



November 14, 2018

Abbey Stockwell
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

Dear Ms. Stockwell:

The City greatly appreciates the opportunity to comment on the Washington State Department of Ecology's proposed update to the National Pollutant Discharge Elimination System Phase II Permit Update and 2019 Stormwater Management Manual. The City would like to thank you for taking the time to ensure there was associated outreach to the Port Angeles area in the form of a presentation to City Council and the Informational Training Session held in Port Angeles on November 5, 2018.

City staff spent hundreds of hours reviewing the draft documents and find the proposed changes would have a substantial impact to our operations, stormwater utility, and overall community. Unfortunately, insufficient time was provided for comment for us to do a complete review of both documents. Additional time would be necessary to truly assess the impact of these changes. So first, the City asks that you please recognize that this proposed revision to the Permit adds significant and burdensome new requirements, programs, and reporting. All these would have a major impact on Port Angeles. We have not had adequate time to fully review and analyze all of these impacts. Please allow additional time for review and comment.

The City understands and shares the overarching goal of this stormwater permit to protect the environment. The policy direction established by the City Council is that the City shall do all it can to be an environmental steward with the responsibility ensuring clean stormwater and the elimination of pollutants reaching the Port Angeles Harbor, Strait of Juan de Fuca, and greater Puget Sound. Over recent years we have invested tens of millions of dollars that came directly from our citizens to ensure environmentally sound outcomes are reached for all of these water bodies. However, the City feels strongly that solutions to environmental problems cannot be a one-size-fits-all approach. The unique characteristics of our community require a more customized approach that takes into account local soil type, economic conditions, social challenges, and the millions of local dollars we already have spent on new infrastructure that

has produce a significant, direct, and measurable benefit to the water quality in Port Angeles harbor.

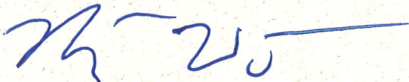
As a community, we cannot afford to take on a disproportionate share of responsibility. On multiple occasions we have asked Ecology to work in the direction of provided greater recognition of our unique local characteristics and challenged local economy which requires building in more flexible options for the Permit and Manual. Instead, what we see in the drafted documents and Ecology presentations is a move in the direction of a one standard approach for all of Western Washington.

Port Angeles is a relatively small community that is suffering from economic adversity. It does not and cannot function like other jurisdictions on the I-5 corridor. Our tax base is arguably the most limited in income and capability of any Phase II jurisdiction and our utility rate payers are already at a point of not being able to afford existing utility costs. As you will see in our attached comments, the cost associated with the new permit requirements are disproportionately excessive in comparison to the size of our current stormwater program. Those added costs will force utility rate increases that our citizens cannot afford.

The Permit further places challenges on Port Angeles relative to the lack of recognition on the importance of infill development. Multiple sections appear to add confusion or create conflict regarding to Growth Management Act responsibilities. Port Angeles no longer has available large tracts of subdividable land and must rely on the efficient development/redevelopment of smaller infill lots. The permit must allow the economic feasibility of local engineers and contractors to design and develop these lots with flexibility that also allows for housing development to resolve our local housing crisis.

Again, I appreciate that Ecology provided the comment opportunity. However, the implications to our local jurisdiction are of enormous impact to community. For all of these reasons, the City urges Ecology to not implement the Permit that currently is out for comment. Rather, we urge you to revise the proposed Permit. Revise the proposed Permit to build more flexibility into both the permit and the manual that recognize the unique environmental, economic, and social needs of smaller communities such as ours.

Sincerely,



Nathan A. West
City Manager

CC: Sally Toteff, Regional Director Department of Ecology
Senator Kevin Van De Wege
Representative Steve Tharinger
Representative Mike Chapman
City Council

