

Proportionality/Scaling/Tiering and Permit Requirements

White Paper

Co-Leads: Melissa Ivancevich, Melissa.Ivancevich@seattle.gov
Diane Hennebert, dianeh@cityofanacortes.org

This report contains issues identified by and recommendations of the Proportionality/Scaling/Tiering and Permit Requirements (Proportionality) ad hoc committee.

The Proportionality committee convened to examine requirements within the Western Washington municipal stormwater permits (Permits) that were disproportionately difficult to achieve for jurisdictions, based on a variety of economic and land use characteristics, and to provide recommendations that will alleviate some of those disparities.

Desired Outcome

The Proportionality committee first assessed concerns regarding the existing Permits. A common theme raised was that as new requirements are added to future reissued Permits, permittees would like the Washington State Department of Ecology (Ecology) to take into consideration the timing of the new Permit requirements and encourage menu options and/or regional programs to allow jurisdictions to achieve desired outcomes in a manner that allows their stormwater management programs to support and reflect their individual jurisdiction's characteristics.

In addition, committee members encourage Ecology to consider whether some aspects of the Permit may realize improved outcomes if deployed at a regional level scale instead of a municipal one.

Background/Rationale

The Proportionality committee identified shared concerns regarding Permit structure, clear guidelines and resources for Permit compliance, and how different Permit programs affect each other.

Under existing Permit language, compliance can be much more challenging for jurisdictions with fewer resources and smaller ratepayer bases. Complying with some requirements (specifically mentioned were source control and social marketing) requires a subject matter expert not typically found in the stormwater field. For jurisdictions with few staff and limited resources, developing and executing new programs can be challenging. Expecting new programs that require highly specialized knowledge to result in enduring water quality outcomes is unrealistic. As new Permit requirements are added with each permit reissuance cycle, the strain increases to create and deploy new programs requiring specialized knowledge while at the same time maintaining the high level of service required to implement existing programs effectively. As stormwater programs continue to broaden in their scope, the Proportionality committee recommends that Ecology look at opportunities for permittees to select from a menu of programs that best reflects and suit their jurisdiction's characteristics and needs to support improved outcomes in meeting the Permit's desired goals at a regional and/or jurisdictional level.

New requirements within the Permit cycle often have coincident timing. In small stormwater departments this creates a workload challenge. As an example, in the current Phase II permit the lead

time for SMAP and Source Control are overlapping. These are large items to move forward simultaneously while also balancing the other program requirements of the Permit.

Options

Two strategies that the Proportionality committee proposes include the addition of more menu options and increased compliance pathway opportunities to meet Permit requirements through participation in regional programs.

Menu Approach

Using a menu approach for Permit requirements provides the opportunity to build a stormwater program that best optimizes outcomes while meeting the needs of a jurisdiction. The committee agrees that a data driven approach should be used in determining the appropriate menu item selection. The Permit's prescriptive program management approach that treats all jurisdictions the same, regardless of their underlying characteristics, leads to inefficiencies, continued promotion of environmental disparities, and poorer outcomes overall. By providing menu options each permittee has the ability to build a customized program that can best support the characteristics of their jurisdiction.

Some of the ideas proposed that support the menu option include:

- Allowing jurisdiction's predominated land use characteristics (e.g., bedroom communities vs those with more commercial industrial development), MS4 system type (e.g., open, closed, combined), and receiving water conditions dictate menu option selection and program emphasis
 - Potential to use data gathered and assessments used during the SMAP process as the basis to support selection of menu option selected.
 - Jurisdiction with large commercial/industrial areas get a "bigger bang" for the buck from implementing a source control program vs. a bedroom community.
 - Education and outreach; stewardship
- Implications for Phase I counties' greater Permit geographic scope (e.g., incur increased travel times, more TMDL-related obligations, greater land use variability).
- Implications for Phase II counties whose Permit's geographic scope is disjointed (e.g., incur increased travel times, SMAP, and SSC should it become an obligation in the Phase II permit).
- Implications for economically constrained jurisdictions (i.e., small ratepayer base), particularly program area fixed costs and acquiring subject expertise proves cost prohibitive.

The Proportionality committee pointed to the Permit's existing catch basin cleaning alternative as a step towards menu options that are supported by permittees. The committee would like to see an expansion of menu options in the Permit.

Regional Programs

Regional programs offer many benefits for both permittee stormwater programs and regional efforts to improve water quality. Regional programs provide the opportunity to provide consistent messaging and practices across a larger geographic region. Regional programs also aid permittees in leveraging collective resources which is particularly beneficial for jurisdictions whose resource base doesn't support the staffing levels and inhouse expertise necessary to easily meet the Permit's expanding program requirements.

Several large-scale regional programs exist in the south Puget Sound region (e.g., STORM, Local Source Control). The committee discussed expanding these programs to cover a wider geographical area (ideally western Washington) and allowing a pay-in approach to offer jurisdictions with fewer resources a choice to access the benefits a much larger program can offer than they can administer on their own. Some program area candidates identified include:

- Expanding STORM for meeting education and outreach requirements.
- Develop regional source control program agreements across jurisdictions.
- Implement behavior change strategies across an entire region, meeting the social marketing requirement as a group.
- Regional decant facilities

The Proportionality committee felt it was very important to provide a meaningful choice for opting in or out of a regional program. Opting out should not impose punitive implications to jurisdictions who see greater benefit in implementing their own programs. Other aspects of the long-term operational success of regional programs included determining an appropriate payment contribution schedule, addressing volunteer fatigue, and devising ways to support active participation in regional groups by permittees that have small staffing levels.

Conclusion

The Proportionality committee strongly recommends that future Permits include a greater variety of options for achieving Permit compliance. Not only does this provide the opportunity to tailor stormwater management programs to the needs of the watersheds and the communities, but it also allows for jurisdictions to build the strongest and most effective program possible with the resources available to them.