

**DRAFT “Report Card” on
Ecology’s Performance as RSMP Administrative Entity and
PRO-Committee’s Performance in Oversight Role**

For discussion at January 26, 2016 PRO-C meeting

I. Introduction

Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permittees throughout Western Washington contribute to a Pooled Fund dedicated to conducting a Regional Stormwater Monitoring Program (RSMP). The RSMP components and priority activities are defined by the Stormwater Work Group (SWG), a formal group of stakeholders. The Pooled Resources Oversight Committee (PRO-Committee) was chartered and launched by the SWG to oversee Ecology’s service as the RSMP Administrative Entity. The purpose of the PRO-Committee is to provide transparency, efficiency, and accountability of the expenditure of the RSMP Pooled Fund. Per the SWG-approved Charter, the PRO-Committee is charged with:

1. Conducting a review and assessment of Ecology’s performance as the administrative entity for the Pooled Fund no later than fall of 2017; and
2. Reviewing its own performance and making specific recommendations to the SWG as to further need for safeguards, checks and balances on the permittee majority composition; and
3. Reviewing and reassessing the adequacy of the Charter and recommending to the SWG any changes deemed appropriate.

II. Primary Functions of the RSMP Administrative Entity and the PRO-Committee

According to the Charter:

Washington Department of Ecology (Ecology) in its role as the RSMP Administrative Entity:

- (i) Administers the implementation of the RSMP according to the scope of work of the cost-sharing agreements between Ecology and permittees;
- (ii) Considers the collective recommendations of the stakeholders represented by the SWG and its subcommittees; and
- (iii) Ensures that the execution of the program and the awarded contracts to conduct RSMP activities meet the requirements set forth in cost-sharing agreements with the permittees.

The PRO-Committee:

- (i) Provides ongoing review and recommendations to the SWG on Ecology’s administrative implementation the RSMP intended to provide feedback to Ecology through the SWG regarding the schedule, scope, budget, and quality of the program’s deliverables and to provide accountability; and
- (ii) Verifies implementation of the contracts.

III. Evaluation of Ecology’s Performance as RSMP Administrator

This section provides an evaluation of each charter-specific task that Ecology as service provider has been charged with providing to the PRO-Committee, SWG, and broader stakeholder community:

1. Function, per the Charter: Ecology shall provide quarterly status reports to the Committee on the implementation of the RSMP. The reports shall include the following information:
 - A summary of accomplishments, key decisions, and budget expended by task and contractor for the previous quarter,

- A summary of planned accomplishments, key decisions, and budget expenditures by task and contractor for the next quarter,
- A description of contracts and agreements awarded in the previous quarter,
- A description of contracts and agreements planned to be awarded in the next quarter,
- A description of deliverables received as part of the RSMP in the previous quarter,
- A description of outstanding issues to be resolved, and Ecology's plan for resolving the issues,
- A description of topics for which input and advice from the SWG and/or the Committee is desired.

Evaluation: Ecology has written and distributed six quarterly RSMP budget and progress reports and posted all quarterly reports and project deliverables on the RSMP webpage. The reports include all of the information specified above. Early on, the RSMP Coordinator and SWG Lead Staff developed a draft template for these quarterly budget and progress reports and included the PRO-Committee's suggested revisions of format and content. Ecology has proceeded to produce informative reports useful not only for the PRO-Committee members but also for permittees to share with their councils.

2. Function, per the Charter: Ecology shall provide annual status reports to the Committee on the implementation of the RSMP. The reports shall include the following information:
 - A summary of annual revenues and expenditures for the RSMP by task.
 - A summary of annual expenditures by Ecology and its contractors.
 - A work plan for the next year by task.
 - Any fiscal or material issues raised by the most recent quality control review, or peer review, or by any inquiry or investigation, and any steps taken to deal with any such issues, for all of the contracted work.

Evaluation: The RSMP Coordinator and SWG Lead Staff are in the process of developing the first RSMP Annual Report. An overall summary of revenues and expenditures will be included (with reference to the quarterly budget and progress reports for detail). No fiscal or material issues were raised for the contracted work. It is not envisioned that a work plan will be provided in detail. Instead, the report is expected to focus on key RSMP findings and work ahead for each RSMP component.

3. Function, per the Charter: In cases in which Ecology for any reason chooses not to or is unable to implement the SWG's recommendations, Ecology will explain to the Committee in a timely fashion the reasons for this decision. The SWG and Ecology will use a standard conflict resolution process to work together to resolve any disagreements.

Evaluation: The RSMP Coordinator has done an excellent job of implementing SWG recommendations. The SWG Lead Staff has facilitated timely SWG discussions to provide additional necessary input, i.e., to set priorities for expenditures within the allowed budget. No disagreements have produced any need for a conflict resolution process.

4. Function, per the Charter: Ecology retains direct responsibility for the appointment, compensation, retention and oversight of the work of the contractors (including resolution of disagreements between Ecology and the contractors) for the purpose of preparing its quarterly report or related work, who shall provide reports to the Committee. The Committee will have a timely opportunity to review Requests for Proposals and Scopes of Work and compile comments on in order to support Ecology's contracting role.

Evaluation: The RSMP Coordinator has done an excellent job of seeking, gathering, and summarizing the PRO-Committee members' input on contracting decisions and reporting on Ecology's contracting actions.

The charter also specifies that Ecology as service provider will provide the PRO-Committee with staff support. Ecology staff have scheduled, organized, and led eleven, two-hour, PRO-Committee meetings. Meetings have been held more than quarterly since the PRO-Committee's inception. The RSMP Coordinator and SWG lead staff prepare draft agendas in advance for review and revision by the PRO-Committee chair and vice-chair. The final agendas have been circulated a week in advance. Summaries have been provided within a couple days of each meeting and posted on the webpage.

Since the RSMP was launched, the RSMP Coordinator and SWG lead staff have entered into more than 17 contracts with local, state, and federal agencies to conduct RSMP studies – with more coming. This is a tremendous start-up work load and the PRO-Committee lauds the RSMP Coordinator on the overall effort.

IV. Evaluation of PRO-Committee Performance in Oversight Role

This section provides an evaluation of each charter-specific task that the PRO-Committee is charged with:

1. Function, per the Charter: The Committee will review Ecology's quarterly and annual reports.
Evaluation: The PRO-Committee has reviewed all RSMP budget and progress reports to date. The first several quarterly reports were reviewed in advance of finalization. Since the system was put in place and the format finalized, the PRO-Committee has reviewed and discussed these reports following their release and publication on the webpage.
2. Function, per the Charter: The Committee will provide quarterly reports to the SWG.
Evaluation: The PRO-Committee has a standing SWG meeting agenda item devoted to this business need. The PRO-Committee Chair (or Vice Chair) and RSMP Coordinator present the quarterly reports and more recent RSMP implementation, results, findings, and related information at each meeting. SWG meetings occur five times per year.
3. Function, per the Charter: The Committee will provide routine feedback to Ecology on the information provided in the quarterly and annual reports.
Evaluation: The PRO-Committee provides feedback to Ecology not only on the quarterly and annual report contents but on the other issues raised by the RSMP Coordinator and SWG Lead Staff. In late 2014 and early 2015, the PRO-Committee delivered a "lessons learned" to the SWG for discussion. As part of ongoing implementation of the RSMP, the RSMP Coordinator has continued to implement the lessons learned.
4. Function, per the Charter: The Committee will forward to the SWG any findings or recommendations for addressing any identified issues with implementation of the RSMP, including recommendations for addressing any cost overruns.
Evaluation: The PRO-Committee forwarded initial budget estimates and recommended priorities for Status and Trends Monitoring to SWG for guidance and direction of Ecology's contracting actions.
5. Function, per the Charter: All Committee votes will be taken in a manner that allows for all members to confer with their caucuses and, if necessary, to receive feedback from the SWG's technical subgroups. Voting may be conducted by email following discussion at a regular meeting in order to allow for this to be done in a timely fashion. All Committee votes will be posted on the website for openness and transparency.
Evaluation: The PRO-Committee has held few "votes" and thus far has operated by consensus. Where more information and/or a collective stakeholder decision has been needed to reach a decision (as for determining priorities for the Status and Trends Monitoring expenditures), input from the SWG has been sought. In order to conduct its business efficiently and in a way that allows more external input to the process, the PRO-Committee has:
 - a. Directed the RSMP Coordinator to identify project liaisons to provide additional technical review and oversight for each RSMP effectiveness study. The project liaisons review contract

scopes of work and provide the RSMP Coordinator with deliverables review prior to approval and payment.

- b. Decided to conduct some of its business reviewing and approving contract scopes of work via email. Where consensus is provided, the RSMP Coordinator implements the decision reached in this manner. Where comments are in conflict or when questions are raised, action on the topic is delayed to the next PRO-C or SWG meeting as appropriate.

6. Function, per the Charter: If the Committee is unable to reach consensus on recommendations or findings, then majority and minority opinions may be presented, with notation as to which caucuses are represented by each opinion.

Evaluation: So far, the PRO-Committee has not needed to document majority decisions and minority concerns, but will do so in the future should the need arise.

7. Function, per the Charter: Any Committee member associated with an applicant for any proposal must recuse himself/herself from all recommendations relating to award and review of that contract, and oversight of the work performed if the application is selected.

Evaluation: The PRO-Committee members associated with contracts under discussion have recused themselves from decisions. It has been helpful to have members who participate in conducting the monitoring to help other members understand issues as they arise.

8. Function, per the Charter: At Ecology's request, the Committee may assist in hearing appeals on contract award decisions.

Evaluation: Ecology has not requested any assistance of this type.

9. Function, per the Charter: The Committee shall review and discuss any findings of the State Auditor pertinent to administration of this program as found in the course of their regular audits of Ecology.

Evaluation: The PRO-Committee has not received any reports from the State Auditor.

The charter also specifies that the PRO-Committee members will ensure stakeholder balanced discussions and communicate with the broader stakeholder community. The charter specifies that PRO-Committee members formally communicate with their caucuses and other interested parties no later than two weeks following each meeting. It is unknown to the RSMP Coordinator and SWG lead staff whether or how each member has engaged in this communication.

To date, the PRO-Committee has had few meetings without all designated seats at the table filled. The PRO-Committee successfully welcomed several new members, utilized member alternates, and transitioned to a new Chair during its first year of existence. The members have met more often as needed and conducted some business via email to support the RSMP Coordinator's need to move contracts through Ecology's system. The PRO-Committee members have come to agreement on all decisions, and have asked the SWG for more input when needed and/or appropriate.

V. Recommendations

The current charter of the PRO-Committee expires in fall 2018. The charter should be updated by the PRO-Committee based on "lessons learned" during the start-up and implementation of the first round of the RSMP. The updated charter should be renewed and approved by the SWG in 2017.

The size and membership of the PRO-Committee are balanced, appropriate, and functional. The charter updates can include specific direction to assist members in communicating more frequently with their caucuses and other interested parties.

Ecology should continue to serve as RSMP Administrator for future permit cycles. The RSMP Coordinator is performing well above expectations and has been implementing lessons learned throughout the process of launching and conducting the monitoring activities.