Yakima Regional Stormwater Working Group

December 2, 2022

Delivered via: https://wq.ecology.commentinput.com/?id=T3iSC.

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

Re: Eastern Washington NPDES Permit Draft Language

Dear Municipal Permit Group,

The Regional Stormwater Group of Yakima County (RSWG) is comprised of the Cities of Selah, Union Gap, and Sunnyside along with Yakima County. The RSWG is a working group developed to assist the municipalities in achieving Stormwater NPDES Permit compliance. The RSWG along with the City of Yakima and Yakima Valley College (secondary permittee) has collectively developed a list of comments regarding the proposed 2024-2029 Phase II Municipal Stormwater NPDES permit as stated on the Washington State Department of Ecology's permit reissuance page.

Please see the attached Yakima County RSWG Comments spreadsheet.

Regards,

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cc: Matt Pietrusiewicz, David Haws, Erin Hamilton, Raul Sanchez, Kurt Shellhammer, Randy Meloy, and Jeff Morrow

Topic/Section:	Issue:	Comment:	Made By:
Regulatory Threshold Changes (Fact Sheet)	The one-acre threshold is the minimum standard set by the US EPA Phase II Municipal Stormwater Final Rule	Ecology has not made any changes to reduce the cost burden for jurisdictions. There has been no reduced level of effort. Each permit has increased cost, however it is unclear how or what requirements have had measurable impacts on waterways. Reducing the permit threshold is a major increase in requirements. Already smaller jurisdictions struggle with Permit requirements. For Eastern Washington, especially the central region its unclear how it is justified it will reduce runoff pollution in any measurable way. Already every plat requires that stormwater be retained on site. This seems like getting an equivalent bang for a lot more buck. As has been commented in multiple permit cycles, Ecology should conduct a cost-benefit analysis of new requirements, including cost to jurisdictions and the public. Do these new requirement have enough added value beyond what is already being done to justify the cost? The underlying basis for permit requirements come from federal rules that require stormwater controls on new and redevelopment. The proposed rules go beyond federal requirements. We recommend reducing or eliminate old requirements that are ineffective or less effective in preference to more effective or trying new requirements. Effectiveness studies have been going for some time. One of the	RSWG

		purposes was to measure effectiveness of permit requirements. If a study shows something to be ineffective, it should be reduced or eliminated.	
Regulatory Threshold Changes (Fact Sheet)	Reducing the thresholds to apply stormwater BMPs better captures urbanization as it is occurring than the 1-acre threshold	Some sites have less likelihood of erosion concern, hence the idea behind the idea of the erosivity waiver. Places in Eastern Washington, should be recognized as having a lower potential for stormwater polution. As a blanket rule, reducing thresholds does not necessarily better capture urbanization as it occurs. In many Eastern Washington communities stormwater BMPs have always been required for projects regardless of size. This is covered as a requirement on the face of all Platts, which requires that	RSWG

		stormwater must be retained on-site (which coincidentally is LID).	
Regulatory Threshold Changes (Fact Sheet)	these additional stormwater control measures are anticipated to better address impacts to receiving waters from changing hydrologic patterns.	Unclear how this would better address impacts. This is a threshold when jurisdictions check on BMPs, not actually BMP design itself. For small jurisdictions, this one acre threshold is already too high. Many projects are in an arid location with minimal to no impact to stormwater (it's all easily infiltrated in an area far from groundwater). This would require nearly every application to need an Engineer to design and local jurisdiction to review. Theoretically this would also require Ecology review. Does Ecology have staff to do their own review? Many jurisdictions find it difficult to comply with the current threshold being one acre.	RSWG
New Development Thresholds (Fact Sheet)	• Convert 2.5 acres, or more, of native vegetation to pasture .	This seems like a disregard for impervious surface. How would we regulate when farming practices have been eliminated from Permit?	RSWG
Redevelopment Project Thresholds (Fact Sheet)	Redevelopment is proposed to be clarified as Sites that have 35% existing hard surfaces .	Is this saying that if a site already has 35% or more of impervious surface that any additional work would always undergo review as "Redevelopment" (thus needing another engineering design and reviews)?	RSWG
Redevelopment Project Thresholds (Fact Sheet)	Road projects: • Add 5,000 square feet or more of new plus replaced hard surfaces, AND	Would this require that nearly every road replacement project would require a stormwater review, regardless if it is being replaced with identical material that was in place and had been reviewed/approved in the past? If	RSWG

