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Full Talking Points Prepared by

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Implications of Novel Climate Planning Obligations in Region 1 NPDES Permits

- EPA Region 1's recent draft permits contain two requirements to plan and implement measures to address impacts of climate change: (a) development of a *WWTF Major Storm and Flood Events Plan (WWTF Plan)* and (b) development of *Sewer System Major Storm and Flood Events Plans (Sewer Plans)* that would become part of permittees' and co-permittee's Sewer System Operation and Maintenance Plans.
 - If adopted in the Deer Island permit, these planning and project implementation obligations would burden both MWRA and the satellite communities.
 - Both planning obligations would require treatment plant and sewer system operators to identify, evaluate, and ultimately implement measures to mitigate risks to treatment plant and sewer system components from "major storm and flood events."
 - In conducting this planning, communities will be required to take into account the effects of climate change—both now and up to 100 years in the future—and include the impacts of sea level rise.
- If included in the Deer Island permit, these types of terms would have the potential to impose additional capital project obligations on MWRA and the communities.
 - Because these obligations would be required by NPDES permits, MWRA and the communities would lose yet more flexibility in their capital budgets.
 - Obligations could also potentially be far-reaching. The planning requirements put all manner of measures on the table, including the potential for re-location of treatment and sewer infrastructure.
- The permit requirements could also force climate resiliency planning that might be out of sync with the communities' and MWRA's own planning processes.
 - EPA's recent draft permits has been requiring the development of *WWTF Plans* and *Sewer Plans* within one year of permits' effective dates.
 - This timing could accelerate planning efforts in a number of communities.
- The draft permit terms contain a number of ambiguities concerning the ultimate standard to which mitigation measures must be designed and implemented.
 - The permit requirements refer both to an obligation to develop measures to "minimize the impact of major storm and flood events," but also require the selection of measures that are "the most effective".
 - The draft permits define "minimize" to mean "to reduce and/or eliminate to the extent achievable the impacts to the facilities."
 - However, the drafts do not reconcile how project achievability—part of the definition of "minimize"—plays a role in determining which measures are the most effective.



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- The planning requirements also provide for cost-benefit analyses but do not specify what role costs—or affordability—may play in selecting mitigation measures.
- Although the planning requirements demand taking “midterm” and “long-term” impacts into account, they do not specify what role these impacts play in alternative development and selection. It’s unclear, for instance, to what extent a permittee or co-permittee would have to ensure that they minimize long-term impacts or could simply seek to defer addressing those impacts until a later point in time.
- The planning requirements also have the potential to put MWRA and the communities on a never-ending planning cycle.
 - EPA is requiring updates to plans every five years.
 - They are also seeking to require reevaluations any time (a) a utility makes a change that will impact the vulnerability of a treatment plant or sewer system to major storms or floods or (b) data sources used to develop the plans are generated or updated.