COMMENTS on Draft 2019 SWMMWW and Draft WW Phase II Municipal SW Permit				
Name	Document	Section	Page	Comment
Port Angeles	SWMMWW	Volume 1, I-3.2 Exemptions		Ecology's claim that the Manual encourages infill development is false. The word infill is not included within the Manual glossary. Requirements within the Manual are in conflict with the State's Growth Management Act's primary goal of ensuring development occurs within jurisdictional boundaries. For example, upgraded surfaces that do not expand the area or size of the existing hard surface, or that are non-vegetated and historically used as a hard surface, should never be considered new impervious surfaces. This is actually in conflict to the definition of impervious surface and creates a strong disincentive for infill development.
Port Angeles	WWA Phase II	Entire document		Please consider all the comments submitted by the City of Port Angeles. As you request, these comments are being submitted in your spreadsheet format via internet. Additional comments are being submitted by mail.
Port Angeles	WWA Phase II	Entire document		Allow more time for comments. Ecology is not allowing sufficient time for review and comment. We in Port Angeles are doing our best to provide informed comments in the short amount of time available. Please realize that we, here, do not have employees who are devoted solely to storm water issues. Our comments must be prepared by employees who have other duties in addition to stormwater. Given more time, we could offer more informed and beneficial comments. Please extend the comment period.
Port Angeles	WWA Phase II	Entire document		Exempt Port Angeles from the proposed revisions to this permit. This revisions of the permit represents an aggressive increase in the regulation of stormwater and in the burdens placed on the government entity. Port Angeles has a population of approximately 19,300 and has experienced minimal growth in recent years (less than 2%). Port Angeles' entire budget for stormwater in 2018 was \$2.14 M. Our best estimate of the added costs of complying with the new permit requirements is approximately \$600,000. That is a huge and disproportionate impact. Most Phase II cities/counties are significantly larger in size, have robust storm water programs and their community and economic bases are prosperous and growing (egs., Kitsap County, 251,133; Vancouver, 179,552; Bellevue, 144,982; Kent, 128,996; Everett, 112,623; Renton, 102,669; Federal Way, 100,197; Bellingham, 91,676; Kirkland, 88,713; Auburn, 78,634; Marysville; Redmond, 66,360; Sammamish, 64,717; Lakewood, 62,499; Shoreline, 55,273; Olympia, 53,144; Burien, 52,195; Lacey, 50,384; Bothell 45,388; Edmonds, 42,966; Puyallup, 42,729; Bremerton, 41,921; and Lynnwood, 40,456). These are most of the largest and most prosperous cities/counties in Washington. It is fundamentally unfair to impose on Port Angeles, or any city under 40,000 in population, the same aggressive permit conditions as applied to those cities. It is unreasonable of Ecology to fail to consider the disproportionate consequences that result from a one permit fits all approach. Port Angeles is not only less than one-half the size of most Phase II cities, a full one-third of its population are at or below the poverty level. Our city cannot afford to hire one single employee to devote full-time attention to stormwater issues.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17, et seq.	This section of the proposed revisions should be deleted or Port Angeles shall be exempt. As noted in the comment above, for Port Angeles this section of the revised permit represents an aggressive expansion of the requirements of a stormwater program. It would add a new and significant requirement for which the City has no dedicated employees or financing. We estimate approximately \$350,000 required for the creation of the comprehensive stormwater planning program and approximately \$130,000 every year it is required to be updated. That alone reflects a need to increase stormwater utility rates by 15% over a two year period. In addition, it would have very little value. Most of the other Phase II cities are in the I-5 corridor and most of them share a physical or watershed connection. In contrast, Port Angeles is isolated. A significant benefit of comprehensive planning is that the comprehensive planning of near-by jurisdictions creates a synergy. That is not possible for Port Angeles and so the result is a requirement for a huge amount of added work for comparatively little gain. Additionally, Ecology is introducing four different deadlines with this new section to the permit. There is a complete disregard to the GMA requirements and the mandated dates that municipalities are required to update their Comprehensive Plans (June 2024 for the City of Port Angeles). This creates confusion, duplication of work and inefficiencies due to the complexity of reporting. Staff will be spending enormous amounts of time in long-range planning efforts creating very limited, but heavily needed, resources in current planning efforts related to stormwater regulations. If Ecology desires stormwater planning to be incorporated into City Comprehensive Plans, then it should be a requirement per the GMA. Ecology is overstepping their bounds with this requirement. Not until Ecology can describe their fiscal incentives being provided for economically struggling communities that help them meet this comprehensive stormwater planning requirement should it be a part of the required permit.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)		For the reasons stated in the preceding comment, the entire requirement for comprehensive stormwater planning should be deleted. In addition to that general comment, we offer the following comments that are focused on specific sections of the comprehensive stormwater planning element of the proposed permit:
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17 of 92	New Program and Planning document to prioritize areas of the City for future stormwater projects, short term (6 years), and long term (20 years). Deadline December 31, 2022. This is a major addition to the permit requirements that will add significant amounts of City funding and City staff resources. This single permit requirement is estimated to affect the stormwater budget up to \$300,000 (15% rate increase). DOE needs to consider economic impact on City of Port Angeles.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17 of 92	S5.C.1.a.i.(a) - The City requests that the following language "On or before March 31, 2020, the Permittee shall describe how water quality and watershed protection were addressed during the 2013-2018 permit cycle in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated long-range land use plans that are used to accommodate growth, or transportation." be removed from the permit for the following reasons: 1) Water quality and watershed protection updates for the Comprehensive (Growth Management Act) Plan were not required under the last NPDES Permit. Therefore, this requirement is outside of the purview of this permit or the 2013 permit; 2) Asking a Permittee to report on items outside of the regulatory time window of the proposed permit is also outside of the purview of this permit. In addition, the repeated references to the Comprehensive Plan are confusing as there is more than type of Comprehensive Plan (i.e. GMA & Stormwater). Please be more specific in referencing these documents throughout this section.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	18 of 92	S5.C.1.b - Low Impact Development Code Related Requirements. Please remove this language from the Comprehensive Stormwater Planning Section as it has nothing to do with the stormwater planning. Please relocate this language to Section S5.C.6., where the LID requirements were located in the 2013 permit (Controlling Runoff from...)

