

Western Washington Municipal SW Comment
Mr. Bill Moore
WA Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

RE: City of Bothell comments on the First Preliminary Draft of the Proposed Municipal Stormwater National Pollution Discharge Elimination System General Permit for Western Washington Phase II Small Municipal Separate Stormwater sewer Systems

Dear Mr. Moore:

The City of Bothell has reviewed the First Preliminary Draft of the Phase II NPDES permit. The following comments have been generated from that review, attendance at Ecology sponsored meetings and meetings/discussions with stormwater managers across Puget Sound. The City shares many of the same concerns expressed by other Phase II jurisdictions and concurs with the comments sent to you by the Association of Washington Cities on our behalf. The following comments reflect the consensus that the draft permit goes well beyond the 6+2 requirements that were required in the City's NOI and supported by the Phase II advisory group in 2003 and that the permit as written will not improve water quality in Puget Sound.

1. The draft as written has significant issues that should be addressed before the permit is issued. Our primary concern is that Ecology is transferring their responsibilities for assessing BMP effectiveness and receiving water trends onto local jurisdictions. This is being done in a manner that doesn't lend itself to efficient gathering of regionally useful data. This promotes a disjointed effort resulting in excess staff time and funds being spent Ecology needs to accept responsibility for these activities which should be funded by the state or a surcharge on Phase I & II permittees. An oversight committee formed from permittees should work in conjunction with Ecology to develop the monitoring plans and identify expected outcomes (data gaps that will be filled) by each study before it is undertaken. The resulting data should be available to all permittees and used for adaptive management decisions.
2. Monitoring and reporting requirements are sprinkled throughout the document. After Ecology removes the monitoring requirements that are state responsibility, the remaining monitoring requirements should be consolidated under the S6 Monitoring heading for consistency. Please refer to the letter and attachments presented to Mr. Jay Manning by the Association of Washington Cities and representatives from the Phase II permittees on August 18, 2005 for an example of what the monitoring section of this permit should look like.
3. Reporting requirements should be limited to documents that Ecology will review and use in combination with other jurisdiction's information to provide Phase II permittees with adaptive management options. Any reporting requirement that adds costs but will not be reviewed by Ecology **and** does not contribute directly to the regional knowledge base needed to improve water quality should be removed. The map submittal requirements and the cost tracking reports are examples of requirements that should be removed.

4. Phase II permittees are paying for coverage under this permit. We do not have coverage if the Department of Ecology has not reviewed and approved the documents they are requiring us to develop and or submit under the permit. In effect Ecology has shifted their liabilities onto local jurisdictions and then failed to provide adequate coverage to those jurisdictions in the form of review and documented approval of each permittees required program elements. The Department of Ecology should define compliance in a way that is clearly attainable and only require documents from jurisdictions if they can guarantee staff will review and approve them.
5. Sections of the Ecology Stormwater Management Manual for Western Washington are included in this permit in a manner that requires permittees to refer to the entire manual. The manual is to be used for guidance only, having never gone through public review and a cost benefit analysis. Therefore the references Ecology chose to include in the permit should be specific references to an individual practice or standard that may or should be applied.
6. The requirement to mitigate redevelopment to forested conditions creates a “taking” concern. This is clarified in the letter to the Department of Ecology from the Association of Washington Cities. This condition adds an additional cost burden on developers which in turn creates a barrier to development under GMA. Redevelopment will require greater retention and improved water quality facilities. If more stringent requirements need to be placed on a particular site to rectify an existing flooding or water quality issue the City has the ability to implement said requirements. This significant disincentive to redevelopment and concentration of growth in urban areas should be removed from the permit.
 - Replacing surcharging pipes with larger diameter pipes is a maintenance activity. If no additional drainage is being directed to an existing outfall then it should not be defined as a “new” outfall. This language should be changed to clearly eliminate pipe replacement from the new discharge definition.

In addition to the above general comments a list of detailed comments following the outline of the draft permit are attached. If you have questions or comments, please contact I Maureen Meehan, Surface Water Coordinator at (425) 486-2768 ex: 4425.

Sincerely,

Dave Zabell
Director of Public Works

MCM/

cc:

Detailed comments by section:

S3C - This is an odd place for this requirement. It should be up in the general conditions.

S1 - sections B & C should be combined, identifying only the organizations which need to be covered. Listing information about additional organizations is too confusing.

S2 - Not exempting firefighting training may cause risk to human health and the environment from under skilled firefighters. This requirement should be phased in.

