New CSO Permits Stakeholder Questionnaire

Suggested Conditions for CSO Permits

New permits will contain specific permit conditions for the next five-year permit cycle that will reflect unique elements of each permittee's respective LTCP. These new permits will also contain general provisions that will apply across all permittees. For each category below, charge questions have been provided to solicit feedback to guide stakeholder discussions.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue. Once DWQ collects this information, future stakeholder meetings will be scheduled.

1. Name *

Chris Sturm
Managing Director of Water Policy
New Jersey Future

2. Organization if applicable

New Jersey Future

3. Email *

Csturm@njfuture.org

4. Would you be willing to present your ideas at a stakeholder meeting for discussion? *

- ( ) Yes
- (•) No
- ( ) Maybe, please contact me with more information.

5. What time of day would you prefer to attend an online meeting run by the DEP on or around December 1, 2021? *

- ( ) Daytime (between 10:00 am and 4:00 pm)
- ( ) Evening (between 6:00 pm and 8:00 pm)
- (•) No Preference

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Public Engagement

DWQ has received feedback over the development and roll-out of the 2015 CSO permit concerning public engagement. Advocates have expressed strong support for continuing some form of public engagement in the next permit cycle.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.

Goals and Purpose:

The 2015 permit had conditions for public engagement (see language appendaged to the end of this questionnaire) mainly aimed at informing the public about the development of long term control plans and seeking input from the public throughout all phases of the development of the long term control plans.

Given this information, what should be the purpose and goals for public engagement in this upcoming permit cycle?

1. Suggested Permit Requirement and Why:

Concern: Our general concern is that in most CSO communities very few members of the public have not been informed, engaged, or able to influence CSO decisions.

Suggestion: We seek inclusive public engagement programs with reporting, benchmarks, and funding that ensures that the public is informed, educated, and able to influence decisions regarding CSO implementation throughout the implementation process.

2. Suggested Permit Requirement and Why:

Concern: Community members who are not comfortable with speaking or reading English have not been included in public outreach on combined sewer overflows.

Suggestion: Require permit holders to include language justice in all of its public participation, with written translation of all materials, as well as live translation of all community meetings, supplemental CSO team meetings, report-backs, and other meetings. The permittee should have a plan for providing translation services and use census tract information and surveys to determine translation services that are most needed on neighborhood basis. (Note: we recognize that providing translation in multiple languages is costly. We can provide recommendations for when it is warranted based on the number or percentage of meeting participants speaking a particular

3. Suggested Permit Requirement and Why:

4. Suggested Permit Requirement and Why:

Engagement Activities

When, how, and at what frequency should the public be informed or updated about the CSO LTCP or associated projects? What topics should be discussed in a public engagement forum?

What public notification principles or practices that should be considered for inclusion in the permit? Should they differ based on the individual project(s)?

1. Suggested Permit Requirement and Why:

Concern: Meetings held by CSO permittees and Supplemental teams have been poorly attended, especially by people who were not paid advocates.

Suggestion: Require regional permit holders to hold a minimum of two public meetings annually that meet requirements for community accessibility to report on progress of the CSO LTCPs as well as a written annual report. . For example, dates, times, and locations of meetings must be accessible to most members of the community (i.e., held in the evening, near public transit, and with parking), meetings must be held in multiple languages (based on the languages spoken in the municipality), outreach materials must be produced in multiple languages, meetings must be live-streamed, and childcare or kids' activities must be provided.

2. Suggested Permit Requirement and Why:

Concern: CSO projects will impact specific neighborhoods.

Suggestion: Require permit holders to engage the public using multiple methods of public outreach and engagement for the implementation of significant CSO projects with increased engagement based on the type and scope of the project and particular focus on neighborhoods where implementation will occur. This requirement should come with benchmarks for reaching a measurable segment of the population, with meaningful interaction and evidence of feedback taken into consideration and consequences for failure to conduct public outreach and opportunities for redress on the part of the public.

3. Suggested Permit Requirement and Why:

Concern: Community members do not have easy access to information on CSO plans and projects.

