

RECOMMENDATIONS FOR EFFICIENCIES IN THE COST AND MANAGEMENT OF STATE LIMITED ACCESS HIGHWAY RUNOFF WITHIN JURISDICTIONAL BOUNDARIES

TASK 6

This assessment of the RCW 90.03.525 cost recovery process was conducted to determine opportunities for increased efficiencies in the administration of the RCW as well as in the overall stormwater management practices between the Washington State Department of Transportation (WSDOT) and local jurisdictions. This report summarizes the regulatory requirements associated with stormwater and details specific areas for consideration for improvements to the RCW, as well as the management practices for implementation of the RCW requirements. Suggested changes are put forth for increased efficiencies for stormwater management activities between WSDOT and local jurisdictional stormwater utilities.

History of the Clean Water Act

In order to understand the opportunities and limitations for interactions between WSDOT and local jurisdictions, it is necessary to understand the foundation upon which many, if not most, of their common activities are based. The foundation for many stormwater activities is the regulatory environment driving the actions. Nationwide, the primary driver is the Clean Water Act. In Washington State, the primary driver is RCW 90.48, the State Water Pollution Control Act initially enacted in 1945.

The Clean Water Act (CWA) began in 1948 as the Federal Water Pollution Control Act (Act). It was the first major U.S. law to address water pollution, but was primarily focused on wastewater and industrial discharges. In 1969, the Cuyahoga River in Cleveland, Ohio, caught fire yet again, one of thirteen fires since 1868 on the river once described by Time magazine as the river that “oozes rather than flows” and in which a person “does not drown, but decays.” The 1969 fire caught the attention of the public and helped spur an avalanche of water pollution control activities which resulted in significant modifications to the Act. The modifications were created as a result of a growing public awareness and concern for controlling pollution discharged to waters of the U.S. This is the era commonly credited for the environmental movement.

Major amendments have been enacted in 1961, 1966, 1970, 1972, 1977, and 1987. Each major series of amendments continued to refine and add to the scope and nature of the Act leading to the eventual establishment of the Clean Water Act in 1977. Of particular interest for this report is an amendment in 1972 establishing Section 402 of the Clean Water Act. Section 402 established the National Pollutant Discharge Elimination System (NPDES) and authorized the Environmental Protection

§ 1342. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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(a) Permits for discharge of pollutants

(1) Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet either (A) all applicable requirements under sections 1311, 1312, 1316, 1317, 1318, and 1343 of this title, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the administrator determines are necessary to carry out the provisions of this chapter.

Agency (EPA) to issue discharge permits. These permits are essentially legal authorization to discharge low levels of constituents per the permit language. Even up to 1972, the focus remained on wastewater, oil discharges, sanitary discharges by marine vessels, and mining activities.

Jurisdictional separate storm sewer systems were not a focus of the Act and remained so until the EPA was sued by the Natural Resources Defense Council in the mid-1970s. In 1977, the EPA was directed by court order to include both Jurisdictional Separate Storm Sewer Systems (MS4s) and Industrial stormwater discharges in the NPDES permit program.

Amendments to the act in 1977 established the Clean Water Act (P.L. 95-217) and resulted in the basic structure for regulating pollutant discharges into waters of the United States. These changes also gave the EPA the authority to implement pollution control programs such as setting wastewater standards for industry; to set water quality standards for all contaminants in surface waters; made it unlawful for any person to discharge pollutants from a point source into navigable waters unless a permit was obtained under its provisions; funded the construction of sewage treatment plants under the construction grants program; and recognized the need for planning to address the critical problems posed by nonpoint source pollution.

Continued research nationwide indicated that stormwater runoff was a significant cause of water quality impairment across the U.S. Between 1979 and 1983, EPA conducted the Nationwide Urban Runoff Program (NURP) to document the extents of the urban stormwater problem. Local jurisdictions across the U.S., including Bellevue, WA, participated in this study. The conclusions of the research found the following:

“Heavy metals (especially copper, lead, and zinc) are by far the most prevalent priority pollutant constituents found in urban runoff.

Coliform bacteria are present at high levels in urban runoff.

Oxygen-demanding substances are present in urban runoff at concentrations approximating those in secondary treatment plant discharges (wastewater treatment plants).

Detention basins...and recharge devices are capable of providing very effective removal of pollutants in urban runoff.”

The Water Quality Act of 1987 (P.L. 100-4) provided the most recent series of amendments to the original statute. Findings of the NURP study were used as the basis of an amendment requiring local governments and industry to address the pollution sources found in the report. Based on the 1977 court proceedings, as well as the NURP study results, EPA established a schedule for NPDES permit issuance for Phase I and Phase II jurisdictions, 1995 and 2003 respectively.

EPA Implementation of CWA

Administration of the NPDES permit program resides within the EPA. Provisions of the CWA allow the EPA to delegate permitting authority to states provided it is shown that the state can show adequate authority to apply and ensure compliance with Sections 1311, 1312, 1316, 1317, and 1343 of the CWA. EPA retains NPDES authority for federal agencies, such as for the Department of Defense, and for tribes. States are only allowed to issue permits for a fixed period not exceeding 5 years. States must be able to issue permits essentially that satisfy the requirements of the CWA as set forth by Congress. Failure to do so allows EPA to revoke delegated permit authority and for EPA to develop and issue such permits. EPA currently has delegated permitting authority to 45 states. To date, EPA has not revoked any state’s delegated permit authority.

When EPA delegates authority to a state, responsibility for development of an appropriate NPDES program resides with the state with oversight by the EPA. For transportation projects, the Federal Highway Administration (FHWA) relies on the state agency to promulgate appropriate water quality

criteria to be used by the Department of Transportation as well as other NPDES permit conditions. As long as the DOT is compliant with their issued NPDES permit requirements, FHWA does not further condition the design of roadway projects relative to stormwater.

Washington State Authority to Implement NPDES permits

Washington State is one of the 45 states with delegated authority from the EPA for implementation of the NPDES permit program. The State Water Pollution Control Act, RCW 90.48, is the foundation of the NPDES permit program in Washington State. The Department of Ecology is the designated water pollution control agency for all purposes of the Federal CWA as it existed in 1987 per RCW 90.48.260. The department is “authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act.” Through this RCW, the state issues a combination State Waste Discharge Permit and NPDES permit. RCW 90.48 includes specific provisions that are required to be in the State Waste Discharge Permit that are not required in the CWA. This requires a balancing act by the Department of Ecology to identify those provisions issued solely under the RCW provisions versus those required under the CWA due to another provision of the CWA not found under state RCW 90.48: citizen lawsuits.

Section 1365 of the CWA authorizes any citizen to bring civil action on his own behalf against any person or entity, local, state, or federal, alleged to be in violation of the CWA or any permit issued under its provisions. This section allows litigation against any NPDES permit holder suspected or known to be in violation of any provisions of the permit. NPDES permit holders are required to self-report violations of their permit, known as G20 letters, to the Department of Ecology. These letters are public records and subject to the Freedom of Information Act. As such, jurisdictional and industrial permittees have been, and remain, very engaged during the development of all NPDES permits language. Inclusion of provisions that will expand their third-party liability exposure are often contested during permit development and to the Pollution Control Hearings Board (PCHB) once the permit is issued. Both local jurisdictions and WSDOT have appealed permit conditions to the PCHB and have assisted in defending the permit language when challenged by environmental groups as being too permissive.

