

## **2024 Western Washington Municipal Stormwater General Permit Reissuance Ad Hoc White Paper: Total Maximum Daily Loads (TMDLs)**

The TMDL Ad Hoc Committee convened in October 2021 and met five times to prepare this white paper. The paper strives to provide thoughtful input to Ecology to help inform development of the reissuance of the 2024 Permits.

The TMDL Ad Hoc Committee members include:

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Amanda Royal	City of Bothell
Dana Zlateff	City of Everett
Paul Marrinan	City of Puyallup
Ken Gill	City of Shelton
Aislin Gallagher	Kitsap County
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Elsa Pond	WSDOT
Jenna Friebel	Skagit Drainage and Irrigation District Consortium
Eleanor Hines	North Sound Bay Keeper

The TMDL Ad Hoc group believes improving foundational clarity in process, as well gaining clarity as to Ecology staff’s various roles and responsibilities in these processes will provide mutual benefits and improve long-term outcomes. This white paper categorizes four themes and provides recommendations for each.

### **Standardize and Documentation Process(es)**

Processes surrounding development and deployment of Washington State’s Total Maximum Daily Load (TMDL) and associated water quality cleanup plans remain largely unknown to the regulated community. Our experiences reveal that Ecology employs a decentralized approach, whereby their regional offices administer many of these related programs independently. Perhaps this explains why MS4 Permit-related Appendix 2 actions can vary substantially from WRIA-to-WRIA and jurisdiction-to-jurisdiction regardless of whether the pollutants arise from similar situations/settings. The Ad Hoc group requests Ecology to address the following:

- a. Standardize, document, and convey Ecology’s process for selecting applicable water quality cleanup plan actions for inclusion into MS4 Permit Appendix 2 required actions.
- b. Provide guidelines (i.e., fact sheets, templates, BMP menus) for TMDL writers with the aim of standardizing, by MS4 cause/effect types, actions for inclusion in TMDL water quality cleanup plans and consideration for Appendix 2.

- c. Provide opportunities for stakeholder engagement and involvement to help inform TMDL and water cleanup plan development priorities, especially those where MS4 discharges have been identified as a pollutant source.
- d. Provide opportunities for MS4 Permittees and stakeholders engagement and involvement in the development of the MS4 Permit's TMDL-related obligations in advance of the release of the MS4 permit public review draft.
- e. Establish a policy which sets the timeframe for Ecology response for TMDL-related documents submitted by Permittees for Ecology's review and approval by which the absence of an Ecology response within that specified timeframe results in the submittal's presumed approval.
- f. Clarify ongoing TMDL-related programmatic obligations that don't sunset (e.g., operations & maintenance) vs. those that are more discrete in time and space with a specific endpoint (e.g., installing a prescribed stormwater capital facilities project). This information has value for informing Permittee's planning, program development, and budgeting in deploying these actions.
- g. Post-Permit issuance, convey the process for Permittees to engage Ecology staff on existing TMDL-related obligations during the current permit cycle, including the applicable Ecology point of contact(s).
- h. Document and communicate the approach MS4 Permittees should take to translate fecal coliform-related MS4 permit obligations to E. coli.
- i. Establish guidance and end targets on when an Appendix 2 action can stop end vs. those considered ongoing in nature which is critical for permittee program planning and funding decisions.

## Roles and Responsibilities

Communicating clear roles and responsibilities for Ecology staff would mitigate some of the continuity challenges created by staff turnover and the inherent case-by-case nature of TMDL development and implementation.

- j. Clarify and communicating roles and responsibilities within Ecology from TMDL prioritization through development, permitting, implementation, and effectiveness evaluation.

## Unsubstantiated Variability in Appendix 2 Actions

Some Appendix 2 requirements unjustifiably vary from WRIA to WRIA for identical or very similar circumstances. Not only can the level of effort often vary for the same pollutant parameter sources, but the Appendix 2 actions also can vary from jurisdiction to jurisdiction within the TMDL's WRIA.

- k. Include consistent Appendix 2 actions for like causes/effects situations (i.e., pollutants and their sources) as described in the TMDL's water quality cleanup plan.
- l. The proportionality of the permittees' Appendix 2 actions should take into consideration the Permittee's MS4 contributing area relative to the water quality implementation plan's identified MS4-related sources.
- m. To avoid redundancy, only actions that go beyond the MS4 Permit's existing S5 program requirements should be candidates for inclusion in Appendix 2.

## TMDL MS4 Nexus

While some Appendix 2 actions focus on MS4 discharge-related sources within the Permittee's control, other actions do not have such a nexus (e.g., receiving water monitoring regardless of MS4 source contributions).

- n. Ecology MS4 Permit staff, in collaboration with TMDL writers, should work closely in determining the appropriateness of the TMDL-related obligations considered for inclusion in the MS4 Permit.
- o. Appendix 2 actions need to: 1) have an established tie to the permittee's MS4 ownership and operational responsibilities; and 2) address the Permittee's MS4 discharge(s) impact(s) on the TMDL's water body impairment.
- p. Only consider TMDL monitoring-related requirements for inclusion in Appendix 2 in instances where MS4-related discharges were identified as causing or contributing to the waterbody's impairment in the TMDL's water quality cleanup plan.<sup>1</sup>

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<sup>1</sup> For example, it's appropriate to consider the inclusion of source tracing-type monitoring in instances where the pollutant source discharging from the MS4 was unknown at the time of the water quality plan's development. However, characterization, status & trends, and TMDL cleanup effectiveness monitoring should occur at the discretion of the Permittee when they determine it's in their interest to help support Ecology's Environmental Assessment Program's roles and responsibilities in these areas.