Suggestion: Require a dedicated website for the CSO program in each municipality and for each region. Include the use of platforms that allow people to subscribe to regular updates from the permittee. Additionally, websites should include names of all of the Supplemental CSO Team members and provide ways to get involved and access information (i.e., weblinks, newsletters, etc.). A contact person for each municipal and regional permit holder must be provided. Information provided must be in a format and language appropriate to community demographics

4. Suggested Permit Requirement and Why:

Concern: Some permit holders are not engaged with, or accessible to, community organizations such as municipal action teams, that are actively working to influence CSO plans and projects.

Suggestion: Require the permit holders to conduct outreach or partner with municipal action teams or other groups that work on clean water on the impacts of CSOs, flooding, and polluted waterways in CSO communities.

Supplemental CSO Teams

How should Supplemental CSO teams continue? What specific task(s) should the teams be given? What other changes should be made to the Supplemental Team, including suggestions for representatives? Other ideas for engaging with the public?

1. Suggested Permit Requirement and Why:

Concern: Many large cities in the PVSC region had only one, two or three members on the regional supplemental team. Those people lacked the resources to engage community members in their municipality.

Suggestion: Require a municipal Supplemental CSO Team for each municipality with more than 10,000 people living in the CSO catchment area. (Municipal Supplemental CSO Team members may also participate in regional teams.) Require each municipal supplemental team member to participate in one of the permit holders' public meetings on the CSO LTCP progress and to have at least one member of the municipal governing body in attendance.

2. Suggested Permit Requirement and Why:

Concern: many members of the Supplemental CSO team were not actively involved. Community members did not know how to contact them.

Suggestion: Require permit holders to confirm that the members of the Supplemental CSO Team are involved throughout the planning process. Show the duration of each member's involvement on a public website. Publish who attended each meeting. Fill vacant positions within three months and require members to participate in at least half of the annual meetings. Require that permit holders post an email address to contact the Supplemental CSO Team on their website.

3. Suggested Permit Requirement and Why:

Concern: Community leaders and community organization staff who are of low income may not be able to participate in meetings due to lack of funding.

Suggestion: Require that permit holders provide funding for community leaders and community organization staff to participate in the Supplemental CSO Team and bring information back to their communities.Provide stipends to individuals based on meeting attendance. Provide mini-grants to community organizations.

4. Suggested Permit Requirement and Why:

Guidance Documents

Should the DEP update its guidance document(link to documents below) and if so, how?

{https://www.nj.gov/dep/dwq/pdf/CSO_Public_Participation_Resource_Document.pdf;
https://www.nj.gov/dep/dwq/pdf/cso-ppt-engage-comm-ltcp.pdf;
https://www.nj.gov/dep/dwq/pdf/supplemental-team-resource-doc-5.9.16.pdf}

Please provide additional resources or ideas that should be considered for incorporation into guidance for CSO public engagement.

1. Suggested Permit Requirement and Why:

2. Suggested Permit Requirement and Why:

3. Suggested Permit Requirement and Why:

4. Suggested Permit Requirement and Why:

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Metrics

As permittees advance capital projects to obtain compliance with the LTCP, DWQ will require monitoring of key parameters to help establish if conditions are improving in permittees' service areas. Please provide suggestions on metrics that can be established to gauge compliance. Certain CSO metrics are already required in monthly monitoring repor forms such a CSO duration of discharge, rainfall monitoring, and solid-floatable removal.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and whit this suggestion will help address that issue.

Reporting requirements:

For each suggestion, what is the frequency by which each should be reported? Are there additional metrics that we should consider requiring?

1. Suggested Permit Requirement and Why:

Concern: The way that green infrastructure was evaluated in the CSO LTCPs did not capture the full benefits of GI.

Suggestion: Consider requiring permittees to use the reduction of pollutant load to evaluate green infrastructure either in addition to CSO reduction or instead of it. (Base this decision on an evaluation by NJDE of the benefits and challenges encountered in Philadelphia ' s pollutant load reduction approach.) NJDEP should provide guidance and a process for municipalities to calculate pollutant load reduction to both enable this approach and to provide a uniform standard and process within New Jersey. Reducing CSO impacts by reducing the pollutant load (as a result of green infrastructure and other measures) could provide:

2. Suggested Permit Requirement and Why:

Concern: Failure to perform regular maintenance and cleaning of sewers, regulators, tide gates, outfalls, etc. reduces the capacity of the existing system, which is common i CSO communities. Cleaning provides a low-cost way to optimize existing capacity.

