the land use action conduct the planning. In the proposed language, land use actions refer to changes in zoning, density, or UGAs rather than an individual project approval, unless the project involves a broader land use action. Ecology's intent in linking the requirement to new land use changes is to avoid revisiting land use decisions made in the past. The proposed requirement addresses land cover changes that occur when land is developed - changes that can cause stormwater pollution and damage in stream channels.

The proposed approach to watershed-scale stormwater planning is new to the municipal stormwater permits, and to many permittees. It will require us to look more broadly for stormwater solutions. To assist in these efforts, Ecology will look for opportunities outside the permit structure to build on and leverage additional resources and existing tools. Examples include the possibility of grant funding, pilot projects, and guidance.

Where applicable, Ecology also believes there is the opportunity to coordinate this planning requirement with Ecology-led water clean-up plans (a.k.a., TMDLs) to address pollution in water bodies identified as violating water quality standards.

The draft language for eastern Washington proposes to advance LID during the next permit cycle, but only after working with eastern Washington permittees and others to identify options for the requirements. The cold, arid climate and different soils, geography, and stormwater management issues require an evaluation of LID practices specific to the needs and characteristics of eastern Washington communities. Discussions among Ecology, permittees, and others are underway to develop requirements for LID in eastern Washington.

For monitoring: The preliminary draft requirements in the Phase I and Western Washington Phase II permits propose collaborative implementation of a new regional stormwater monitoring program. As recommended by consensus of the Puget Sound interests represented in the stakeholder process, costs of the program are shared among all permittees and Ecology acts as the service provider to administer contracts for this permit cycle. The proposed monitoring program includes:

- Feedback on improvements or declines in water quality in receiving waters,
- Regionally consistent methods to collect comparable and valid data,
- A repository of information on pollution sources, and
- Transferable studies of the effectiveness of specific stormwater program activities.

Interested permittees may compete for contracts to conduct monitoring program activities, but individual permittees would not have specific monitoring requirements in the proposed permit. All permittees are still required to sample outfalls and receiving waters as necessary to identify illicit discharges and implement water quality improvement plans.

Southwest Washington permittees had only limited representation in the Puget Sound stakeholder process through a local government caucus. Ecology is proposing to apply some of the Puget Sound stakeholder recommendations throughout western Washington, and is seeking specific recommendations for monitoring receiving waters in southwest Washington.

For eastern Washington, Ecology proposes a separate stakeholder process and timeline for setting priorities and agreeing to monitoring approaches. Discussions will focus on monitoring approaches that are appropriate for the region's geography, climate, soils, land uses, and stormwater management needs. The preliminary permit language includes a default-monitoring program to ensure that some monitoring is conducted during the next permit cycle if the stakeholder process does not produce a successful outcome.

Ecology believes that regional, collaborative monitoring will produce more useful information for improving future permits and stormwater management activities than would be produced by individual monitoring and studies by more than a hundred jurisdictions. Ecology also believes the proposed approach to monitoring will cost substantially less statewide than the current monitoring conducted by the six Phase I jurisdictions and two ports.

Additional local governments may need permit coverage

The federal Clean Water Act requires the state's most populated areas to have coverage under these water quality permits to protect waters from polluted stormwater runoff. Ecology's federal mandate is to update NPDES permits every five years. Ecology is starting conversations with additional cities and counties that may require coverage in the next permit cycle. Although the evaluation process is just beginning, Ecology wants to ensure that all possible new permittees are aware and can participate fully in the informal comment period and other public processes for the next permits.



Based on U.S. Census data, Ecology may require permit coverage for new jurisdictions in the October 2011 draft permit, but decisions will not be final until the final permit is issued in 2012.

Ecology holds a formal public comment period when it issues the draft permits. The expected timeframe for the draft permit public comment period is October 2011- February 2012.

Read more about the preliminary permit requirements in Ecology's Frequently Asked Questions document posted on the website.

www.ecy.wa.gov/programs/wq/stormwater/municipal/2012Reissuance.html

Questions?

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