Washington State Permit Development History

The CWA recognized the differences between small and large jurisdictions and set up different timelines for permit issuance as well as permit provisions. Large jurisdictions, over 100,000 in population, were deemed to be Phase I permittees, and those less than 100,000 were determined to be Phase II permittees. Phase I permits were mandated by the CWA to be issued in 1995 with Phase II permits issued in 2003.

In July of 1995, Ecology issued six NPDES Phase I permits and in 1999 a Phase I permit to Clark County. These permits required development and implementation of stormwater management programs to reduce the discharge of pollutants to the maximum extent practicable. As a part of this effort, Ecology adopted a Stormwater Design Manual in 1992 as a guideline for local jurisdictions to use in crafting development standards relative to stormwater runoff. These permits were intended to only last 5 years; however, Ecology administratively extended permit coverage until they re-issued the permit in January of 2007. These permits covered:

King County

Pierce County

Snohomish County

Clark County (1999)

City of Seattle

City of Tacoma

WSDOT

In 1995, no permits for jurisdictional runoff were issued for Eastern Washington, as there were no cities or unincorporated counties whose populations exceeded 100,000 and/or the density requirements of the CWA.

In 2007, Ecology issued two new NPDES permits for Phase II jurisdictions across the state. The CWA Phase II regulations actually went into effect in early 2003, and so without a permit to comply with, local jurisdictions submitted what is known as a Notice of Intent to comply (NOI) so as to be in compliance with the provisions of the CWA and avoid litigation. Issuance of the two permits in January of 2007 brought over 80 cities and portions of 5 counties into compliance with the stormwater provisions of the CWA. By issuing two different permits, Ecology recognized the climatic differences between western and Eastern Washington, as well as the state of readiness for the permits between the jurisdictions east and west of the Cascades. Western Washington jurisdictions have been addressing stormwater management issues for decades, whereas most Eastern Washington jurisdictions have not.

In 2009, Ecology re-issued the Western Washington Municipal Stormwater NPDES and State Waste Discharge General Permit (the Permit) as a result of challenges to the original permit before the PCHB. One of the major changes to the permit language was the requirement for the use of Low Impact Development (LID) techniques, Best Management Practices (BMPs) and concepts in basin planning, site development planning, and transportation projects: “...*must require non-structural preventative actions and source reduction approaches including Low Impact Development (LID) Techniques, to minimize the creation of impervious surfaces, and measures to minimize the disturbance of soils and vegetation where feasible.*” This concept is pushed forward into all Phase I and Phase II Western Washington NPDES permits.

Due to the linear nature of the state highway systems, WSDOT and Ecology developed a separate stand-alone permit for WSDOT in 2009 that recognized the differences between primarily private development-driven activities and those actions resulting from improvements to the linear (limited right-of-way) transportation system.

Phase I and II General Permit Requirements and WSDOT Specific Permit Requirements

In order to evaluate opportunities for jurisdictions and WSDOT to interact across permits, it is necessary to understand not only the history of the permits but the requirements of them. Further complicating the issue are the distinct differences between the Phase I and II jurisdictions and the Western and Eastern Washington standards. WSDOT operates its transportation system across the state but is only held to meeting its permit requirements within specific geographic boundaries (see Figure 6.1). If WSDOT and a local jurisdiction are to explore the opportunities to share resources and/or maintenance responsibilities, it will be necessary to ensure that the higher standard is utilized so as to protect both parties.

The primary foundation of the jurisdictional permit languages is centered on the following:

- 1) Public Education and Outreach
- 2) Public Involvement and Participation
- 3) Illicit Discharge Detection and Elimination
- 4) Controlling Runoff from New Development, Redevelopment, and Construction Sites

- 5) Pollution Prevention and Operation and Maintenance for Municipal Operations
- 6) Annual Reporting
- 7) Monitoring (Phase I only)
- 8) Structural Stormwater Controls (Phase I only)
- 9) Source Control for Existing Development (Phase I only)

The primary foundation of the WSDOT specific Permit is centered on the following:

- 1) Implement and enforce an approved Stormwater Management Program (SWMP)
- 2) Illicit Discharge Detection and Elimination Program
- 3) Construction Stormwater Pollution Prevention Program
- 4) Stormwater BMP Retrofit Program
- 5) Highway Maintenance
- 6) Ferry Terminal Maintenance
- 7) Research and Monitoring
- 8) Education/Outreach/Involvement Program
- 9) Annual Reporting

All NPDES permittees are required to adopt the Ecology 2005 *Stormwater Management Manual for Western Washington* (or *Eastern Washington* as appropriate) or adopt an approved Phase I permittee's manual. WSDOT has developed its own *Highway Runoff Manual* that has been determined by Ecology to be functionally equivalent to the 2005 Manual and is applicable in both Eastern and Western Washington.

WSDOT currently participates in regional efforts advancing Public Education and Outreach, revisions to design criteria for Ecology's *Stormwater Management Manual*, and changes in construction stormwater pollution prevention measures. Further, WSDOT collaborates with the other Phase I jurisdictions on permit requirements overall, and implementation specifically through many standing meetings and professional organizations (i.e., APWA Surface Water Managers' Subcommittee).

In 2009, Ecology placed requirements in the Phase I and WSDOT permits requiring the use of LID where feasible and practicable. Due to the restricted nature of WSDOT rights-of-way, use of LID is fairly limited. Use of LID by local jurisdictions can be more accessible due to the availability of land adjacent to roads and streets, as well as off right-of-way, than available to limited access highways unless the right of way is expanded, or specific acquisitions are made for such purposes.