COMMENTS on Draft 2019 SWMMWW and Draft WW Phase II Municipal SW Permit				
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Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	19 of 92	S5.C.1.c.i - Stormwater Management Action Planning - The City requests that the following language: "Where significant gaps in the state of knowledge exist, a plan and protocol should be developed to improve the assessment." be removed or modified as follows: The reasons for this request are as follows: 1) The language appears to allude to future monitoring requirements that Ecology staff have stated in a public meeting will not be the case; 2) Many Permittees do not have staff qualified to develop a plan or protocol to fill these data gaps; 3) Most jurisdictions opt to contribute to a regional monitoring effort to avoid the costs of developing and implementing monitoring plans, and this requirement appears to be contrary to that option by requiring permittees to develop a monitoring plan.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17-20 of 92	This section does not allow for or address an important pathway for water quality retrofits commonly referred to as opportunity based retrofits. Many Permittees look for opportunities to add on or partner with local non-stormwater CIP projects to include a water quality retrofits into the project in an effort to improve water quality in the area and reduce the costs of implementing a stand alone water quality retrofit. The process included in this section does not allow for water quality retrofits outside of the priority watershed or priority target area to count towards permit compliance. The City requests that a section be added to allow for these types of retrofits, as they are a more cost effective way of improving water quality in our region. Further, we fear that without this new language, these cost effective and beneficial retrofits will not occur, unless they fall within a priority basin or area.
Port Angeles	WWA Phase II	Comprehensive Stormwater Planning (WWA)	18 of 92	S5.C.1.a.i.(b) - This paragraph requires Permittees to update their (GMA?) Comp Plan with water quality and watershed protection elements by 3/31/22. The City requests that this language be removed from the permit for the following reasons: 1) A Stormwater Element is not a required component of the GMA Comp Plan. If Ecology wishes to modify the requirements of the Comp Plan, it should be done through an amendment of the state Growth Management Act, not through a federal stormwater permit requirement. 2) Watershed and water quality protection components should be addressed in a Comprehensive Stormwater/Surface Water Plan, not a GMA document.
Port Angeles	WWA Phase II	Education and Outreach	20 et seq.	The City of Port Angeles currently has a contract with Kitsap County to participate in their regional educational and outreach program. Additional money (approximately \$4,000 will have to be added to that contract for the new requirements. Ecology requiring Cities to implement psychology techniques to "effect behavior change" is far too subjective. Ecology allows a permittee to meet this requirement individually or as a member of a regional group. Port Angeles will be limited to what regional efforts are similar to our unique community situation. This is a fantastic example of needless and subjective reporting requirements pushed by Ecology.
Port Angeles	WWA Phase II	Education and Outreach	22 of 92	S5.C.2.a.i.c - Please clarify the intent of the language "ongoing or strategic schedule"
Port Angeles	WWA Phase II	Education and Outreach	23 of 92	S5.C.2.a.ii.(b) - Please revise the language in this section to read as follows: <i>No later than July 1, 2020, each Permittee shall conduct a new evaluation of the effectiveness of the ongoing or a new behavior change program (required under S5.C.1.a.ii and S5.C.1.c of the 2013-2018 Permit).</i> Also in the same section, please revise the second sentence to read " <i>if re-evaluating an ongoing program, Permittees shall...</i> " This will allow Permittees to select a new program if their ongoing program needs no further evaluation.
