

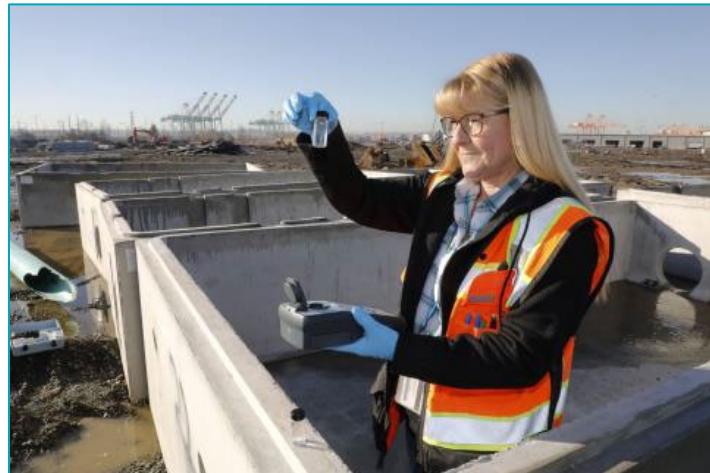
Stormwater presumed compliance

Position

The NWSA supports efforts to help the regulated community better comply with the 2025 industrial stormwater general permit (ISGP). This includes the development of presumed compliance provisions that protect regulated entities from enforcement if they are taking corrective actions to address exceedances in stormwater runoff benchmarks.

Problem

The ISGP requires regulated entities to take water quality samples of stormwater runoff. Sampling can—in some cases—pose health and safety risks to employees responsible for this work. For example, it may require employees to enter tight, confined and dark spaces under wharves during high tides or stormy weather. The Department of Ecology has proposed issuing safety waivers. However, regulated entities can still be sued for failing to sample while they await a waiver decision from Ecology.



The ISGP also requires regulated entities to take corrective actions if they exceed water quality benchmarks for stormwater runoff. These corrective actions can range from additional best management practices to source control to treatment. The intensity of the corrective actions ratchets up over time if benchmarks are not achieved.

It can take time to adopt a corrective action, during which a regulated entity is subject to enforcement actions and litigation. For example, if a new stormwater treatment system is required by a corrective action, the system needs to be funded, designed and permitted. If a public port is building the facility, it will need to comply with the state's public procurement laws, which can cause added delay. Sometimes these corrective actions can be incorporated into an agreed order with Ecology.

Despite these good faith efforts to address issues, regulated entities can still be subject to enforcement actions, including lawsuits filed by third parties.

Solution

A presumed compliance provision would protect regulated entity from enforcement while they await a decision by Ecology for a safety waiver. It would also protect a regulated entity from enforcement if they were putting a good faith effort into undertaking a corrective action. Resources can be targeted towards reducing environmental impacts as opposed defending against unnecessary enforcement actions.

Supporters

Northwest Marine Trades Association
Pacific Merchant Shipping Association
Port of Benton
Port of Centralia
Port of Longview

Port of Moses Lake
Port of Seattle
Port of Tacoma
The Northwest Seaport Alliance
Washington Public Ports Association

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January 2025