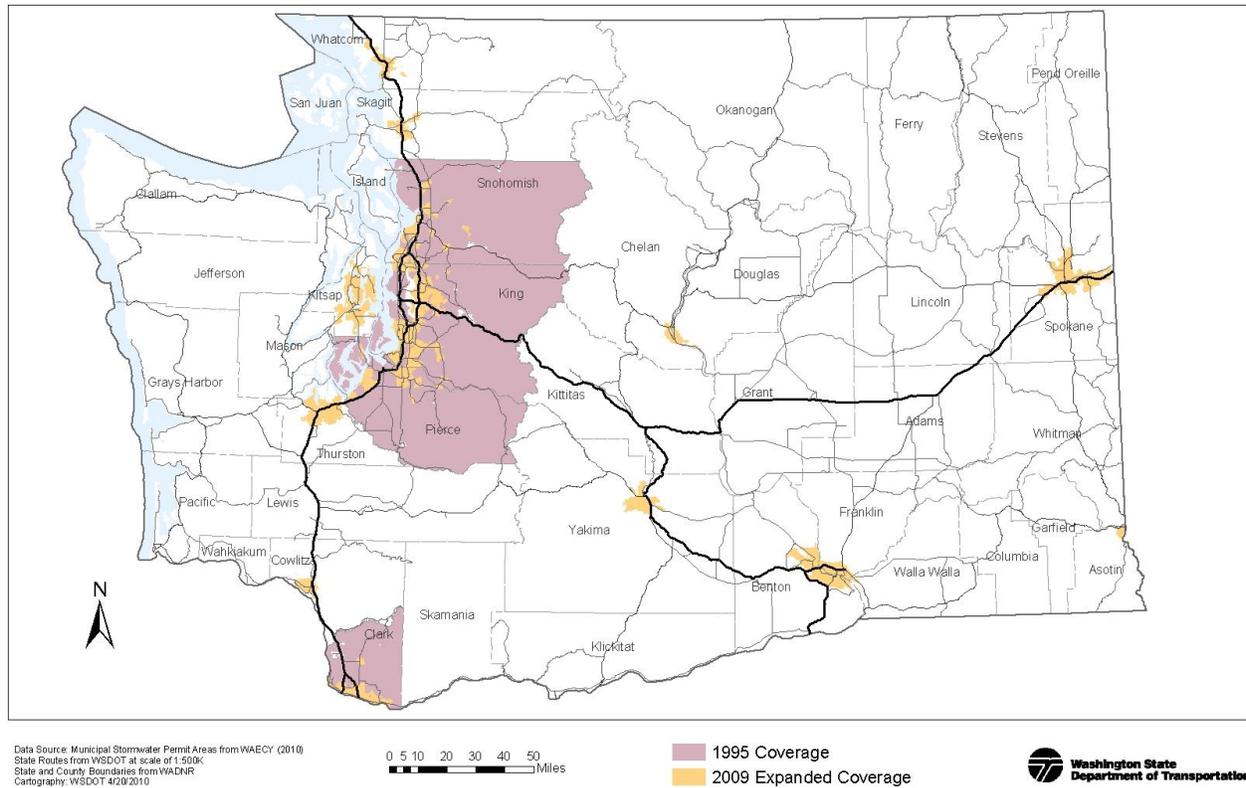


Figure 6.1 WSDOT 2009 NPDES Municipal Stormwater Permit Geographic Coverage

Overlap of NPDES permits

Figure 6.1 shows the relatively limited geographic nature of the WSDOT NPDES permit. The permit coverage was established by Ecology based on concentrations of population centers in accordance with the CWA requirements. Figure 6.2 overlays both the Phase I and Phase II permits with the WSDOT permit and reveals the extents of permit coverage along the WSDOT rights-of-way. An interesting provision of the CWA includes a requirement that the owner and the operator of stormwater systems are responsible for permit compliance. For those state rights-of-way that are maintained by local jurisdictions per the agreement between WSDOT and the Association of Washington Cities on the interpretation of RCW 47.24, dual NPDES permit coverage appears to be in place. This applies only on non-limited access rights-of-way. For state rights-of-way transferred under RCW 47.24 to local jurisdictions with NPDES permits, primary responsibility for compliance with the CWA resides with the jurisdiction. However, failure on the part of the local jurisdiction to comply with its NPDES permit requirement(s) may leave WSDOT exposed to CWA compliance actions and third-party citizen lawsuits.

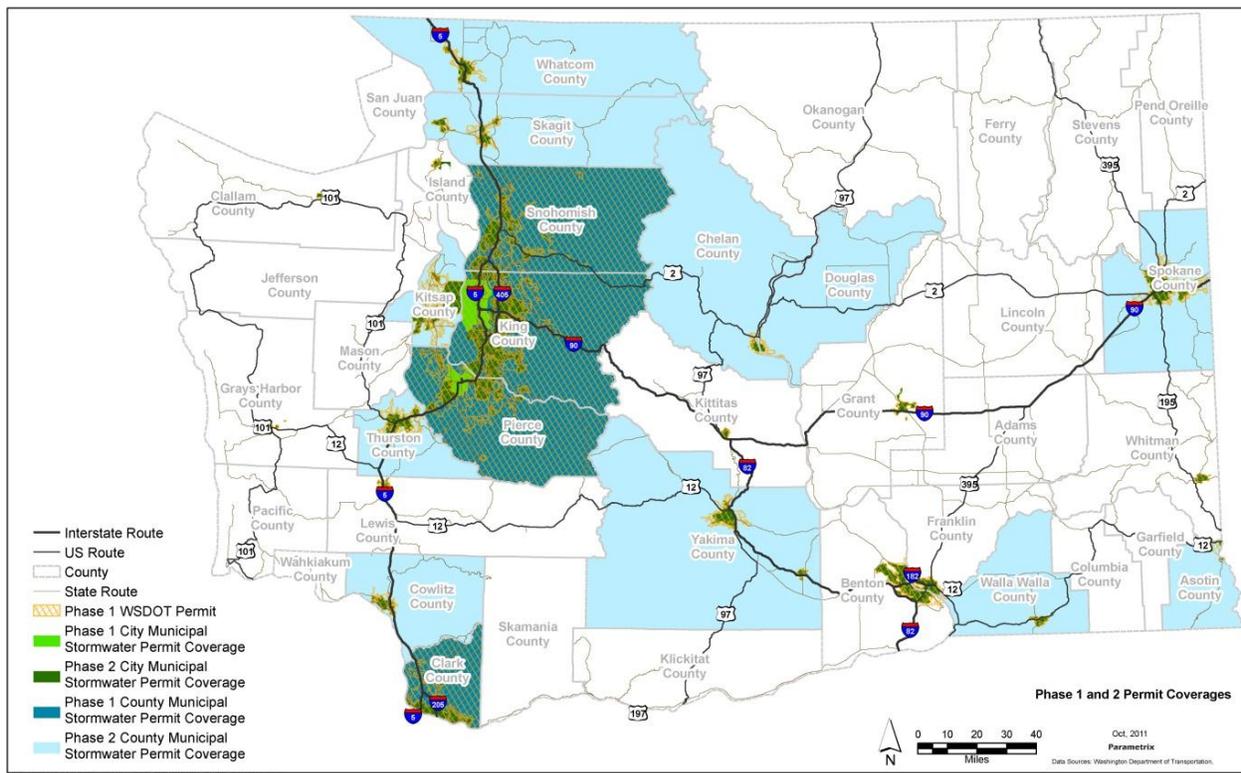


Figure 6.2. NPDES Stormwater Permit Coverages State Wide

Stormwater Management Funding

The Utility Concept

A stormwater utility is a stand-alone entity, usually set up as an enterprise fund, within the jurisdictional structure. It is defined as being financially and organizationally self-sufficient and can be designed to furnish a limited or comprehensive set of services related to stormwater runoff and surface water management. A “city” utility operates under the purview of the city legislative authority.

The following is a summary of the utility concept:

“A stormwater utility provides a reliable, dedicated source of revenue and an organizational structure that is dedicated to stormwater concerns. As a utility, a stormwater management program can be carried out as a “stand alone” operation, with its own budget, implementation plan, and employees dedicated solely to stormwater system operation, maintenance, administration, and education. Also, creating a utility is often more acceptable politically, as many communities tend to resist the creation of new programs using special districts. Creating a utility has the added benefit of freeing up tax dollars from the local government’s general fund that would normally be used for stormwater concerns, and this “extra” money can be applied toward other needs.”¹

Legal Authorization

RCW 35.67, subsection 35.67.020, authorizes cities to “to fix, alter, regulate, and control the rates and charges for their” systems of sewerage, defined in RCW 35.67.010 to include stormwater

¹ Stormwater Program Guidance Manual for the Puget Sound Basin.

management. Similar authorization is provided for county programs in RCW Chapters 36.89, 36.94, and 86.15.