Port Angeles	WWA Phase II	Education and Outreach	24 of 92	S5.C.2.iii - This section of the proposed revisions should be deleted or Port Angeles shall be exempt. The Stewardship section adds additional requirements to the existing program. Another requirement demonstrating how all these requirements combined are forcing Cities to develop a completely separate stormwater program with full-time staff. Which is a significant cost burden to communities the size of Port Angeles. City estimates 100-130 additional hours/year, resulting in approximately \$10,000. Will DOE have fiscal incentives for economically struggling communities that will help them meet this new permit requirement?
Port Angeles	WWA Phase II	Mapping and Documentation (WWA)	26 of 92	S5.C.4.b.ii - This section of the proposed revisions should be deleted or Port Angeles shall be exempt. This requires complete mapping of all known connections from MS4 to a privately owned stormwater system. This would require additional staff time to research and investigate stormwater system. This is another requirement which has significant cost burden to the Port Angeles community. City estimates this level of effort would affect the stormwater budget by \$90,000. Will DOE have fiscal incentives for economically struggling communities that will help them meet this new permit requirement?
Port Angeles	WWA Phase II	IDDE	31 of 92	S5.d.i - This is another requirement which has significant cost burden to the community. Changing the field screening method would increase staff time. Staff is currently allocating approximately 100 hrs/year to field sampling. Level of effort for field sampling would double. Estimated level of effort is 100 hours/year, resulting in approximately \$7,000. Will DOE have fiscal incentives for economically struggling communities that will help them meet this new permit requirement?
Port Angeles	WWA Phase II	IDDE	33 of 92	S5.C.5.f. - Recordkeeping: The City is very concerned about the new record keeping and reporting requirements identified in this section as they appear to penalize Permittees, like Port Angeles, which have a well established record keeping system using electronic database systems already in place. Further, there is no indication of why this additional IDDE data is needed by the state or how it will be used and to what benefit. In addition, no ramp up time is provided to implement these requirements, so it sets Permittees up for non-compliance as soon as the permit goes into effect. Further, the cost for implementing these changes to existing database tracking systems will be considerable (estimated at \$20,000). For these reasons Port Angeles respectfully requests that these new record keeping requirements be removed from the permit revisions or Port Angeles shall be exempt. If Ecology insists on keeping these requirements, please revise the language to address the following: 1) Provide a minimum of one year of the date of issuance for Permittees to comply with this requirement; 2) Allow Permittees to describe how they are using the IDDE tracking data to identify planned changes to their Education and Outreach programs to address issues or concern, rather than submitting such detailed record keeping data. 3) This requirement appears to require a significant level of effort for little to no benefit. To that end please indicate how this data will be used by the state to benefit stormwater programs at the local level, as we are concerned that this data will just sit on a shelf; 4) Please limit reporting requirements to those investigations that result in identification/removal of illicit discharges or illicit connections. Will DOE have fiscal incentives for economically struggling communities that will help them meet this new permit requirement?
Port Angeles	WWA Phase II	IDDE	30 of 92	S5.C.5. d.i. Suggest moving this last sentence "These procedures may also include source control inspections" to the new source control section of the draft permit. Source control inspections include more than field screening and source identification.