Suggestion: Require cleaning every three to five years. Require inspection of these components at least quarterly. Require reporting in a database that is accessible to the DEP.

3. Suggested Permit Requirement and Why:

Concern: Many permittees did not include adequate green infrastructure (GI) solutions in their LTCP. Some did not include any.

Suggestion: Require Long Term Control Plans to include projects that will reduce at least 8% of CSO flow using GI. Require measurement of the amount of CSO flow reduced by GI to be reported on an annual basis.

4. Suggested Permit Requirement and Why:

Concern: The private sector can be a powerful provider of stormwater management at little to no cost to the municipality, provided adequate stormwater ordinances are in place. CSO permittees did not mention the use of municipal master plans and ordinances to contribute to CSO solutions.

Suggestion: Require annual reporting on new installations by developers/redevelopers to manage stormwater through onsite green and gray infrastructure, along with the expected volume to be managed.

5. Concern: Anecdotal evidence shows very limited public engagement during the five-year Long Term Control Process. Few measures have been provided

Measuring Effectiveness:

What should be measured to determine success beyond total discharge reduced? (Ex. duration of discharge compared with total rainfall or quality improvements)

1. Suggested Permit Requirement and Why:

Concern: Permittees have not reported on expected community benefits from green infrastructure.

Suggestion: Require permit holders to assess and report annually on green and gray infrastructure construction, performance on reducing CSO flows, and on delivering community benefits. Provide specific requirements on how to measure community benefits, such as new green space, new jobs, reduced urban heat island effect, etc. Provide CSO permit holders with guidance on how to engage residents in the evaluation.

2. Suggested Permit Requirement and Why:

Concern: There is no accountability for the use of green infrastructure in CSO implementation. There is limited understanding of progress being made to reduce CSO flows.

Suggestion: Require permittees to produce an annual report documenting the amount of CSO flow reduction occurring, broken down between green and gray projects.

3. Suggested Permit Requirement and Why:

Concern: The most immediate public impacts of dysfunctional CSO systems are flooding and sewer/stormwater back-ups into homes, buildings and other places.

Suggestion: Each permittee should be required to report on flooding events of a certain magnitude and to create a crowd-sourced platform that allows the public to record back-ups. Annual reports should document the extent and frequency of flooding and back-ups and track progress.

4. Suggested Permit Requirement and Why:

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Climate Change

Since permits were issued and permittees have developed and submitted LTCPs, Governor Murphy and DEP have announced renewed focus on climate change-related initiatives.

It is widely accepted that critical infrastructure should be designed, located, and/or sufficiently protected to remain operational during an emergency, including floods, storm surges and power outages, and for long-term viability (see https://www.nj.gov/dep/watersupply/pdf/guidance-ifp.pdf and https://www.nj.gov/dep/watersupply/pdf/guidance-ap.pdf for more information on current funding requirements).

While permittees were not required to consider climate change as part of LTCP submissions, moving forward DEP will be working with stakeholders across all regulatory programs to include climate change considerations. Guided by the 2020 New Jersey Scientific Report on Climate Change (https://nj.gov/dep/climatechange/data.html); New Jersey's Global Warming Response Act 80X50 Report (https://nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf); and regulatory reform through NJ PACT (NJ Protecting Against Climate Threats, https://nj.gov/dep/njpact/) the DEP is working to mitigate against the impacts of climate change. The next permit cycle may include provisions designed to ensure previously submitted LTCPs and permittees' work is reflective of climate change impacts.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.

How should DWQ evaluate whether permittees' projects are inclusive of changing environmental conditions, like precipitation, in long-term strategies?

1. Suggested Permit Requirement and Why:

Concern: CSO permittees have not been required to factor climate impacts such as sea level rise and increased precipitation into their Long Term Control Plans or into project engineering.

Suggestion:

The DEP should:

Adopt an official state sea level rise standard/projection to guide planning for combined sewer overflow plans and projects.
Adopt a future model year for project design to account for the future impacts of climate

2. Suggested Permit Requirement and Why:

Concern: Increased rainfall will cause additional localized flooding, sewer overflows and sewage backups.

Suggestion: Require an additional 5% of impervious surface to be managed by GI on top of what the permit holders are already proposing, in order to account for increased precipitation, or provide evidence demonstrating why 5% GI is not feasible.

3. Suggested Permit Requirement and Why:

Concern: Wastewater treatment is a huge energy user.