Other important RCW sections include 35.67.025, which specifies that all public property “shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges,” and 90.03.525, which limits the imposition of stormwater rates and charges on state limited access highways.

Stormwater Utility Rates

The overwhelming majority of stormwater utility rates are based on impervious surface area. Impervious surface area is widely accepted as an appropriate measure of a property’s contribution of runoff, providing a clear relationship, or “rational nexus,” to service received from a stormwater program.

To minimize administrative and data collection costs, stormwater utilities typically develop a uniform rate for single family residential customers based on an estimated average amount of impervious surface area per developed residential parcel. The charge basis for all other customer types is generally actual measured impervious surface area by parcel. The charge itself is most commonly calculated as a dollar amount per unit of impervious surface area, or an equivalent unit of service. For example, one equivalent service unit (ESU) may equal 3,000 square feet of impervious surface area.

Stormwater rates, in combination with other funding sources, pay for capital construction of stormwater systems and controls to prevent flooding and improve water quality; maintenance and operations; and implementation of NPDES permit programs.

Alternative approaches to stormwater rates include density of development, usually distinguished by rates for different percentages of impervious coverage applied to the lot size. Both King County and the City of Bellevue utilize forms of the density of development approach.

Other Funding Sources for Stormwater Management

The vast majority of stormwater programs subject to NPDES permitting requirements recover their costs through stormwater utility rates. There are other, secondary, funding sources available, with varying degrees of applicability, for stormwater management.

The Street Fund: City street funds and County road funds have historically been used for funding of stormwater management activities within the rights-of-way. The use of these funds for stormwater purposes has been justified on the basis that portions of many drainage systems have been built by street and road departments, and maintenance in the right-of-way can be provided by the department as well. These funded functions also extend to design and construction of conveyance, water quality, and flow control facilities related to the roadway.



The General Fund: Property tax revenues have been the primary source of general fund resources in Washington cities and counties. Use of general fund money is usually unrestricted, and thus could be used to fund stormwater management. General fund resources are subject to many competing demands and cannot usually be considered a reliable source for ongoing funding and for assuring bond repayments on capital facility projects.

Special Assessments/Local Improvement Districts: Most commonly structured as local improvement districts (LIDs), these funding mechanisms assess individual properties benefited or served by a specific capital improvement for a share of the cost of that facility. Special benefit must be demonstrated by an increase in assessed valuation due to the improvement, often a difficult linkage to demonstrate for stormwater improvements. These are rarely, if ever, used for stormwater management activities.

Special Fees: Direct charges/fees may be used to recover the direct costs for services performed for a customer or class of customers not generally related to the overall service charge—such as development inspections.

Capital Facilities Charges: Capital, or general, facilities charges are authorized for cities under RCW 35.92.025. Authorization is less straightforward for county stormwater utilities authorized under either RCW 36.89 or 36.94. Capital facilities charges are one-time charges imposed as a condition of development and are designed to recover, from growth, an equitable share of the cost of capital investment incurred by the utility. Revenues from such charges are dependent on growth and are available for capital purposes only.

Conventional Debt Instruments: The most commonly used long-term debt instruments are revenue and general obligation bonds. Bond anticipation notes are available for short-term “interim” capital financing. These sources are available for capital funding only, not operations.

- Revenue bonds are the most common source of funds for construction of major utility improvements. There are no statutory limitations on the amount of revenue bonds a utility can issue; however, utilities are required to meet yearly net operating income coverage requirements, commonly 1.25 times the annual debt service. In fact, to issue new debt, it may be necessary to demonstrate coverage in excess of this level based on a market-driven target, possibly in the range of 1.5 to 2.0.

Revenue bond debt service is paid out of rate revenues. The terms on revenue bonds are not as favorable as general obligation bonds, but carry the advantage of leaving the city’s debt capacity undisturbed. Interest rates vary depending on market conditions.

- General obligation bonds are secured by the taxing power of the city, are typically paid through property tax revenues, and may be subject to a public vote. Cities and counties often choose to repay the debt from other (rate) revenues, and increase property taxes only if the rates fail to meet debt obligation.

The financing costs of general obligation bonds are lower than revenue bonds due to (1) lower interest rates available, (2) no coverage requirements, and (3) no reserve requirements.

- Short-term “interim” financing mechanisms are also available for capital costs. Bond anticipation notes can provide interim financing during construction, while allowing flexibility in the choice of long-term financing instruments. Typically, bond anticipation notes have lower interest rates than bonds, but add to issuance costs.



Special Grants and Loans: Some state and federally administered grant and loan opportunities are available for capital funding only.

- Department of Ecology Grants and Loans: The Washington Department of Ecology (Ecology) administers an integrated funding program for three state and federal financial assistance programs to improve and protect water quality. Each funding cycle begins in the fall when Ecology accepts project applications. Ecology rates and ranks applications based on the highest-priority needs: Projects include stormwater control and treatment, nonpoint pollution abatement and stream restoration activities, and water quality education and outreach. The amount of available grant and loan funding varies from year to year based on the state's biennial budget appropriation process and the annual congressional federal budget. The three sources of funding for water quality projects are:
 - Centennial Clean Water Fund Grant Program,
 - Federal Clean Water Act Section 319 Nonpoint-Source Grant Program, and
 - Washington State Water Pollution Control Revolving Fund Loan Program.
- Public Works Trust Fund: Cities, towns, counties and special purpose districts are eligible to receive loans. Water, sewer, storm, roads, bridges, and solid waste/recycling are eligible, and funds may be used for repair, replacement, rehabilitation, reconstruction, and improvements including reasonable growth (generally the 20-year growth projection in the comprehensive plan).

PWTF loans are available at interest rates of 0.5 percent, 1 percent, and 2 percent with the lower interest rates given to applicants who pay a larger share of the total project costs. The loan applicant must provide a minimum local match of funds of 5 percent towards the project cost to qualify for a 2 percent loan, 10 percent for a 1 percent loan, and 15 percent for a 0.5 percent loan. The useful life of the project determines the loan term up to a maximum of 20 years. PWTF loans are only available for capital expenditures and not for NPDES permit compliance nor maintenance and operations functions.

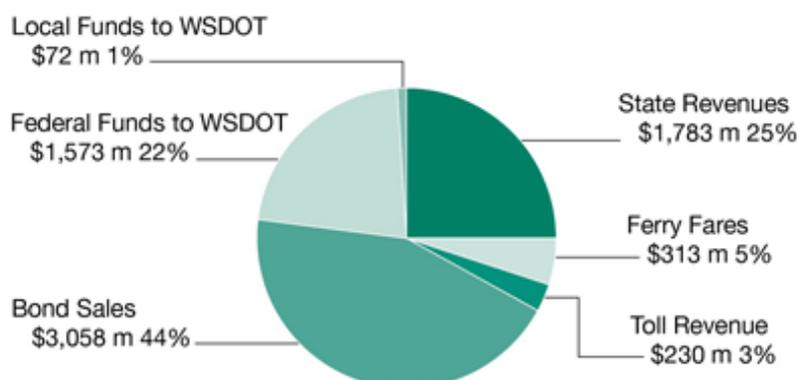
Funding Sources for WSDOT

WSDOT funding comes from a variety of sources collected at the state, federal, and local levels. According to WSDOT, the sources include taxes and fees, ferry fares, concessions, carry forward fund balances, and other miscellaneous revenues. Overall, \$9.4 billion in transportation funds is available in the 2011–2013 Transportation Budget; of this, WSDOT retains \$7.0 billion. The remaining \$2.4 billion is distributed to cities, counties, the Washington State Patrol, and other agencies, and used for debt service.

