

Equity and Environmental Justice Ad Hoc Committee for the 2024 NPDES MS4 Permit Final Report to Ecology February 2022

Background

In October 2021, the Ad Hoc Committee on Equity and Environmental Justice (EEJ) requirements in the NPDES municipal separate storm sewer system (MS4) permit was formed. The main purpose of the committee was to prepare ideas and recommendations for Ecology regarding EEJ requirements in the Phase I and II MS4 permits that will be reissued in 2024. Another key purpose was to build and expand relationships among people in the region who are interested in EEJ and how it can be manifested in various ways.

The committee, which met three times from November 2021 to January 2022, consisted of fifteen people representing five Phase I permittees, four Phase II permittees, and three other interested parties, all of whom voluntarily joined in order to provide their input and recommendations. A list of participants is appended to this report. The co-leads for the Committee were Mary Rouborn, King County, and Bill Leif, Snohomish County.

Two guiding principles for the discussions were (1) to find as much agreement as possible, and (2) to focus on ideas that seem implementable by Ecology in the MS4 permits. However, another principle was to draw out and discuss ideas that don't fit easily in the existing permit and/or that challenge the status quo. Committee members were encouraged to present topics and viewpoints that did not fit in this mold. Early in the process we decided to focus less on achieving group consensus and focus more on articulating clear statements. After we had crafted these statements, each committee member was given an anonymous survey in which to express their level of agreement with each statement. Eight of the fifteen members responded. This method allowed us to not be overly constrained trying to achieve group consensus on any given statement, which can tend to make the statement more general. It also avoided the pressure to combine overlapping or contradictory ideas into a single statement.

The next section of this report contains the statements we developed, the results of the level-of-agreement survey, and related notes. Post-survey committee discussion of Statements 9 and 12 revealed multiple interpretations of a statement, which led either to people saying they would change their votes and/or to proposed rewording of the statement. This is discussed below.

The final section of the report contains additional comments that one or more members of the committee wanted to include in the report. These comments are included as provided and were not reviewed or edited by other members.

Statement 5: EEJ requirements in specific permit programs should consider the nature and scale of actions in a program, for example, a capital project in the Structural Stormwater Controls program versus the source control program which involves hundreds of inspections per year.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Statement 6: Ecology should require permittees to perform a self-evaluation of EEJ implementation of the SWMP, and include it in an annual report.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Statement 7: Ecology should require participation in EEJ training sessions.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Statement 8: Ecology should allow participation in EEJ training sessions to count towards compliance, which would help smaller permittees get off the ground with EEJ implementation.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Statement 9: Ecology should require both Phase I and Phase II Permittees to consider overburdened communities when planning and implementing their SWMPs and other Permit requirements in the 2024 Permits.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Related notes / comments for Statement 9

Committee discussion after the survey showed varying interpretations of the statement. Some members interpreted the statement as “the permit should generally have such a requirement” and others thought it meant “the requirement should continue to be in the SWMP Plan Public Involvement requirement.” The members present for this discussion agreed the permit should contain EEJ requirements, but that should be removed from the Public Involvement section, and instead Ecology should write EEJ requirements in specific program requirements, as is currently the case in the Public Education and SMAP permit conditions.

A related concern raised by the committee is that the Public Involvement requirement implies the desire to get overburdened communities to specifically review the SWMP Plan document. The SWMP Plan is long and most of it is not pertinent to the daily lives of most people. The feeling was that asking for review of this document from overburdened community members would actually add burden and survey fatigue to people whose burdens we are trying to reduce, and would be counterproductive to achieving equitable engagement goals. It would be better to focus on providing opportunities for input into individual SWMP actions or programs

that had a direct impact on overburdened community groups, for example, business inspections at restaurants where business owners speak English as a second language or not at all.

One committee member who works with the public, including with overburdened communities wrote this following the meeting: “I continue to hear that those in marginalized communities lack time, energy and means to engage – it does NOT mean that they are not interested. It does mean that it may not be their top priority for how they are able to invest themselves. The question back to Ecology remains, to what purpose? What is the intended result of their participation / involvement? Marginalized communities do not want government agencies to do something that simply “checks a box,” rather they want to see meaningfully ways to have their needs met. That is what Ecology needs to wrestle with related to the Permit. And what Permittees want to figure out and invest themselves with.”

Topic 3 – Identifying overburdened communities

Statement 10: Ecology should recognize that some overburdened communities are not geographically based, and are thus not well represented by a geographically-based tool like the EHD tool.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

See also Statement 1

Topic 4 – Regional efforts

Statement 11: Ecology should allow permittees to meet EEJ requirements through participation in programs or actions led by other permittees.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Related notes / comments for Statement 11

This would allow smaller permittees to leverage limited resources and take advantage of opportunities they couldn't run on their own. It also allows for regional collaboration in order to most effectively understand and engage an overburdened, marginalized, or under-resourced community that is present within multiple jurisdictions.

