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EPA


- LAWSUIT = NUMERIC LIMITS
- NPDES
 - CONSTRUCTION
 - INDUSTRIAL
 - MUNICIPAL
 - OTHER POLICY AND PROGRAMS
- ENFORCEMENT



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EPA SUED BY: NATIONAL RESOURCE DEFENSE COUNCIL (ET AL.)

- **NPDES ≠ CWA**
- EPA WAS SUED BY ENVIRONMENTAL GROUPS ON BASIS THAT THE NPDES PERMIT PROGRAM DID NOT COMPLY WITH CWA – **NO MORE ARGUING AKART AND MEP**



Does this meet water quality criteria of the Clean Water act or not?

Measurable Water Quality

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"Radical changes to the U.S. Environmental Protection Agency's stormwater program are necessary to reverse degradation of fresh water resources and ensure progress toward the Clean Water Act's goal of 'fishable and swimmable' waters..."

EPA Follow-Up

Synthesized report findings/recommendations
<http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=12465>


- Formed cross-office team to analyze findings/recommendations and identify option for implementation:
- Watershed permitting pilot projects
- Pollutant source reduction workgroup
- Effluent Limitation Guidelines (ELG) for construction runoff
- Effluent guidelines for post-construction runoff under consideration

LAWSUIT: TMDL WATERSHED ASSESSMENT

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WHAT IS AN ELG

- **TECHNOLOGY-BASED STANDARDS** FOR CONTROL OF WASTEWATER AND STORMWATER DISCHARGES FROM VARIOUS CATEGORIES OF INDUSTRY
- NOT RISK-BASED, SO EPA DOESN'T SET DIFFERENT STANDARDS FOR DIFFERENT WATERBODIES – HOWEVER, THEY CAN SUBCATEGORIZE INDUSTRY
- **CAN BE NUMERIC STANDARDS (I.E., DISCHARGE LIMITATIONS) AND/OR BEST MANAGEMENT PRACTICES (BMPs) AND PROCESS CHANGES**
- APPLY TO DIRECT DISCHARGERS AS WELL AS INDIRECT DISCHARGERS (TO POTWS)
- **ELGS ARE INCORPORATED INTO PERMITS AND SERVE AS THE NATIONAL TECHNOLOGY "FLOOR" FOR ALL DISCHARGERS.**



Office of Water

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NUMERIC LIMIT AND CURRENT STATUS

Date	Version	Numeric Limit	Technology	Acreage
End of '08 - 2009	Draft	13 NTU	Advanced Treatment Technologies (ATS)	30 acre disturbed – (In qualifying areas)
Dec 2009	Final	280 NTU	Active Treatment Systems (ATS) Passive Treatment Systems (PTS)	"Phase I" – 20 acres "Phase II" – 10 acres (All of US)

July 2010 – 7th Circuit Court asked EPA to Revise
 Aug 2010 – EPA asked to "vacate" ELG – "NO"
 July 2014 – in Final Register 40 CFR 450

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EPA 40 CFR PART 450

- § 450.22
- NO LATER THAN FEBRUARY 2, 2014 DURING CONSTRUCTION ACTIVITY THAT **DISTURBS TEN OR MORE ACRES** OF LAND AREA AT ONE TIME, INCLUDING NON-CONTIGUOUS LAND DISTURBANCES THAT TAKE PLACE AT THE SAME TIME AND ARE PART OF A LARGER COMMON PLAN OF DEVELOPMENT OR SALE, THE FOLLOWING REQUIREMENTS APPLY:
- (1) EXCEPT AS PROVIDED BY PARAGRAPH (B) OF THIS SECTION, THE **AVERAGE TURBIDITY OF ANY DISCHARGE** FOR ANY DAY MUST NOT EXCEED THE VALUE LISTED IN THE FOLLOWING TABLE:
 - DAILY MAXIMUM VALUE: 280 NTU.

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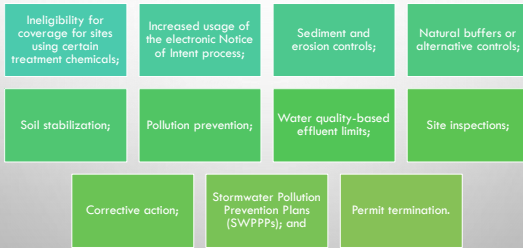
FEDERAL CGP

THE NEW CGP INCLUDES NEW REQUIREMENTS:

IMPLEMENT THE TECHNOLOGY-BASED EFFLUENT LIMITATION GUIDELINES AND NEW SOURCE PERFORMANCE STANDARDS
 NEW WATER QUALITY-BASED REQUIREMENTS FOR CONSTRUCTION SITES DISCHARGING STORMWATER TO WATERS REQUIRING ADDITIONAL POLLUTANT CONTROL.