The state fuel tax generates \$2.531 billion; bond sales amount to \$3.058 billion; and federal funds amount to \$1.573 billion. Licenses, permits, and fees collect an additional \$938 million. Ferry fares and fees are another \$317 million total, with other revenue and funds adding another \$946 million. The breakdown on the actual funding available to WSDOT is shown below:

WSDOT Funding Sources

(Dollars in millions)



The 2011–2013 biennial investment in stormwater by WSDOT consists of the following:

Program Delivery and Management Support – \$3.754 million

Highway Maintenance – \$4.530 million

Capital – \$1.25 million

Washington State Ferries – \$152,000

Information Technology – \$210,000

Retrofit Program (I4) – \$6.145 million

The total direct investment for stormwater exclusive of funds spent through individual transportation projects amounts to \$16.041 million.

Jurisdictional Survey

Jurisdictions have been addressing the requirements of RCW 90.03.525 since its inception. Their perception of how well it is working, or not, is an important perspective to consider when evaluating the efficiency or inefficiency of the RCW, as well as opportunities for cross collaboration when dealing with stormwater management issues. As such, a survey was conducted of jurisdictions that have a stormwater utility, are subject to an NPDES General Phase 1 or 2 permit, and have one or more limited access highways within their jurisdiction. A total of 81 qualified jurisdictions were invited to participate, and 45 completed the survey.

The survey questions were designed to identify successes and challenges in working with WSDOT on management of stormwater, complying with RCW 90.03.525, and in preparing documentation for cost recovery associated with managing limited access right-of-way runoff on WSDOT's behalf.

Following is a summary of key findings from the jurisdictional survey.

Stormwater system capacity, costs, water quality, and staff resources are the major challenges to managing stormwater from limited access highways.

Factors upon which the fee is based, definition of what is eligible for reimbursement, and limited staff resources are the major challenges to complying with RCW 90.03.525.

Not charging for city streets, burdensome work plan and reporting requirements, and not tracking costs of runoff from state highways are the major reasons for not charging WSDOT.

Working with WSDOT is okay, but could be improved.

Three-fourths of those jurisdictions that manage stormwater from limited access highways indicated challenges in doing so. The challenges included stormwater system capacity, costs, water quality, and staff resources. It was also found that those in the Puget Sound region were more likely to report challenges in managing stormwater than those in the Western Washington or Eastern Washington regions. Those with conveyance facilities were somewhat less likely to report challenges in stormwater management than those with other stormwater management systems.

More than half of those that manage stormwater reported facing challenges complying with RCW 90.03.525. The challenges included factors upon which the fee is based, definition of what is eligible for reimbursement, limited staff resources, and working with WSDOT. Facing challenges complying with the RCW did not differ significantly between those that charge WSDOT and those that don't. Those with retention facilities were somewhat less likely to report problems in complying with RCW 90.03.525 than those with other stormwater management systems.

When those who did not charge WSDOT were asked why not, their reasons included not charging for city streets, burdensome work plan and reporting requirements, not tracking costs of runoff from state highways, and having not charged WSDOT in the past. Most reported spending \$500 to \$1,000 annually to gather the necessary reporting data and file a request. When it came to how long it takes to gather the necessary reporting documentation, many reported spending either 1 to 2 days or more than 4 days. The length of time it takes to gather the reporting documentation did not differ significantly by the number of lane miles of limited access highway in the jurisdiction.

These same jurisdictions reported that the following would motivate them to start charging WSDOT:

If the amount of reimbursement was increased.

If the city street charge requirement was eliminated.

If the planning and reporting was less burdensome (if the options and process were better understood).

If the limited access highway(s) in their jurisdiction had additional negative impact to increase their cost recovery value.

Most reported the process of working with WSDOT on stormwater management to be either somewhat efficient or neutral. The level of efficiency of working with WSDOT to manage stormwater did not differ significantly between those that charged and those that did not charge WSDOT. Those with retention facilities were more likely to report that the process between them and WSDOT for managing stormwater runoff was inefficient than those with other types of stormwater management systems. Among the jurisdictions who reported inefficiencies, the inefficiencies tended to focus on communication challenges, the regulatory process itself, documentation, and insufficient monetary incentives. In regard to the charging process specifically, the difficulties included the method used to determine charges, justifying how the reimbursed fee is used, and documentation issues.

Case Studies

Subsequent to the completion of the general jurisdictional survey, seven in-depth evaluations were conducted to glean additional detail to inform the assessment of RCW 90.03.525. For the purposes of this effort, jurisdictions must have charged WSDOT for stormwater under the RCW, or be eligible to do so.

Case study selections included a mix of Phase 1 jurisdictions, representatives of both small and medium Phase 2 jurisdictions from Eastern Washington, and representatives of both small and medium Phase 2 jurisdictions from Western Washington.

The case studies were to address at least the following issues:

The costs jurisdictions incur to manage stormwater runoff from state highways.

The costs that jurisdictions incur in order to impose stormwater fees upon WSDOT.

General challenges experienced by jurisdictions in imposing stormwater fees.

Barriers and challenges to jurisdictions imposing stormwater fees on WSDOT.

The jurisdictions' level of satisfaction or dissatisfaction pertaining to existing state law and the WSDOT application process to recover stormwater costs.

Specific examples of potential improvements where WSDOT and jurisdictions may find efficiencies in the cost and management of stormwater facilities.

Seven jurisdictions were selected for a more intensive one-on-one evaluation:

Bellingham

Issaquah

Puyallup

Richland

Spokane Valley

Tukwila

Clark County

Findings of Case Studies

In general, the costs incurred to manage runoff from limited access highways ranged significantly across the jurisdictions surveyed. The effort needed was primarily driven by the amount runoff from limited access highway to the jurisdiction's system, and any basin specific issues. Not all respondents reported similar levels of interaction primarily due to individual drainage needs. For example, Clark County has a high level of interaction with WSDOT maintenance while the City of Puyallup has little to none. For Puyallup, the limited access right-of-way is only for SR 512 which has a primarily self-contained WSDOT drainage system. Clark County has significantly greater opportunities to interact with WSDOT maintenance based on the overall size of their system.

Costs Incurred to Impose Stormwater Fees on WSDOT

Of the jurisdictions interviewed, only Tukwila was able to identify a specific quantifiable cost of \$541 annually for submitting the necessary documentation. Based on the general survey responses, the range of costs is between \$500 and \$2,000, with the majority falling between \$500 and \$1,000 annually and one respondent greater than \$2,000. Based on the more intensive case study interviews, one respondent noted their costs could be as high as \$10,000.