		so, this is unclear how it improves water quality when essentially being replace with the same outline.	
Redevelopment Project Thresholds (Fact Sheet)	Threshold 1: I. For commercial or industrial projects: the valuation of the proposed improvements, including interior improvements, exceeds 50% of the assessed value of the existing Project Site improvements.	Looking up the assessed value for every commercial or industrial project is a major time commitment without clear correlation to how this improves water quality.	RSWG
Redevelopment Project Thresholds (Fact Sheet)	While this proposed change is significant, there are several nuances to the requirements that will direct the requirements to the types of projects that will have the most adverse impacts to receiving waters. These nuances are found in the thresholds of the Core Elements themselves. See the preliminary draft permit and manual sections for details on the proposed updates to the Core Element thresholds.	Is the expectation that those reviewing whether a stormwater plan is required would now need to know the "nuances" found in the Core Elements? This would essentially require someone very familiar with stormwater design manual to review every submittal, including when deciding when a stormwater plan is required (not just an engineer reviewing the design). Experience suggests that when development reviews have more nuance this equates to higher instances of inconsistent regulations across jurisdictions and greater confusion.	RSWG
Pavement Exemptions Clarifications (Fact Sheet)	Redevelopment work or changing the characteristic of the roadway are not considered pavement maintenance, and do not qualify for this exemption.	This seems like it would create a potential situation that roadways would be installed in the exact same place as previous roadways, but still have to go through review. This seems like a duplicate effort for no reduction in stormwater pollution.	RSWG
New Definitions (Fact Sheet)	• Hard surface means an impervious surface, a permeable pavement, or vegetated roof.	Where does gravel fall on the spectrum of hard surfaces/pervious/impervious? Why not just add this to the imperious surface definition.	RSWG
New Definitions (Fact Sheet)	The term hard surface generally replaces the use	Why is there concern when putting in pervious surfaces? That's exactly	RSWG

	of impervious surface in the project thresholds.	what LID is encouraging. Would this set up discourage LID?	
New Definitions (Fact Sheet)	Note the overlaps and shuffling of surfaces into new categories.	These overlaps will cause confusion.	RSWG
New Definitions (Fact Sheet)	1. All runoff from the impervious surface is infiltrated (i.e. calculations show that the 100-yr, 3-hr storm OR the 100-yr, 72-hr storm, whichever is larger, is fully infiltrated)	How does this tie back to science, regulations, or federal standards? How was the 100-yr storm determined as opposed to the 10-year or 25-year?	RSWG
Design Storm Standard for Full Infiltration (Fact Sheet)	Ecology proposes the 100-yr, 3-hr storm or the 100-yr, 72-hr storm, whichever is larger, as the design storm standard to describe when a project is designed so that "all runoff is considered fully infiltrated" and, therefore, not subject to Permit requirements .	Why design it different than the regulatory threshold 25-year, 24-hr storm?	RSWG
Attachment 1 (Fact Sheet)	All Permittees shall implement and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that disturb one acre or more , and from construction projects of less than one acre that are part of a larger common plan of development or sale.	This eliminates all threshold language. Isn't this even more restrictive than the proposed 5,000 square feet? This strike through occurs everwhere the one acre threshold is mentioned.	RSWG
Appendix 1	Commercial agriculture practices involving working the land for production are generally exempt. However, the conversion offrom timberland to agriculture, and the construction of impervious surfaces are not exempt.	How does this work with the conversion of natural vegetation to pasture? This was called out as "redevelopment" and "development" up in explanations above.	RSWG

Core Elemet 4.2	Seasonal Work Limitations:	Just like with an erosivity waiver being available all year for certain location (like Yakima), there is already justification of why this shouldn't apply to Yakima. The chance of erosion concerns is low year round.	RSWG
Mapping Requirements S5.B.3.a	Add requirement for standard outfall reporting to follow one of the following options to submit standard outfall location data to Ecology:	What is the due date for this requirement? Is this requirment for new facilities/pipes installed after the issuance of the 2024-2029 permit or doe this include all currently mapped facilities?	RSWG
S8-Monitoring and Assessment	Permittees would be asked to select one of the following options for the permit term, there would be no changes mid-Permit cycle.	When would the permittee need to select option? If the option chosen becomes ineffective early in the permit cycle why not let the Permittee choose a more effective path?	RSWG
IDDE S5.B.3.b.iii	Routine external building washdown that does not use detergents for buildings built before 1950 and after 1980. The Permittee shall reduce these discharges through, at a minimum, public education activities (see S5.C.11) and/or water conservation efforts. To avoid washing pollutants into the MS4, Permittees shall minimize the amount of wash water used. For buildings built between 1950-1980, routine external building washdown (without detergents) may be conditionally allowable when following pollution prevention plan guidance to address pollution from building materials that may enter the storm systems, e.g. PCB-containing building materials.	What types of buildings does this requirement include residential buldings/homes, commercial, industrial, government or all of the above? What is the Enforcement and Reporting mechanism?	RSWG

Tree Retension S8	No Later than XX/XX/20XX, Permittees shall document existing landscape canopy cover and riparian tree canopy for the permit coverage area, and document canopy change over time. No later than XX/XX/20XX, Permittees shall adopt and implement tree canopy retention/restoration objectives in order to support stormwater management and water quality improvement in receiving waters.	This requirement needs more clarification and direction on 1) What tree canopy is being tracked? Public , Private or Permittee owned and operated? Also what types of trees, not all trees improve water quality. 2) Where is the tree canopy tracked? Forrest, Wetlands, Riparian Corridors,Orchards, Residential, Commercial, etc? 3) When, what time of year? 4) How, what method is being proposed? And how do we document changes over time that would support improved water quality.	RSWG
Street Sweeping S5.B.6.a.i.(b)	No later than July 1, 2027, develop and implement a street sweeping program to target priority areas and times during the year that would reasonably be expected to result in the maximum water quality benefit to receiving waters.	The increased level of effort for the street sweeping requirement adds an extra burden to the Permittees located in central Washington due to the climate and limited rainfall totals. Many of the requirements are not applicable due to the use of UIC's and infiltration. Were findings from effectiveness studies that studied street sweeping considered when putting this together?	RSWG
Section 3 Core Elements	Flow Charts	Flow Charts are a good Addtion	RSWG