



February 1, 2018
WP63914

WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504 - 7696

RE: Pierce County Informal Comments Regarding Preliminary Draft Language and Guidance
for 2019 Municipal NPDES Permit – Long-Range MS4 Planning

Dear Ecology:

Thank you for the opportunity to provide informal comments on the preliminary draft language
for the 2019 Municipal NPDES Permit, Long-Range MS4 Planning section. If you have any
questions, feel free to contact me at (253) 798-2467 or cvince2@co.pierce.wa.us.

Sincerely,

A handwritten signature in black ink that reads "Carla C. Vincent".

Carla C. Vincent
Water Quality Manager (interim)

CCV:kj

c: Melissa McFadden, Assistant County Engineer - Stormwater
NPDES file

Pierce County Comments Regarding 2019 Municipal NPDES Permit Preliminary Draft Language - Long Term MS4 Planning

Page numbers refer to the special condition–specific preliminary draft documents released by Ecology, which be found at:

https://www.ezview.wa.gov/Portals/1962/Documents/StormwaterWorkGroup/MuniPermitsLongTermMS4Planning_04December2017.pdf

General Comments

1. Pierce County supports the concept of developing a long-range stormwater plan. We agree with the intent of the strategy to “support a prioritization and planning process that results in targeted investments in BMPs and capital actions that contribute to preventing and reducing impacts to receiving waters.” We support the concept of analyzing our jurisdiction spatially by basins and catchment areas, and developing individual, catchment-specific pollution-reduction/prevention strategies and retrofit prioritizations. We also support the concept of allowing land protection/conservation as a stormwater management tool.

However, many of the land-use planning aspects of Ecology’s proposals go well beyond what is allowed under the NPDES permit and the Clean Water Act. Ecology appears to be using the permit planning section to address what already is or should be addressed in the Growth Management Act, local community plans, and other land use regulations. For example, changes to critical areas ordinances and zoning are clearly within the scope of the GMA. A better approach might be that Ecology pursue improved coordination of stormwater management and growth management through the legislative process, perhaps expanding the scope of the GMA to more explicitly include stormwater planning. We recommend that Ecology lead that effort.

2. Ecology’s proposal prioritizes areas exhibiting the least stormwater impacts, and focuses on restoration, conservation, and preservation within these areas. This change represents a fundamental priority shift away from cleaning up pollution that is entering receiving waters from the MS4 systems. It instead shifts toward prioritizing preservation and conservation in areas with the least stormwater impacts. This approach could theoretically preserve the status quo, but delay improved water quality, compliance with water quality standards, and TMDL actions on impaired reaches. Depending on financial resources, this approach could force jurisdictions to prioritize resources toward protecting least impaired areas instead of the highest pollutant-generating areas. Many jurisdictions will not be able to afford to work from both ends simultaneously.
3. We believe Ecology has learned lessons from the Phase 1 counties’ watershed plans developed under the 2013 NPDES permit, and attempted to create a planning process that requires less data collection and modeling. It relies on currently available data, and allows the planning process to occur at a variety of levels of technical certainty, including using best professional

judgement. We appreciate the flexibility afforded to jurisdictions in developing their plans that the outlined planning approach provides.

4. We have concerns about the timeline for completing the requirement. Throughout the preliminary draft document, the timelines for each planning element is currently unspecified. For large jurisdictions with many basins, the process includes developing an extensive inventory of basins (as many as 100-200), correcting basin boundaries, developing a prioritization process, prioritizing basins, assessing data gaps, delineating catchments (as many as 5-15) within at least one basin, developing separate planning strategies for each catchment, developing and running a public review process, and developing an effectiveness assessment on implementation efforts. Ecology should specify reasonable timelines for each planning element. Ecology should also give more time to jurisdictions which are larger geographically, and which have more diverse land uses within their boundaries.
5. Compounding the uncertain project timeline is the uncertainty of the timeline for the 2018 permit cycle. Will it be a five-year cycle, or shorter or longer?
6. S5.C.5.c: Please confirm that any new MS4 watershed planning requirement would replace current S5.C.5.c requirements.