Challenges with Imposing Fees

The overall responses were consistent with the findings of the general survey. Challenges for those not currently charging were focused on primarily four: charging their own streets, confusion about or lack of eligibility for cost recovery, quantifying eligible state highway impacts, and the perceived burdens associated with application and reporting requirements of RCW 90.03.525. Challenges for those currently using the cost recovery provisions were more focused on providing the necessary justification and providing the annual report. More than one jurisdiction expressed frustration with not being able to charge WSDOT for non-limited access rights-of-way.

Barriers and Challenges to Imposing a Fee

Several jurisdictions pointed to the RCW provision that requires their drainage utility to charge their own streets/roads. In addition to this provision, both in the general survey as well as the individual case study efforts, jurisdictions pointed to the annual report as a hindrance with limited staff. Based on the significant cost reduction the state gets, 70 percent reduces the jurisdiction's available cost recovery resulting in marginal cost benefits to charging the state.

Satisfaction with State Law and Application Process

For those jurisdictions utilizing the RCW for cost recovery, the responses focused on the 70 percent reduction and the annual report. Jurisdictions do not understand why WSDOT gets a 70 percent reduction when no other utility rate payer gets the same significant reduction. Many expressed an interest in seeing the justification for the reduction. Submittal of an annual report was another point of dissatisfaction. It was expressed that the reporting process could be simplified, eliminated, or required every 2 years or longer.

For those jurisdictions not using the RCW for cost recovery, there was an overall sense of dissatisfaction with the RCW. In its current form, it prevents them from using it for cost recovery. Without a utility, without charging their own streets/roads, and with the 70 percent reduction in cost recovery claims to WSDOT, no jurisdiction indicated that they planned on changing their procedures or code to position them to be able to recover costs from WSDOT for managing limited access rights-of-way.

Potential Improvements

For detailed descriptions of individual jurisdictional responses, review the outcome of the case studies. In general, the suggestions followed very closely with the overall recommendations from the general study:

Eliminate the requirement that jurisdictions charge their own streets/roads in order to charge state limited access rights-of-way.

Simplify the annual reporting requirements, or do away with it entirely.

Provide outreach to inform jurisdictions of their ability to recover costs and for what activities.

Simplify the process by developing a uniform WSDOT rate that can be applied by every jurisdiction without having to develop supporting documentation.

Allow jurisdictions to charge non-limited access state rights-of-way.

Identification of Inefficiencies in Stormwater Management

With a basic understanding of the regulatory drivers and limitations on both WSDOT and jurisdictions, inefficiencies in managing stormwater between local jurisdictions and WSDOT can be identified. For purposes of this report, these have been segregated into the following categories:

RCW 90.03.525 requirements versus jurisdictional realities.

Administration of the Cost Recovery Program.

Physical limitations on drainage systems.

NPDES permit differences and responsibilities.

Funding limitations between WSDOT and local jurisdictions.

RCW 90.03.525

This RCW was in response to the emergence of drainage utilities in the 1970s and 1980s in western Washington charging WSDOT for its stormwater runoff.

The text of RCW 90.03.525 is as follows:

90.03.525 Storm water control facilities — Imposition of rates and charges with respect to state highway rights-of-way — Annual plan for expenditure of charges.

(1) The rate charged by a local government utility to the department of transportation with respect to *state highway right-of-way* or any section of state highway right-of-way *for the construction, operation, and maintenance of storm water control facilities* under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, *shall be thirty percent* of the rate for comparable real property, except as otherwise provided in this section. The *rate charged to the department* with respect to state highway right-of-way or any section of state highway right-of-way within a local government utility's jurisdiction *shall not, however, exceed the rate charged for comparable city street or county road right-of-way* within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights-of-way. [Emphasis added].

This first section establishes some fairly restrictive requirements on local jurisdictions seeking cost recovery for managing WSDOT highway runoff. For purposes of cost recovery, RCW 90.03.520 explicitly defines “State highway right-of-way” to mean only state limited-access highways inside or outside of a city or town. It excludes city or town streets forming a part of the route of state highways that are not limited access highways. Further, RCW 90.03.520 defines “storm water control facility” to mean “any facility, improvement, development, property, or interest therein, made, constructed, or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood, or surplus waters.”

This section also limits cost recovery to those jurisdictions that have a stormwater utility. For those that do not have a utility, they are not eligible for cost recovery even though they may be managing WSDOT runoff from limited access rights-of-way. Local jurisdictions must also charge their own roads and streets through the utility in order to request cost recovery funds. Most jurisdictions do not charge their own streets a stormwater rate. Operation and maintenance of the stormwater system is accomplished whether it is through the general fund, road fund or the stormwater utility and paid for by the local community. A final restriction in subsection (1) is the limitation on rates to 30 percent of the rate for comparable property. This is a significant reduction that may eliminate the benefits of submitting for cost recovery for many jurisdictions. Moreover, no documentation to base a 70 percent exemption of WSDOT stormwater charges was found in the course of this study.

Next is the requirement that the rate has to be associated with construction, operation, and maintenance of stormwater control facilities. Many jurisdictions have taken this to mean a physical structure or improvement receiving runoff from WSDOT highways, which appears to be substantiated by RCW 90.03.520. This is further clarified in subsection (2) below:

(2) *Charges paid* under subsection (1) of this section by the department of transportation *must be used solely for storm water control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st* of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, *shall develop a plan for the expenditure* of the charges for that calendar

year. The plan must be consistent with the objectives identified in *RCW 90.78.010. In addition, beginning with the submittal for 1998, *the utility shall provide a progress report on the use of charges assessed for the prior year*. No charges may be paid until the plan and report have been submitted to the department. [Emphasis added.]

Subsection (2) further restricts the ability of local jurisdictions to charge their adopted stormwater rates without an assessment of what portion is **solely** for stormwater control facilities to reduce state highway runoff impacts or BMPs that reduce the need for such facilities. BMPs in this context are not defined in RCW 90.03 but have been liberally interpreted by WSDOT in the administration of the cost recovery program. “Solely” has been interpreted in many ways by local jurisdictions. Stormwater utility Capital Facility Plans rarely identify facilities intended to mitigate from only one property owner such as WSDOT. As such, determination of what portion of a facility is “solely” for mitigation from state highway runoff can be extremely difficult. One further note on subsection (2) of interest is that *RCW 90.78.010 establishing the objectives of the plan to be submitted expired July 1, 2003, without replacement. Therefore, local jurisdictions are left without direction on what needs to be in the plan. For those new to the process, this can be confusing and potentially result in avoidance of the process.

Requiring a plan to be submitted annually is often seen as an unnecessary burden by local jurisdictions when the amount to be recovered is compared to what it costs to submit the plan. Further, as there is no standard format for these plans, jurisdictions are left to their own devices in developing a plan resulting in submittals from a few pages to those in excess of 40 pages. This results in WSDOT having to evaluate multiple different formats resulting in an inefficient review process. Establishing a standard format would save both jurisdictional governments and WSDOT time and money administering the annual plan submittal, review, and approval process.

Subsection 3 continues:

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the annual plan prescribed in subsection (2) of this section. If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, either may commence an action in the superior court for the county in which the state highway right-of-way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights-of-way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights-of-way shall be deemed an actual benefit to the state highway rights-of-way. The rate for sections of state highway right-of-way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right-of-way within the same jurisdiction.