Suggestion: Require utility permit holders to incorporate energy efficiencies, renewable energy, and projects that will get them to reach zero emissions into treatment plants. Require annual reporting on energy usage and GHG emissions from wastewater treatment plants.

4. Suggested Permit Requirement and Why:

Concern: Green Infrastructure is a cost-effective way to manage the first inch or two of rain and ameliorate climate impacts such as localized flooding and urban heat island effects.

Suggestion: Require CSO permit holders to set bold, clear, and immediate targets for implementing at least 50% of proposed green infrastructure within the first five year permit; and implement the remaining second five years during the second five years.

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Environmental Justice

With the signing of Executive Order No. 23, the Governor directed the DEP and other State agencies to incorporate environmental justice into their programs, policies and activities as well as directed the DEP to write guidance on how to accomplish this. Developed through both interagency coordination and a public stakeholder process, the DEP issued "Furthering the Promise" (https://nj.gov/dep/ej/docs/furthering-the-promise.pdf) in September 2020. In addition, Governor Murphy signed the New Jersey Environmental Justice Law (https://nj.gov/dep/ej/docs/ej-law.pdf) on September 18, 2020 that identifies most of our CSO municipalities as overburdened communities and applies to sewerage treatment plants with a capacity of more than 50 million gallons per day. Therefore, it is important to incorporate EJ principles and practices into the next CSO permits.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.

EJ Principles and Practices

What EJ principles and practices should be considered as part of the CSO LTCP review and how? What EJ principles and practices should be required as part of the public engagement conditions?

1. Suggested Permit Requirement and Why:

Concern: CSO permittees do not know where environmental justice areas are located. Suggestion: Require CSO permit holders to identify the location of environmental justice districts, perhaps based on a version of NJDEP's " overburdened communities " definition overlaid with water impacts like flooding. Provide a mapping tool for the identification of environmental justice districts, such as the EPA ' s Environmental Justice Screening Mapping Tool, the Jersey Water Works water equity map, or other, to map the neighborhoods that are overburdened and map the demographics of the neighborhoods closest to the CSO outfalls.

2. Suggested Permit Requirement and Why:

Concern: There is no information on the extent to which residents of environmental justice areas have participated in the CSO public process.

Suggestion: Require permit holders to measure CSO impacts in Environmental Justice districts, engage representatives of those districts in the public participation process, and report on their participation level and priorities.

3. Suggested Permit Requirement and Why:

Concern: People living in environmental justice districts are vulnerable to the impacts of combined sewer overflows. For example, our concern is that residents of lower incomes may be living in basement apartments or other vulnerable living conditions and will not get the CSO mitigation that is needed to reduce flooding and back-ups in their neighborhoods or not get the CSO mitigation for decades resulting in displacement and public health hazards.

Suggestion: Require permittees to prioritize environmental justice districts for CSO mitigation and report annual on CSO mitigation in environmental justice districts.

4. Suggested Permit Requirement and Why:

Concern: Residents in CSO communities have been impacted by sewage overflows, flooding and back-ups. Some Long Term Control Plans call for long implementation periods exceeding 25 years and even reaching 40 years.

Suggestion: Require all LTCPs to be fully implemented within 25 years. Provide state financial assistance if necessary to keep rates affordable.

Overburdened Communities

Should notification or other project planning activities be different in overburdened communities as defined in the EJ Law?

1. Suggested Permit Requirement and Why:

2. Suggested Permit Requirement and Why:

3. Suggested Permit Requirement and Why:

4. Suggested Permit Requirement and Why:

Other

If there are additional conditions you would like for DEP to consider, please describe them below. **For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.**

1. Suggested Permit Requirement and Why:

Equitable Financing

Concern: Implementation of CSO Long Term Control Plans will be costly and every effort should be made to reduce costs, allocate them fairly based on stormwater run-off generation through the use of stormwater utilities, and to have regional permittees bear a fair share of the cost burden.

Suggestion:
Evaluate the financial capabilities assessments to consider whether the CSO permit holders are using the most cost-effective financing for their plans, such as using the I-Bank. If not, require them to redo the assessment using I-Bank financing. (LTCP

2. Suggested Permit Requirement and Why:

3. Suggested Permit Requirement and Why:

4. Suggested Permit Requirement and Why: