

The City of Federal Way has reviewed the Draft Western Washington Phase II Municipal Stormwater Permit and has the following comments:

Comment:

Given the current economic climate coupled with severely reduced budgets moving forward and stagnant development/redevelopment, stormwater protections provided through the current permit should not be expanded in the near future. The City Of Federal Way requests that implementation of the new NPDES Permit be delayed until 2015 and that the current permit continue to be enforced until then.

Alternative:

Implement the new permit in 2015 rather than 2013.

Comment

The proposed Regional Stormwater Monitoring Program (RSMP) should be significantly restructured to reduce scope and thereby cost.

Discussion

The proposed (RSMP) far exceeds, both in scope and cost, what is contemplated by the EPA for the next NPDES Phase II Permit. The EPA contemplated “limited” monitoring by a limited number of Phase II jurisdictions for the upcoming permit. The stormwater monitoring group’s (SMG) recommendation is not commensurate with the EPA’s intent and should therefore be significantly scaled back or eliminated.

While the Pollution Control Hearings Board (PCHB) has weighed in on requiring a monitoring element in the next permit round, it has not reviewed, approved or endorsed the 2010 monitoring recommendations from the SMG. Neither the PCHB nor the EPA is mandating that monitoring requirements of the proposed magnitude be undertaken and it is troubling that Ecology has essentially taken the SMG recommendation and made it part of the draft permit. The City Of Federal Way feels that there are numerous points of concern raised by the proposed RSMP; they are as follow:

- No cost benefit analysis has been performed to justify the proposed program and it is highly unlikely that such an analysis would support such a program. The RSMP is an overreaching effort that has no well defined outcomes that would benefit the stormwater programs of contributing jurisdictions.
- As proposed, the Permit is being used as a taxing mechanism to fund a program that is not consistent with what the EPA contemplated for the next NPDES Phase II Permit. The City Of Federal Way does not believe that the EPA intended the Permit to be used in this manner.

- Stormwater fees are collected within jurisdictions to address the impacts that the users have on the local MS4. It is tenuous at best to make an argument that using these fees to support regional programs, which may or may not benefit the funding jurisdictions, is a prudent/legitimate use of rate payer's funds.
- Contrary to Ecology's stated goals for the permit monitoring program, the RSMP Status and Trends approach fails to provide adaptive management information for stormwater utilities. If any meaningful data is derived from this program, it will not be available for "adaptive management use" for at least two permit cycles, which translates to \$6 million spent and 10-years time. This is not acceptable.
- Extensive stormwater monitoring and characterization has already been conducted throughout Western Washington and continues to be performed by various State and Federal Agencies. Nothing compelling has come from the existing data that might be used to justify implementing an even more extensive monitoring program, especially in light of the current and projected budget cuts that many jurisdictions face.
- The proposed Effectiveness Studies seek to answer questions and address issues that for all practicable purposes have already been thoroughly vetted. Further investigation, at a cost of up to \$450,000 per study, is not justifiable.
- Development of an Illicit Discharge Detection and Elimination (IDDE) Manual for Western Washington is unnecessary. Guidance/information to assist in the creation of an IDDE program is already widely available, which is fortunate since the current Permit requires that all Phase II jurisdictions have an IDDE program in place. Expending limited resources to bind existing/readily available IDDE guidance and information into yet another manual is not justifiable.
- Neither the development of a QAPP library nor the creation of an IDDE data base should be included in the NPDES Permit as these requirements fall outside of the original intent of the Permit. Inclusion of such tasks calls into question the purpose of the permit. Is the permit now being used as a program funding mechanism in addition to a practical tool/set of guidelines to help minimize stormwater impacts?

Alternative

The proposed monitoring program should be dramatically scaled back as follows:

Status and Trends Monitoring should be performed by each jurisdiction on a scale that is manageable.

- Ecology develops the monitoring QAPP and establishes the protocol for site selection for the program.

- Jurisdictions will be responsible for determining how to best accomplish the requirement and would provide all monitoring data to Ecology in a standardized format.

The effectiveness monitoring requirement should be eliminated from the monitoring requirement altogether.

- Proposed effectiveness studies should be eliminated from the permit. If these studies continue to be considered invaluable, then they should be funded through an alternative mechanism. It is suggested that MOTCA funds be used to selectively fund the most promising studies, rather than distributing these funds by way of capacity grants to jurisdictions.

Stormwater discharge monitoring should be eliminated from the permit.