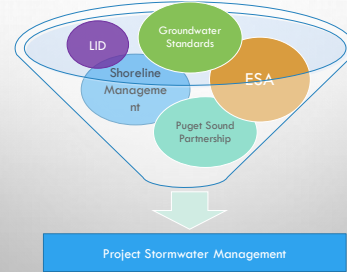
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CGP HIGHLIGHTS – FEB 2017, MODIFIED 2019



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Other Regulatory Impacts



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NEW POLLUTANTS OF CONCERN THAT MAY AFFECT CONSTRUCTION ACTIVITY

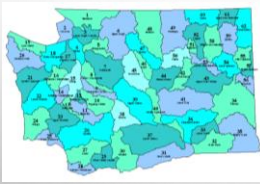
- DISSOLVED OXYGEN
- TEMPERATURE
- TSS
- PCB
- PAH
- MICROPLASTICS

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WATERSHED PLANNING

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WATERSHED PLANNING

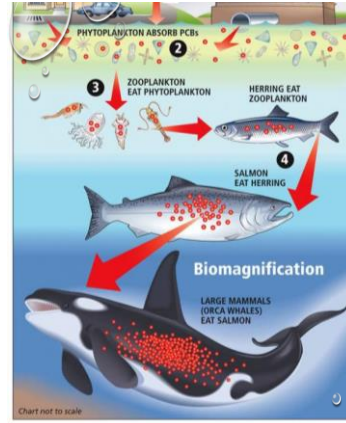


❖ 62 WRIAs



❖ 39 COUNTIES

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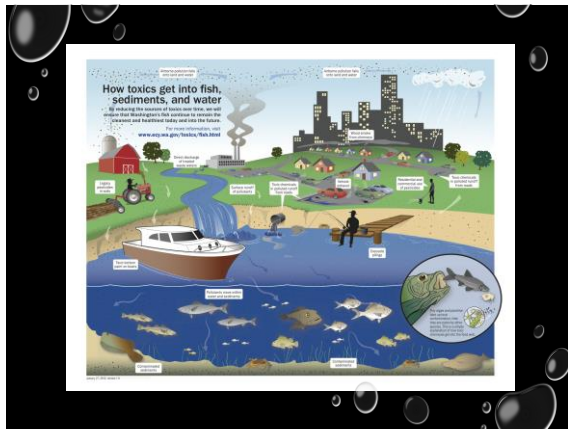


SEDIMENTS, STORMWATER & FISH

COMPLEX RELATIONSHIP BETWEEN:

- PERMITTED STORMWATER DISCHARGES
- SEDIMENT CLEANUP SITES
- HOW MUCH FISH CONSUMED FROM A GIVEN AREA OR SITE

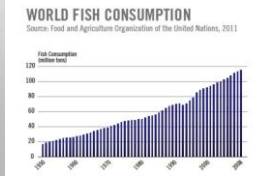
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FISH CONSUMPTION RATES

- USED TO PROTECT HUMAN HEALTH
- REPRESENTS HOW MUCH FISH AND SHELLFISH CAN BE SAFELY CONSUMED



DUWAMISH WATERWAY

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WHAT DOES 6.5 GRAMS LOOK LIKE?



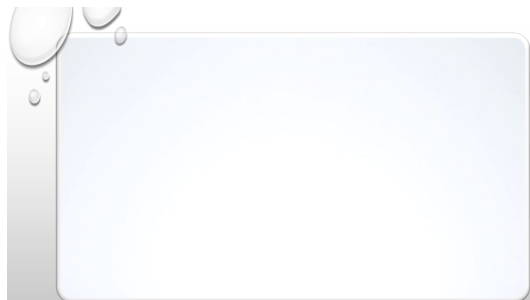
Photo: Heather Trim, People for Puget Sound



WA and OR adopted
175g/day
WA MTCA Cleanup Standards modeled based on 54g/day

Average consumption of fish by people living in the Northwest is at least 27 times more than National standard

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STORMWATER OUTFALL

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COMPLETION OF SECTION 2



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