

DRAFT COMMENTS on WW Phase II Formal Draft Permit

Name	Document	Section	Page	Comment
Brier	WWA Phase II	Compliance with Standards	13 of 92	S4.F.1 - The proposed language indicates that the Permittee must notify Ecology if the Permittee <i>"is causing or contributing to a known or likely violation of Water Quality Standards in the receiving water."</i> The City of Brier has two concerns regarding this language: 1) The language is in present tense (is causing or contributing to) - does that mean any violations we become aware of after the fact do not have to be reported, if not please revise this language; 2) The City asks that the words "or likely" be removed from the above language, because it requires the permittee to speculate or guess to whether a violation may have occurred and as such is inappropriate for a regulatory document.
Brier	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17 of 92	S5.C.1.a.i.(a) - The City requests that the following language <i>"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."</i> 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 it 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.

Brier	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: " <i>Where significant gaps in the state of knowledge exist, a plan and protocol should be developed to improve the assessment.</i> " 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.
Brier	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.
Brier	WWA Phase II	Comprehensive Stormwater Planning (WWA)	18 of 92	S5.C.1.a.i.(b) - The 3/31/22 deadline identified in this section conflicts with our local GMA update timelines, which indicate a Comp Plan update in November of 2021 and 2023. If this requirement is kept, please revise the language to allow Permittees to prepare updates for the Comp Plan by 3/31/22 and implement them in the next available GMA update.

Brier	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17-20 of 92	S5.C.1 - While regional stormwater planning efforts are identified as an option in this section, this section does not provide enough allowances to complete regional stormwater planning efforts. The following items need to be addressed to allow for regional planning efforts: 1) Increase the amount of time available to complete regional planning efforts (i.e. 7/31/23); and 2) Allow permittees to identify and fund priority areas and projects outside of their jurisdictional boundaries, but within a basin to which they are contributing flows.
Brier	WWA Phase II	Education and Outreach	22 of 97	S5.C.2.a.i.c - Please clarify the intent of the language "ongoing or strategic schedule"
Brier	WWA Phase II	Education and Outreach	23 of 97	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 <u>or a new</u> 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 " <u>if re-evaluating an ongoing program</u> , Permittees shall..." This will allow Permittees to select a new program if their ongoing program needs no further evaluation.
Brier	WWA Phase II	Education and Outreach	23 of 92	S5.C.2.a.ii.c Community Based Social Marketing is a very specific method that is expensive to learn and implement which provides a financial burden, especially to small communities. The language should, at minimum, be modified to indicate that this can be met through a more generic social marketing approach. While social marketing can be effective it is not well suited for all communities and there should be local flexibility to select methods that work for the individual jurisdiction.

Brier	WWA Phase II	Controlling Runoff (WWA)	34 of 92	<p>S5.C.6.a (Vesting of Stormwater Standards) - The City is also very concerned about the language in this section. The proposed language has a hole in what appears to be vesting language regarding the adoption of stormwater standards. It indicates that new standards that go into effect apply to "<i>all (development) applications submitted: i) On or after December 31, 2021. (and ii) Prior to January 1, 2017 that have not started construction by January 1, 2022.</i>" As written this language includes a hole in the (vesting) timeline which indicates that applications submitted on or after January 1, 2017 and prior to December 31, 2021 have no vesting and have to start their application review process over again once the new standards go into effect. The City respectfully requests the following revision to address this issue: 1) Add language that allows development applications to vest to the current standards that went into effect on January 1, 2017.</p> <p>In addition, the City asks that deadline for implementation of the new stormwater standards be established as of January 1, 2022, rather than December 31, 2021 to create a consistent and cleaner implementation date to avoid confusion to Permittees and the development community.</p>
Brier	WWA Phase II	Operations and Maintenance	49 of 92	<p>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 revise 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. Please also remove the word "all". This word makes the requirement so broad that Permittees will spend all of</p>

Brier	WWA Phase II	Source Control Program (WWA)	51-52 of 92	S5.C.8 Source Control Program for Existing Development - The City 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.
Brier	WWA Phase II	Source Control Program (WWA)	52-53 of 92	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.
Brier	WWA Phase II	Source Control Program (WWA)	53 of 92	S5.C.8.b.iii.(c) - " <i>Each Permittee shall inspect 100% of sites identified through legitimate complaints.</i> " 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.
Brier	WWA Phase II	Source Control Program (WWA)	53 of 92	S5.C.8.b.iv.(d) This section allows Permittees to refer non-emergency violations to Ecology, provided they meet certain criteria. The City requests that this section be expanded to indicate the following: 1) The name, address/email and other pertinent Ecology staff information needed to refer these items to Ecology; 2) The form the referral should take (i.e. letter, email, phone call, etc.)

Brier	WWA Phase II	Monitoring and Assesment	70 of 92	<p>The current language in S8B3 should be revised. As it is written it is unclear are the records to be submitted to DOE or to the SAM Coordinator. Additionally, as it is written it is unclear how the Permittee demonstrates they have met this requirement or what would be a violation of this requirement i.e. if the request was not clear, was not presented in sufficient time to provide is not providing information considered a violation. At minimum a yes or no question should be added to the Annual Report indicating that the Permittee provided data in response to such a request with the ability to indicate why data was not provided. Alternatively, the requirement could be written that the Permittee must respond to requests from the SAM Coordinator - yes, no, why not and the question in the Annual Report would be "Responded to requests for data from the SAM Coordinator"</p>
Brier	WWA Phase II	Reporting Requirements		<p>As written, an annual report will be required for 2019. Many sections of the permit have moved, and additional sections added. So we have requirements in different places for the first and second half of the year. How that will be addressed in the annual report questions is not shown in the questions that appear in Appendix 3. The city requests a gap year, similar to what was occurred between the 2007 and 2013 permit cycles.</p>