Topic 5 – Recognizing differences in capabilities, resources, and existing conditions among jurisdictions

Statement 12: Ecology should have a 'sliding scale' of requirements based on a permittee's resources.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Related notes / comments for Statement 12

The statement came from early discussion about "sliding-scale" requirements among permittees that reflect variable levels of resources among permittees. However, committee discussion after the survey showed varying interpretations of the statement. Some members had expressed disagreement out of concern about a lack of EEJ compliance metrics that are

Topic 6 – Factoring climate change into the MS4 permit

Statement 17: Ecology should factor climate change into permit conditions.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------------|---|---|---|---|---|---|---|---|
| Strongly agree | | | | | | | | |
| Agree | | | | | | | | |
| Neutral | | | | | | | | |
| Disagree | | | | | | | | |
| Strongly disagree | | | | | | | | |

Related comments / notes for Statement 17

The members present for the post-survey discussion that voted “Neutral” or “Disagree” were not indicating that the issue is not important, but were concerned with the ability to appropriately create NPDES MS4 permit conditions related to climate change.

Additional comments on survey statements from committee members

Statement 6: Ecology should require permittees to perform a self-evaluation of EEJ implementation of the SWMP, and include it in an annual report.

- Not to be reported annually, have a one-time assessment/report out during the permit cycle (model the stormwater planning annual report section/questions to clearly outline what permittees need to review/answer)

Statement 14: Ecology should not require each permittee to have a dedicated EEJ staff person or interdisciplinary team.

- This gets to one of the points from the Proportionality/Scaling/Tiering ad hoc committee that each new permit requirement requires a new SME which overburdens many permittees.

Other comments from committee members

Comments from the Education & Outreach Ad Hoc Committee, provided by Susan McCleary, City of Olympia

- Based on the target audience's demographic, the Permittee shall consider delivering its selected messages in language(s) other than English, as appropriate to the target audience." I'm curious if this section could be reworded to actually get at what is intended. Just translation does not always support actual behavior change. How else could this be targeted?
- Ensure targeting underserved or underrepresented communities
- Languages other than English - translation may not be enough. Need to consider cultures - transcreation.
- Some kind of language that encourages an equity and environmental justice lens be applied to audience identification and focus (targeting language may be problematic)
- Unhoused individuals or people experiencing homelessness should be added as a general awareness target audience Add "people experiencing homelessness" to the general awareness audience list.
- Language needs to be stronger to ensure equitable access to E&O materials and programs.
- There is a lack of recognition of the global impact of climate change on our work, communities and the role of stormwater or investment - what is the overall community engagement goal of Ecology's work? How can we use the power of these dedicated folks to address environmental outcomes we hope to see? Are we missing the big issue by focusing on local details, not having an overall shared goal? E.g., strategic

messaging focus: climate change - human environmental health- economic health -role of stormwater WQ and infrastructure. We could have a requirement for other skill sets: social scientists, urban planners, economists to pull the big picture together - and allow individual stormwater managers to feel successful and that they are contributing. Also - placing education on stormwater managers risks may not be the best approach for ed - we need to call out that skill set - rather than assuming anyone can be an educator. We risk traumatizing or turning off students, esp. those from underserved communities.

- Wording needs to be stronger to ensure equitable access/engagement with E&O programs. Proposed solution: Highlight overburdened communities and equity.
- Include stronger language to ensure outreach to overburdened communities
- There is inconsistent language between Phase I and Phase II permit under subject area (a). In parentheses, it says "including school age children OR overburdened communities". Is this intentional?
- Better direction on overburdened communities for jurisdiction's that have small percentage of these communities. Proposed solution: Recommendations for jurisdictions with small percentages of overburdened communities.
- Health should be added because stormwater has health impacts and overburdened communities may not see a nexus here with the above types of activities- need to be culturally aware and consider adding other examples to this list

Committee Members

| Name | Organization |
|---------------------|-----------------------------|
| Mary Rabourn | King County |
| Bill Leif | Snohomish County |
| Lisa Werre | City of Sammamish |
| Alyssa Barton | Puget Soundkeepers Alliance |
| Blaine Chesterfield | City of Mount Vernon |
| Melissa Ivancevich | City of Seattle |
| Peggy Campbell | Snohomish County |
| Kym Foley | City of Olympia |
| Lou Leet | King County |
| Piper Hanson | University of Miami OH |
| Susan McCleary | City of Olympia |
| Garrett Starks | WSDOT |
| Aislin Gallagher | Kitsap County |
| Aaron Clark | Stewardship Partners |
| Shauna Hansen | City of Tacoma |