Basin Inventory Process

7. Page 3, Lines 36-37. No standard methods are outlined for identifying basins or refining basin boundaries, which opens the possibility that adjacent jurisdictions could develop different and incompatible boundaries for the same basins. We also have concerns about the data source for the basin delineations (Watershed Characterization Assessment Units vs. HUC 14/16 watersheds). Different jurisdictions could potentially use different data sources to delineate basins, creating a conflict between state and federal watershed planning units.
8. Page 3, Lines 36-37. Large counties may have hundreds of basins to inventory, making the inventory extremely time consuming. Pierce County ran a preliminary analysis and determined that 244 Watershed Characterization Assessment Units intersect our jurisdiction. Limiting the basins to Puget Sound Lowland basins reduces the number to 161. Compiling data on 161 basins will be extremely time consuming, and may strain our ability to comply with the requirement within the permit cycle. Furthermore, the inventory requires compiling a great deal of information on more than a hundred low priority basins that will not have catchment plans developed in the foreseeable future. Pierce County recommends that Ecology allow jurisdictions to develop a rapid screening process to reduce the number of basins to a reasonable number (e.g., 10-20) to include in the inventory.

Basin Prioritization Process

9. Page 4, Lines 10-11. The guidance requires identifying data gaps, and developing strategies for addressing data needs. However, the guidance is unclear about how to address data gaps in prioritizing basins. Do jurisdictions need to fill data gaps in low priority basins that will not have plans developed? For large jurisdictions with many basins to inventory, filling data gaps could become a significant and time consuming workload.
10. Page 4, Lines 15-18. The prioritization process is unclear. The guidance cites the prioritization process described in *Building Cities in the Rain* and the Stormwater Control Transfer guidance, but these only provide general guidelines for prioritization. There will likely be multiple ways that jurisdictions choose to prioritize their basins, which provides flexibility to the jurisdictions, but may lead to inconsistencies among jurisdictions.
11. Page 5, Lines 19-27. The guidance recommends basins with low to moderate impairments as highest priority, and protection as a higher priority than restoration. Basins that have low to moderate impairments are not necessarily basins that will benefit rapidly from stormwater improvements. For example, less impacted areas in shellfish protection districts typically have fecal coliform as the pollutant of interest, and the planning focus would be on non-stormwater actions such as septic repairs, outreach to agricultural landowners, and pet waste management – activities that may have limited and uncertain effectiveness. Whereas, in an impaired basin, the construction of a large regional facility or retrofitting an outfall could have a rapid and measurable improvement in water quality. Less impairment does not imply easier or greater lift. Ecology should explain more clearly why jurisdictions must prioritize basins with lower stormwater impairments over impaired basins that could clearly benefit from stormwater retrofits.

Catchment Area Planning Process

12. Page 4, Lines 34-35. It is ambiguous whether the phrase “...that the permittee either has capacity to implement or can acquire the capacity to implement” refers to all of the previous activities listed, or just to education and outreach.
13. Page 4, Lines 38-39. Ecology should specify that not every catchment within a basin requires a plan. Jurisdictions should have flexibility to select catchments adjacent to a receiving water, rather than all catchments within the priority basin.
14. Pg. 5, Lines 15-21. It is unclear what level of rigor is required for analysis and planning. The guidance appears contradictory. It implies that BMP selection for long-term MS4 planning must be as rigorous as TMDLs, but also states that in some cases it may be less rigorous, and based on best professional judgment. In practice, it may not be clear what the best BMPs are within a catchment without additional data collection, modeling, and engineering, which would increase

the time and cost necessary to comply with the requirement. Ecology should better clarify the level of rigor it expects in the planning process.

15. Page 5, Line 22. Many of the strategies and actions identified in the guidance are already in place (e.g., catch basin cleaning, stormwater facility maintenance, IDDE screening, education and outreach, source control inspections, structural stormwater controls, etc.), so it is unclear how to apply these in "... a more targeted or focused manner." Ecology should explain what it means by "... a more targeted or focused manner."
16. Page 5, Line 33. It is unclear what is meant by an "effectiveness assessment." Ecology should specify the required components of an effectiveness assessment.