S4 - TMDL –The timelines should be different for TMDLs approved after the issuance of this draft to allow City a reasonable amount of time to develop a QAPP under the new clean up plans. The QAPP requirement for TMDLs should be in the TMDL not in the permit. That way they can be individualized for each TMDL.

The detailed map requirement should not be required unless they are going to be used by Ecology. Jurisdictions should report that they have the information available in a format that the jurisdiction can use. The information can be verified by Ecology during their audits. Our GIS data is in a slightly different format that the states guidelines. Our GIS staff reports no problems exchanging data with other local municipalities but doesn't have the staff or expertise to determine if changing our data into Ecology's required data would result in mapping errors. We are questioning why Ecology needs this data and how it will be used, if at it will be used at all.

S4C - The QAPP requirement should be listed in one spot and no different than other monitoring QAPPs. This section would be better included in the monitoring section.

S4C1 – The monitoring plan should be submitted in only one format. Electronically saves paper and is efficient.

S4C1a-f - Does this refer to the monitoring plan or the QAPP. It sounds like a QAPP.

S4C1g - There should only be one QAPP for each TMDL.

S4D - should be changed to read: TMDLS that are approved by EPA after this permit is issued, the Department of Ecology incorporate by reference into the permit at the time the permit is being renewed. There is already a significant amount of work for municipalities in this permit. In order to set budget and meet the requirements already set forth, the permit should not be altered after approval, especially during this first permit cycle.

S5A - Compliance with the permit should be defined by compliance with the program set out in.S7. There are too many variables contributing to municipal stormwater to expect it to meet state water quality standards at this time.

S5B – This is confusing. Does this mean it is a requirement to retrofit existing systems? Please clarify. If not, spell out that retrofit is not a requirement of this permit.

S5C - As stated previously. Installing larger drainage pipes to reduce flooding should not be considered a new discharge. This does not help municipalities meet the intent of the clean water act or this permit. Please clarify this issue and set criteria for exemptions.

S6. - Some limits and parameters should be included to indicate what this plan should look like. The present language is too broad and general. Monitoring should only be for permit obligations and not include requirement for activities that are Ecology's responsibility.

S7 – All the tracking requirements in this section should be pulled out and included in the monitoring section.

S7A3 - If ecology wants a specific format for a SWMP they should provide an electronic form that makes it easy to see what needs to be filled in and what the deadlines are. There are so many activities outside of S7 (TMDL, Monitoring, Reporting) that make this task unreasonable. This document should serve as the basis for reporting and organized in the same manner.

S74a - The requirement to track costs is not productive and does not contribute to improving water quality.

S7C1ai - The requirement for reach all audiences needs to be clarified. This requirement leaves us out of compliance if we miss one small group that may be a non contributor to pollution and yet could cost us thousands in lawsuits. This should be re-written for the jurisdictions to decide who their audiences are.

S7C1aii – Stewardship programs should not be required of each jurisdiction. Few people get involved in these activities which cost a substantial amount of money for little or no water quality benefit.

S7C2a - All issues such as this permit are brought to the Council utility committee and our City Council as a whole. Public involvement should be further clarified to be sure sure our definition is the same as Ecology's.

S73 c. A better definition of a water body is needed. According to the Ecology presentations they are very small areas, however the size is not clear in this definition.

S73 d – Is Ecology going to offer training? How do we know it is appropriate unless it has been approved by Ecology. This is another instance of not having proper coverage from this permit.

S74 – This section is full of references to the Ecology stormwater manual that need to be cleaned up.

S74c – The requirement to identify the responsible party is not workable as defined. The responsible party is identified in the permitting process and varies from project to project. This is not the kind of information that would be written into an ordinance.

S75j – S10 Record Keeping section does not exist.

S8 – This is duplicate information. Simplify the permit by not repeating information.

S9B3 – This is waste of time and money. There is no benefit, consistency in interpretation, documentation or reporting. It should be removed from the permit reporting requirement. If Ecology would like a one time estimate and provide guidance on how to calculate this, permittees may be able to offer some useful information.

S9B5 – This should not be required unless it will be reviewed, analyzed and compiled into a report that is available to permittees.

S9B6 – If we chose it from the Ecology manual, it is appropriate. There is no need for assessment.

S9C – Appendix 8 does not exist. The comment period should be extended until all documents are available for review.

General Conditions. All these conditions should be in the sections within the permit where they apply. There is monitoring information and discharge information. It is very confusing to have this thrown in at the end of the permit and be forced to try to incorporate it back to an appropriate section.