



Municipal Stormwater Comments
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696
Attn: Ms. Abbey Stockwell

January 19, 2018

Dear Ms. Stockwell,

Attached please find the comments from the City of Longview on the preliminary draft permit language for the Phase II Western Washington Municipal Stormwater Permit.

Please feel free to contact me if you have any questions or would like to discuss these comments further.

We greatly appreciate the opportunity to have input and share perspectives on this important regulatory program for the protection of our State's waters and environment.

Best Regards,

A handwritten signature in blue ink, appearing to read "Steve Haubner".

Steve Haubner
Stormwater Manager

**City of Longview Comments on Preliminary Draft Language for the
2019 Western Washington Phase II Municipal Stormwater Permit (page 1)**

S5.C.1 Education and Outreach

We appreciate the overall attempts to reorganize the language and provisions of this permit section. We concur with most of the changes, particularly the addition of specific consideration of regional collaboration to meet permit requirements, as well as the clarification of goals and requirements for general awareness vs. behavior change. However, the requirement to select a target audience and subject under S5.C.1(a)(i) is confusing as the point of general awareness is to provide a broad awareness of the nature and impacts of stormwater pollution to the community at large, which includes the general public and commercial/industrial/institutional entities. Furthermore, we believe that outreach to the development community on stormwater regulations, technical standards, LID and BMP design should be a separate requirement (not *either/or* with general awareness), and perhaps moved to permit Section S5.C.5.

S5.C.3 IDDE Tracking and Reporting

No comments

S5.C.3 Mapping

No comments

S8 Monitoring

The proposed language in this section is inconsistent with the previous discussions and agreement with Ecology on how the implementation of the Lower Columbia HSTM urban stormwater element would be incorporated into the municipal stormwater permit(s).

Similar to the Puget Sound SAM program (*legacy Option #1*), the southwest WA permittees in Clark and Cowlitz Counties proposed to pay into a collective fund to implement regional small streams monitoring. Ecology and the permittees agreed that the annual payment would constitute compliance with the Regional Status and Trends Monitoring requirement of the Permit. The current language lacks specific identification of the pay-in option for the southwest WA permittees. As these jurisdictions did not participate in S8.B in the previous permit cycle (2013-2018), they currently do not fall under the proposed S8.B.1 or S8.B.2 provisions and thus need to be included in a separate subsection.

Furthermore, we agreed that Ecology was to manage the collective fund and contract to implement the program. Clark County has offered and is the preferred option as the potential contractor for the regional small streams monitoring program. Ecology agreed that they would be treated the same as the other SW permittees, with the payment meeting their S8.B compliance. However, the current proposed language implies the entire program is the permit requirement of Clark County. To meet the intent of the previous discussions and agreement, Clark County must not be explicitly identified in the permit language as having responsibility for either conducting the program or submission of the QAPP. Instead, performance of the monitoring for the program must be a future contractual issue between Ecology and the selected contractor.

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To address these issues, we propose the following language for section S8.B.3:

3. Permittees within Clark and Cowlitz Counties shall pay into a collective fund to implement regional small urban streams monitoring consistent with the Lower Columbia Habitat Status and Trends Monitoring QAPP Template. The payments into the collective fund are due to Ecology annually beginning August 15, 2020 and the amounts are listed in Appendix XX. Ecology will select and manage a contractor for implementation of this program.

i. A Steering Committee comprised of the funding Permittees will submit a completed “Lower Columbia Habitat Status and Trends Monitoring (LC HSTM) Urban Streams QAPP Template” to Ecology before November 1, 2019. If Ecology does not request changes within 90 days, the QAPP is considered approved

[Note: the final QAPP should be prepared and submitted by the contractor and subject to the contractual obligations between them and Ecology and not included in the permit language]

Please note that in the draft Appendix XX, the jurisdictions in Clark and Cowlitz Counties are not subject to S8.B.2.a (this is the Puget Sound SAM regional status and trends monitoring). Change this to S8.B.3 per the above proposed language.

The City of Longview also endorses the proposal by Clark County to begin the Lower Columbia urban stormwater monitoring beginning in Water Year 2019 in order to start collecting resource information as soon as possible. We would support changing the payments to begin in 2019 and providing an early timeline for submission of the QAPP Template and Final QAPP.

S5.C.X Source Control

The City of Longview has a long history of working with local commercial, industrial and institutional properties to address stormwater pollutant source control both to the MS4 as well as direct discharges to Waters of the State. However, we have a number of very serious concerns with the proposed source control language and provisions included in the preliminary draft permit. These relate to the scope, responsibility, legal implications and timeline of the proposed requirements:

1. Scope of the source control program – We believe the permit requirement should focus solely on the authority to schedule and perform a source control site inspection to identify potential illicit discharges and connection, permanent stormwater facilities and potential pollutant sources. Local staff would be required to provide education and technical assistance including good housekeeping and pollution prevention recommendations, as well as document corrective actions that would be required under IDDE and stormwater facility maintenance requirements.

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2. Inventory scope – The current proposed language casts an extremely wide net of potential targets for the inventory and inspection without any consideration for actual risk to the MS4 or prioritization to manage that risk. We propose that the source control program be targeted to commercial, industrial and institutional properties that present a risk to the MS4 based on their industrial SIC code, outdoor activities, past history of illicit discharges and/or other criteria determined by the permittee.
3. General enforcement – As a condition of S5.C.3, permittees already have an IDDE ordinance and stormwater regulations for development in place which should suffice in enforcing any illicit discharges or connections and deficient stormwater facilities found while undertaking a source control inspection.
4. Enforcement of NPDES Industrial Permits and Water Quality Standards – In no circumstance should the Western Washington Phase II Municipal Stormwater Permit be used to delegate the State’s responsibility to administer and enforce the NPDES Industrial General Permit program to the local governments. Similarly, local jurisdictions should not be required to determine and/or evaluate whether or not a property is violating surface water or groundwater standards (not already documented by Ecology) due to ineffective source controls.
5. Application of structural source control BMPs – Local jurisdictions should not and can not arbitrarily require the installation and/or retrofit of structural control BMPs as an outcome of the source control inspection program. Unless there is an existing illicit discharge or connection, or a probable imminent pollutant source that must be addressed, all good housekeeping and pollution prevention recommendations should be voluntary in nature and part of an education and technical assistance program.
6. Timeline – The current timeline of permit requirements for this program is too aggressive and should allow more time for permittees to implement the inspection program.
7. Impact on staff and financial resources – As drafted, the source control program would require a significant increase in staffing and financial resources to comply with the inspection, follow up, and enforcement requirements. That will create a significant financial burden on our economically distressed community.

To address these issues, we propose the following language revisions for section S8.B.X:

0. Source Control Program for Existing Development

- a. Each Permittee shall implement a program to prevent and reduce pollutants in runoff from ~~areas~~ existing development that discharge to MS4s. The program shall include:

Note: Switch the order of i and ii below

- i. ~~Application~~ Education and technical assistance to property owners on good housekeeping and pollution prevention practices suitable for their site and activities

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including recommendations of operational and structural source control BMPs, and, if necessary, treatment BMPs/facilities to pollution generating sources associated with existing land uses and activities. This shall include practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizer discharging into MS4s owned or operated by the Permittee.

- ii. Inspections of pollutant generating sources at ~~publically~~ publicly and privately owned commercial, ~~and~~ industrial and institutional properties to ~~enforce implementation of required~~ identify exposed potential or existing pollution sources and BMPs to control such pollution discharging into the Permittee's MS4. (see Appendix IV-A to identify pollutant generating sources)
- iii. Application and enforcement of local ordinances at sites, identified pursuant to S5.C.6.b.ii., ~~including sites with discharges authorized by a separate NPDES permit. Permittees that are in compliance with the terms of this permit will not be held liable by Ecology for water quality standard violations or receiving water impacts caused by industries and other Permittees covered, or which should be covered under an NPDES permit issued by Ecology.~~
- ~~iv. Practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizer discharging into MS4s owned or operated by the Permittee.~~

b. Minimum performance measures:

- i. No later than August 1, 2021, Permittees shall ~~adopt and begin enforcement of an ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (see Appendix X to identify pollutant generating sources)~~ begin to implement the program by preparing educational and technical assistance materials for distribution required in (b)iii below. The requirements of this subsection are met by using the source control BMPs in Volume IV of the Stormwater Management Manual for Western Washington, ~~or~~ a functionally equivalent manual approved by Ecology or other pollution prevention documents and materials. ~~Operational source control BMPs must be required for all pollutant generating sources. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. Implementation of source control requirements may be done through education and technical assistance programs, provided that formal enforcement authority is available to the Permittee and is used as determined necessary by the Permittee, in accordance with S5.C.6.b.iv., below.~~
- ii. No later than August 1, 2021, the Permittees shall establish an inventory that identifies ~~publically~~ publicly and privately owned commercial, ~~and~~ industrial, and institutional properties which have the high potential to generate pollutants to the Permittee's MS4. The inventory ~~shall~~ may include:

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- (a) Businesses and/or properties identified based on the presence of activities that are pollutant generating (refer to Appendix ~~XIV-A~~ or based on industrial SIC codes or business license categories).
 - (b) Complaint-based response to identify other pollutant generating sources, such as: mobile or home-based businesses and multifamily properties.
 - (c) Other criteria developed by the Permittee for evaluating a property's high risk in contributing pollutants to the Permittee's MS4 and threat to Waters of the State.
- iii. No later than January 1, 2022, Permittees shall implement ~~an inspection~~the program for sites identified pursuant to S5.C.6.b.ii. above.
- (a) All ~~identified sites with a business address~~ in the source control inventory must be provided information about activities that may generate pollutants and the good housekeeping, pollution prevention and ~~requirements~~ BMPs applicable to those activities. This information must be provided by mail, telephone, electronic communications, or in person. This information may be provided all at one time or spread out over the permit term to allow for tailoring and distribution of the information during site inspections.
 - (b) The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or properties listed in their source control inventory ~~to assure BMP effectiveness and compliance with source control requirements~~. The Permittee may count follow-up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.
 - (c) Each Permittee shall inspect 100% of sites identified through legitimate complaints.
- iv. No later than January 1, ~~2022~~2023, each Permittee shall ~~implement~~ perform follow up on properties previously inspected ~~a progressive enforcement policy to require sites to come into compliance with stormwater requirements~~ within a reasonable time period as specified below:
- (a) ~~If the Permittee determines, through inspections or otherwise, that a site has failed to~~ To determine if the site has adequately implemented required good housekeeping, pollution prevention practices, and BMPs to address the identified pollutant sources, ~~the~~ Permittee shall take appropriate follow-up action(s) which may include: phone calls, reminder letters or follow-up inspections.

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- (b) When a Permittee determines that a facility has failed to adequately implement BMPs after a follow-up inspection [by evidence of or an observed illicit discharge](#), the Permittee shall take enforcement action as established through authority in its [illicit discharge](#) municipal code and ordinances, or through the judicial system [for addressing illicit discharges](#).
- (c) Each Permittee shall maintain records, including documentation of each site visit, ~~and~~ inspection reports, ~~warning letters, notices of violations, and other enforcement records,~~ demonstrating ~~an effort to bring facilities into~~ compliance [with this section](#). Each Permittee must also maintain records of sites that are not inspected because the property owner denies entry.
- (d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort ~~of progressive enforcement~~ [with the minimum performance standards in this section](#). ~~At a minimum, a Permittee's enforcement effort shall include documentation of inspections and warning letters or notices of violation.~~
- v. Permittees shall train staff who are responsible for implementing the source control program to conduct these activities. The ongoing training program shall cover the legal authority for source control [site visits and inspections](#), source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement procedures. Follow-up training must be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.

Long-term Municipal Stormwater Planning

We appreciate the preview of where Ecology is intending to go with this permit requirement. As was mentioned during the listening sessions in early 2017, it is imperative that any requirements scale appropriately for the geographic size and population, physiographic conditions, and technical and financial resources of a permittee. We look forward to being able to review the draft permit language.