COMMENTS on Draft 2019 SWMMWW and Draft WW Phase II Municipal SW Permit				
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Port Angeles	WWA Phase II	Operations and Maintenance	49 of 92	S5.C.7.e The language in this section of the permit now includes a requirement to document practices, policies and procedures for the operations and maintenance activities listed in S5.C.7.i-xv, of this section without allowing any ramp up time to complete this requirement. This would put Permittees in immediate non-compliance with the permit. Please revised this section to remove this documentation requirement, as it is unnecessary and limits a permittees operational flexibility to modify these practices, policies and procedures without formal documentation. If Ecology insists on keeping this documentation requirement, please revise it to allow one year for Permittees to complete this documentation process.
Port Angeles	WWA Phase II	Source Control Program (WWA)	51-53 of 92	<p>The City of Port Angeles does not have enough resources to meet these requirements. For many reasons, Port Angeles should be exempt from this section or it should be entirely deleted from the permit. It is estimated that additional cost to satisfy this requirement is approximately \$60,000. By way of example:</p> <ul style="list-style-type: none"> • S5.C.8 Source Control Program for Existing Development - The City of Port Angeles is also very concerned about this section as the language in S5.C.8.a.i and S5.C.8.b.i indicate that structural retrofits on existing non-conforming private and public property are required if operational source control BMPs do not prevent illicit discharges, etc. This requirement may have a significant financial impact on property owners who developed their property prior to when water quality treatment standards went into effect. We ask that this requirement be removed from the language from these sections and be replaced with educational program that incentivizes structural retrofits on these existing non-conforming sites. If Ecology insists on keeping this structural retrofitting language, please provide the legal basis Permittees can use to justify implementation of this retrofitting requirement. The implementation of a Source Control Program would require the City of Port Angeles to revise ordinance and may have significant impacts on property owners who develop their property prior to when water quality treatment standards went into effect. The level of effort to manage this program would require a minimum 0.5 FTE. This is another requirement which has significant cost burden to the community. Additional cost of approximately \$60,000. • S5.C.8.a.iii. "Application and enforcement of local ordinances at sites, identified pursuant to S5.C.8.b.ii, including sites with discharges authorized by a separate NPDES permit." The City has significant concerns regarding this language. They are as follows: Through this language Ecology appears to be requiring Permittees to take over inspection/oversite of site industrial NPDES permits which is Ecology's responsibility, not the City's. Furthermore the industrial permit issued by Ecology allows the Port to use different stormwater standards than the City of Port Angeles has adopted. The City should not be expected to inspect two different stormwater standards. Given the above issues and concerns, the City asks that the language: ", including sites with discharges authorized by a separate NPDES permit." be removed from the permit. • S5.C.8.b.iii.(b) - Please add language to this section identifying that Permittees may count denial of access to properties towards the 20% annual inspection performance standard. Permittees have no control over whether or not a property owner will allow access to private property and Permittees should not be penalized for it. • S5.C.8.b.iii.(c) - "Each Permittee shall inspect 100% of sites identified through legitimate complaints." While this language appears to be a simple requirement, it raises several questions and problems in regards to implementation. These questions and problems include: 1) Does this refer to complaints received through the IDDE program and spill hotline? If so, how will they be documented separate from standard IDDE complaints? and 2) Do these complaints count towards the 20% performance standard identified in section S5.C.8.b.iii.(b)? As this requirement has the potential to confuse and complicate Permittees' existing IDDE programs, and are duplicative of existing IDDE program components, the City therefore asks that this language be removed from this section. • S5.C.8.b.ii. Establishing a list of privately owned businesses for inspections will require signifiant effort since the City does not issue Business Licenses.
Port Angeles	WWA Phase II	Monitoring and Assesment	63 of 92	S8.A 1. "permittees shall pay into the collective fund to implement regional small streams and marine nearshore status and trends monitoring in Puget Sound." Suggest an alternative to include a third option that would allow permittees to pay 50% of the annual fee into the collective fund and spend the remaining 50% on independent monitoring that supports local stormwater management actions and could potentially be used for effectiveness studies. This would enable permittees to identify whether their stormwater management actions are protecting or improving local waters in the jurisdiction.
Port Angeles	WWA Phase II	Monitoring and Assesment	64 of 92	S8.B Regarding the new requirement that permittees provide data for SAM effectiveness studies, we recommend that rather than being a permit requirement, SAM effectiveness study applications include information regarding data acquisition and commitments of support from other jurisdictions. The process would be similar to applying for a grant e.g. grant of regional or statewide significance (GROSS).
Port Angeles	WWA Phase II	Permit Coverage	9 of 92	S1.D.2.b.i. - City supports including the Clallam County urban growth area surrounding Port Angeles. This will provide consistent requirements for development opportunities. The City appreciates that the UGA will be held to similar requirements as the City to help "even the playing field" for development opportunities.