Imposition of a higher rate appears to be possible; however, the local jurisdiction is left in a position of proposing it, and if rejected, proceeding with a potentially costly process with uncertain outcomes. The most that can be hoped for is the remaining 70 percent of their full cost of managing state highway runoff. Comparing the cost difference of new construction to maintenance and operation of existing facilities, the larger cost recovery would likely be for any new facility construction costing hundreds of thousands, if not millions, of dollars, not maintenance and operational costs which typically range from a few thousand to a few tens of thousands of dollars. As such, it is likely that only jurisdictions that are relying primarily on facility construction costs for justification on cost recovery would pursue this path, further limiting the number of potential jurisdictions.

Subsection 4 further states:

(4) The legislature finds that the federal clean water act (national pollutant discharge elimination system, 40 C.F.R. parts 122-124), the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter 90.71 RCW, mandate the treatment and control of storm water runoff from state highway rights-of-way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

The CWA as implemented through RCW 90.48 carries with it the specter of third-party litigation, a.k.a. citizen suits. Provisions of the NPDES permits issued under RCW 90.48 do allow for sharing of permit requirement responsibilities, including operation and maintenance of stormwater control facilities, but this is not the standard operating procedure for WSDOT project managers when designing project-specific facilities. Of the WSDOT project managers and designers contacted, the general approach is to separate all limited access right-of-way runoff water from jurisdictional water when designing water quality treatment or flow control facilities. This is due in part to the specter of third-party litigation under the NPDES permit, but primarily to reduce project costs.

The 2008 WSDOT *Highway Runoff Manual* specifically directs designers to “...identify all off-site flows coming to the site, including streams, seeps, and stormwater discharges. The transportation facility must allow for passage of all off-site flows; however, every effort should be made to keep off-site flows separate (via bypass) from the highway runoff” (page 2-5).

Typically project costs presented for legislative funding do not include co-mingling jurisdictional and WSDOT stormwater in new facilities. This is not true across the state, nor by WSDOT function. Maintenance supervisors appear to be more willing to collaborate on smaller facilities and allow for mixing of flows. This may be due in part to the inability of smaller efforts to separate out flows from a purely physical sense. It may also be due to the higher costs associated with building two separate conveyance systems, one for jurisdictional stormwater, one for WSDOT right-of-way water.

From a liability perspective, for facilities located within state rights-of-way, WSDOT would remain the ultimate responsible party for violations of any NPDES permit requirements related to operation and maintenance. Similarly, should facilities be constructed outside of state rights-of-way by local jurisdictions, NPDES permit compliance would reside with the local jurisdiction.

Physical Limitations

Opportunities for cross collaboration on design, construction, operation, and maintenance of stormwater control facilities exist throughout the state, both within and adjacent to limited access rights-of-way depending on individual site constraints. RCW 90.03.540 directs WSDOT to coordinate with adjacent local governments, ports, and other public and private organizations to determine opportunities for cost-effective joint stormwater treatment facilities for both new and existing impervious surfaces. Efforts for cross collaboration can be constrained by the physical settings of the state’s limited access rights-of-way within a drainage basin. Land availability both within and outside of the right-of-way can limit the size of facilities either by limited acreage or by extensive adjacent improvements that would cost too much to remove (i.e., downtown Seattle). Further physical constraints to WSDOT participation may well lie in the contributing drainage basin sizes and physical size of the resulting treatment facility. With limited land available, WSDOT may be constrained on the size of the facility that can be constructed. Further, long-term maintenance and operation of the facility may be significant with insufficient assurances from the jurisdiction on cost sharing. WSDOT will also be incurring the increased liability under its NPDES permit for managing

waters and pollutant loadings from others. This issue should be resolved with Ecology to ensure WSDOT does not take on unnecessary liability. If this can be resolved, WSDOT should be encouraged to develop joint facilities with adjacent jurisdictions and document the process and efforts to that end

NPDES permit Differences

Overall the differences between the WSDOT permit and the Phase I and II permits (both Eastern and Western Washington) will have little impact on the design parameters of new facilities or on the operations and maintenance of such facilities. Both Phase I and Phase II permittees are required to adopt either the 2005 *Ecology Stormwater Design Manual* or an equivalent Ecology-approved manual. The design requirements for both water quality treatment facilities, as well as flow attenuation (detention and retention) facilities, are equivalent across all design manuals. Maintenance and operations similarly are the same as ownership and do not play into the facility needs. The NPDES permits will not be an impediment to co-development or co-location of facilities excluding the issue of third-party liability. The WSDOT HRM is more constraining than the 2005 Ecology Manual as it does not allow the use of some BMPs approved of under Ecology's Manual due to the nature of the linear transportation system versus site development activities which is what the 2005 *Ecology Stormwater Design Manual* was primarily intended to address.

Funding and Fund Limitations

Unlike with a dedicated stormwater utility, WSDOT's funding is subject to Legislative action, and in some instances, a vote of the public for transportation improvement packages. For bond issued projects, timelines are typically fixed as are budgets leaving project managers with little flexibility or time to work with local jurisdictions on joint solutions to stormwater problems larger than their projects. Some funding sources, such as the ferry fares, toll revenue, and bond sales, are also limited to specific projects or activities. As an example, the SR 520 Bridge Replacement and HOV Program will use toll revenue to fund construction of the new floating bridge and highway replacement, but it cannot be used to maintain the facility long term.

Jurisdictional Stormwater Utilities conduct rate analyses on a highly variable frequency across the state. There are no mandated requirements that utilities conduct a rate analysis on a routine schedule. This is left to the jurisdiction to determine based on funding needs. Typically, included in this process is an evaluation of the utility's capital facility needs. Due to the variable nature of the timing of this process across the state, it can be difficult to coordinate jurisdictional stormwater capital facility plans with WSDOT transportation project needs.

Aligning WSDOT's stormwater retrofit facility needs with jurisdictional capital facility planning and utility rate analysis processes would benefit both WSDOT and jurisdictions by identifying collaborative projects with mutual benefit and funding. WSDOT has a subprogram for stormwater retrofits called the I4 Subprogram. This subprogram is described in greater detail in the following sections. Of importance to note is that a concerted effort to coordinate the WSDOT I4 retrofit subprogram needs with jurisdictions would further enhance the ability of WSDOT to address legacy drainage problems in areas with the greatest environmental benefits.

According to the Local Government Financial Reporting System (<http://www2.sao.wa.gov/applications/lgfrs/>) cities collected a total of \$254,322,525 in stormwater fees and charges in 2010. This does not include the additional \$25 million distributed by the state through grants from Ecology. Counties collected a total of \$53,985,132 in stormwater fees and charges and received approximately \$10 million in grants from Ecology for stormwater. Collectively, jurisdictions spent more than \$340 million addressing stormwater in 2010, perhaps as much as \$350 million.

Administration of the Cost Recovery Program

Administration of the Cost Recovery Program is a very small part of the WSDOT mission. With a total allocation of between \$2.5 and \$3.8 million per year being funded to jurisdictions, WSDOT has assigned one person part time to this effort. WSDOT estimates their cost for administering the program at \$11,707 per year.

Recommendations for Consideration

Regulatory Changes

Based on a review of RCW 90.03.525 and in consideration of the survey and case studies conducted of affected jurisdictional parties as well as the assessment conducted of the annual reports submitted and an evaluation of the RCW directly and discussions with WSDOT staff administering the RCW cost recovery program, the following changes to RCW 90.03.525 are offered by the consultant team for consideration:

1. Eliminate the requirement that a jurisdiction charge its own streets in order to recover the costs of State highway runoff management.
2. Modify the requirement for submittal of an annual plan to a semi-annual plan (every 2 years) or longer. Consider elimination of the plan submittal requirement entirely if a uniform rate is established (see below).
3. Clarify/change what is eligible for cost recovery. If only physical structures or construction projects are eligible, develop a list of such facilities and distribute to all jurisdictions. Develop a list of BMPs eligible for cost recovery and require it be updated at the re-issuance of the Phase I and II NPDES permits. Clarify what “solely” is intended to mean for cost recovery submittals or eliminate this provision.
4. Revisit the 30 percent provision. If a reduction for state limited access highway runoff is to be maintained, it is recommended that efforts be undertaken to establish the foundation for such a cost reduction.
5. References to RCW 90.78.010 should be eliminated and suitable language on the objectives for any plan submittals included in RCW 90.03.525. As stated previously, this provision of the RCW sunset leaving jurisdictions without a foundation for their annual report.
6. RCW 90.03.525 Section (3) would benefit from expansion to clarify that costs for construction of stormwater control facilities, including design, permitting, land acquisition, construction, and construction oversight, should be based on proportional shares of runoff volumes contributory to the facility. It could be assumed that runoff volumes sufficiently capture all appropriate cost sharing responsibilities.
7. RCW 90.03.525 Section (4) would benefit from requiring WSDOT to explore options for sharing facility size and location with adjacent jurisdictions when planning transportation improvement projects and including documentation of such in the project file.

Other Approaches for Consideration

In addition to direct changes to the existing RCW language, consideration for other types of changes that modify the way the State conducts cost recovery include:

1. Provide for the recovery of costs associated with management of runoff from limited access State highways *and non-limited access State right-of-way*.

2. Consider establishing a uniform rate for limited access rights-of-way for inclusion in all utility rate structures statewide. Consider separate rates for Western and Eastern Washington. Establishment of a consistent utility rate provides certainty to local jurisdictions and WSDOT for budgeting of future work. Use of a standard rate will negate the need for an annual plan, justification of any cost reduction for the state, and negotiations over what is or is not cost recoverable.
3. Cost recovery could be contingent upon the jurisdiction being in compliance with its general stormwater NPDES permit. A brief statement to that effect would be submitted with any billing information submitted to the state. Failure to be in permit compliance would prevent cost recovery until such time the jurisdiction is compliant. Payment would be for full cost recovery claims found to be in accordance with the program requirements and not reduced based on being out of compliance for a time.
4. The issue of liability in co-mingled facilities may continue to be a detriment to co-managing runoff. Suggest WSDOT and Ecology increase efforts to remedy the actual and perceived liability risks to enable closer collaboration between jurisdictions and WSDOT on stormwater facilities and BMPs.
5. Develop a uniform submittal structure and form to ease the administrative burden on both jurisdictions as well as WSDOT.

Recommendations for Stormwater Management Efficiencies

WSDOT I4 Subprogram

As a part of WSDOT's NPDES permit under the Stormwater Management Plan provision, the Department has developed a program for stormwater BMP retrofits for existing transportation corridors that potentially could be partnered with local jurisdictions. WSDOT acknowledges that extensive portions of the state's limited access highways were developed without either water quality treatment or flow attenuation facilities, or have facilities that no longer meet current standards and so the I4 subprogram is an effort to address this deficiency. The program consists of three elements:

1. Stand-Alone: The amount the State Legislature appropriates for stand-alone stormwater retrofits.
2. Project Triggered: Stormwater retrofit to existing and replaced pavement as part of transportation improvement projects per requirement triggers in the Highway Runoff Manual (HRM).
3. Opportunity Based: Retrofit of existing and replaced pavement that occurs as a part of projects when WSDOT determines that it is cost effective to provide retrofits beyond that required in the HRM.

WSDOT looks at new projects with an eye to providing treatment equal to 120 percent of that required from the HRM. If retrofitting existing or newly replaced surfaces is feasible and cost effective, it is conducted as a part of a project. If it is not feasible or cost effective, the project must either provide the 20 percent somewhere on a similar highway section in close proximity to the project site or provide an equivalent amount of funding to the I4 subprogram to fund a stand-alone retrofit project elsewhere in a high priority basin. I4 requires specific allocations from the Legislature to projects identified by WSDOT for funding.

This program offers an opportunity for cooperation between WSDOT and local jurisdictions to fund, design, and build stormwater facilities with a more regional objective, and is specifically called for in RCW 90.03.540, Highway Construction Improvement Projects – Joint Stormwater Treatment Facilities.

Changes for Consideration:

To make this program effective for improving stormwater collaboration in water quality treatment and/or flow control facilities, WSDOT would need additional funding to conduct the following work:

Conduct outreach to local jurisdictions to identify and prioritize facility construction opportunities.

Evaluate existing facilities to determine what effect they have on reducing runoff to downstream systems, as well as what proportion of the impervious surfaces are receiving treatment to current standards. This will enable WSDOT to develop a needs assessment state-wide for the retrofit program.

WSDOT personnel should be involved in jurisdictional comprehensive basin planning efforts and watershed plan development to ensure that collaboration on surface water facilities occurs early in the plan preparation process. This is often where jurisdictional Capital Facility Plans draw projects from for utility rate analysis efforts.

Maintenance and Operations

Currently WSDOT contracts with a number of smaller jurisdictions for various maintenance functions along state rights-of-way outside of limited access. Agreements for this work could be revisited with each jurisdiction to determine if additional functions can be performed by the State for the jurisdiction. These agreements could potentially be expanded to include work outside of the state right-of-way, such as adjacent pond or water quality facility maintenance.

Due to the nature of working within limited access highways, it is unlikely many local jurisdictions will have the staff, training, and equipment to meet the strict safety needs for working along I-5 for example. However, this should be explored further as larger jurisdictions may be able to supplement WSDOT workforce needs in teaming arrangements or with additional equipment rented to WSDOT for infrequent work. This may well reduce capital costs for both parties.

WSDOT may wish to consider looking for expanded partnership arrangements with local jurisdictions on facilities such as sand and deicing storage facilities, vector truck decant facilities, transfer stations for street wastes, and supplemental storage facilities for supplies and vehicles.

According to the JLARC Stormwater Permit Requirements Report 11-2, January, 5, 2011, WSDOT has agreement with local jurisdictions for the funding and construction of four new decant facilities but needs state funding to move forward.

Changes for Consideration:

Explore opportunities for expanding WSDOT maintenance activities within local jurisdictions on state rights-of-way as well as off right-of-way work.

Review existing maintenance agreements to ensure they are current.

Evaluate potential teaming arrangements with jurisdictions for sharing resources such as equipment, personnel, and maintenance facilities both long term as well as during short-term climatic events (e.g., snowfall and flooding events).

Evaluate additional teaming arrangements for cost sharing joint use facilities such as transfer stations for vector decant materials, street sweeping wastes, etc.