- Stormwater discharge monitoring, is required under the current proposal only if jurisdictions opt out of the RSMP effectiveness monitoring and is clearly being used as a tool to discourage opting out. DOE desires that all jurisdictions participate in the RSMP, and if they do, no stormwater discharge monitoring would be conducted within the region.
- Stormwater discharge monitoring has been shown to be extremely expensive, difficult to perform and the data produced has provided little to no new insight for stormwater management programs.

The Diagnostic Monitoring Information Repository requirement should be eliminated.

- All phase II jurisdictions should have their IDDE programs in place and operational based on current permit requirements. If this is not the case, it is not the responsibility of the collective to enforce or enable this to happen; it is solely the responsibility of Ecology and the permittees.
- A wealth of information on IDDE program creation, implementation and operation is already available on line. There is no need to recreate/repackage this material.

Comment

Option 2, the “opt out option” must be revised such that it becomes a truly viable option for jurisdictions to choose. As it stands, Option 2 is not a fair and equitable alternative to Option 1, rather it is a disincentive for jurisdictions to undertake their own monitoring programs.

Discussion

Option 2, is structured to be fiscally and operationally punitive if selected by jurisdictions. The level of effort, costs and tasks required under Option 2 are significantly more onerous than the RSMP option. It seems that Ecology does not intend to truly offer jurisdictions a choice of opting out. There are indications that many jurisdictions will go along with the RSMP not because they expect their programs to benefit or that it makes sense, but rather because it is the least cost option and the permit requirement can be made to go away by cutting a check. It is extremely disconcerting that this approach was even allowed to get into the draft permit.

Alternative

Option 2 should be revised as follows:

Status and Trends Monitoring

- Jurisdictions should perform the same amount of monitoring that they would otherwise pay for under the RSMP. No more, no less.

Effectiveness monitoring

- All jurisdictions should be given the opportunity to perform or contribute through in-kind services to effectiveness studies in order to meet their permit requirements. The stormwater monitoring element should be eliminated completely, unless it is also made part of the RSMP.

Source Identification and Diagnostic Monitoring Information Repository

- No change

Appendix 10, Contractor Tasks:

Comment:

Option 1 and Option 2 are both intended to be subject to the program schedule outline in appendix 10, pg 5-6?

Action: Clarification.

Appendix 10, pg 6, 1.b.ii:

Comment:

Under the RSMP, jurisdictions will be paying to train consultants to perform this work. Why are we paying consultants/contractors to educate themselves on work that they are presumably already qualified to perform?

Action: Please clarify the intent of this task.

Suggestion: Eliminate “training” time within this scope. Consultants and contractors should be qualified and well trained at the time they submit bids to perform the work.

Appendix 10 (pg 5-6)

Comment:

From 2014 thru 2015 Ecology’s consultant will prepare to conduct status and trend monitoring, during 2016 the consultant will analyze stream flow data and prepare the data management system. In water years 2017 and 2018 Ecology will actually be conducting status and trend monitoring. According to the Draft permit, those jurisdictions that opt out of the RSMP are required to start status and trend monitoring no later than July 2014. It is unclear if the local jurisdiction will be held to the same schedule as the RSMP, if not; there would be a serious inequity.

Action: Please clarify.

S2. Authorized Discharges, Paragraph B, line 2:

Comment:

It is unclear when a firefighting activity stops being an emergency. Who determines this?

Action: Clarification is needed on when the firefighting activity stops being an emergency.

S2 Authorized Discharges, Paragraph C:

Comment:

Given the language in paragraph C, is the fire department responsible for cleaning the downstream conveyance system should fire flows runoff into the MS4?

Action: Please clarify

S2 Authorized Discharges, Section F, Paragraph 3d:

Comment:

It is not clear what point extra reporting is no longer required.

Action: Please clarify what conditions must be met to preclude additional reporting.

Section 5.A.5.C.3.a.viii

Comment:

Under current law, public records are made available upon request, and appropriate cost recovery is allowed. There is no need to include this requirement in the permit as it is redundant.

Action: Remove the paragraph from the permit entirely.

Section 5.A.5.C.3.b.vi

Comment:

It is unclear what the purpose of this paragraph is. The ordinance(s) and or other regulatory mechanisms referred to in this paragraph should already be in place within all Phase II jurisdictions covered under the current permit. If they are not, then the matter should be addressed solely between Ecology and the out of compliance jurisdiction. Additionally, it seems that resolution should happen well before the Feb 2, 2018 date offered up in the draft permit language.

Action: Remove this paragraph from the permit entirely.

Section 5.A.5.C.3.d.iv (last paragraph)

Comment:

All illicit connections to the MS4 shall be eliminated should be changed to All known illicit connections to the MS4 shall be eliminated