

# City of Edmonds

See attached comment spreadsheet. Thank you

**Phase I, WW Phase II, and EWA PH II Formal Draft Comments**

Document	Section	Page	Comment
WWA Phase II	General	All	Generally, this permit cycle attempts to push lessons learned from stormwater data, into areas of work which are already headed by other State or County agencies. We suggest that using a stormwater discharge permit to bring about changes to documents or duties already controlled by other agencies, is not the most effective way to accomplish long-lasting and meaningful stormwater changes. Instead, we suggest that much of the permit revisions could be omitted, and the burden on small local agencies relieved, if Ecology were to 'convene an interdisciplinary team' at a State and County level to coordinate and implement programs via the correct channels, within those documents or operational procedures already defined. This approach would more reliably ensure that the end goal of improving stormwater conditions in the Puget Sound, is actually achieved.
WWA Phase II	General	All	Generally, we believe Ecology has added several sections to the permit which may not be directly linked to discharges from permittee's MS4, or it is unclear how the new section applies AKART in order to positively impact discharges. The legal framework and authority for this permit is only intended to authorize and control <i>discharges</i> to waters of the state and we request that Ecology provide explanations of how each new section directly impacts or changes the runoff discharged from a permittee's MS4. In the absence of such an explanation or direct correlation to what is actually discharged from the MS4, we believe several sections to be outside the authority of the permit and intend to challenge Ecology's authority in such sections.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	16-19	All sub-sections: We request clarification on Ecology's goal or anticipated final outcome of this section. There does not appear to be any quantifiable performance measures in this section other than the generation of some reports to be submitted to Ecology. Guidance for preparing the stormwater comprehensive plan is included in SMAP but this document is only guidance and speaks to expectations, not requirements. There is a lack of any formal actions or obligations to follow the comprehensive plan or to actually make any stormwater code updates as currently written. (IE. If an agency were to simply reply that "we made no stormwater related code updates and can't afford a retrofit within the permit cycle", it is not clear that they would be out of compliance.) In the absence of a measurable outcome, it remains unclear how this falls within the authority of the discharge permit. It appears, in our opinion, to generate additional work load for local agencies without any measurable benefit to the agency or to receiving water bodies.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	16	Section 'a': This section directly references "state-mandated plans"; we suggest that coordination with those state agencies directly at the State level, and revisions to the actual state-mandated requirements, would be more conducive towards achieving the end goal of improving stormwater conditions in and around the Sound. We request this subsection be removed and interdisciplinary teams be coordinated and pursued by Ecology staff at a State and County level.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	17	Section 'b': We suggest that the LID section is more appropriately placed in the 'controlling runoff from new development' section and request it be left in that location.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	18-19	Section 'c': We request that Ecology clarify the expectations for an agency to "follow" the prioritization plans or SAMP, for this permit cycle <u>and how that is anticipated to change in the next/future permit cycle</u> ; it remains unclear if Ecology seeks to (1) control stormwater funding of a local agency, or simply (2) push local agencies through a planning exercise.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	18-19	Section 'c': Pending the clarification noted above to (1) control of local agency funding, we formally object, and will continue to object, to any Ecology control of local spending and request this section be removed in its entirety as it is beyond the authority of the permit. This section and the SAMP guidance is solely based on "receiving water benefits" and fails to include the words "human suffering", "loss of property", or "property damage"; any prioritizations or goals for a municipal stormwater system which do not consider these factors, is unrealistic for local agencies and limits our ability to manage risks. We remind Ecology that a permit is intended to be a minimum set of measurable performance standards, and not complete control of all aspects of the permittees management of a system. We suggest instead, that Ecology's role in prioritizing local projects should remain with the award of grant funding, and that revised or expanded grant requirements would be a more appropriate mechanism to require such prioritization or planning efforts.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	18-19	Section 'c': Pending the clarification noted above to (2) a planning exercise, we object to the additional workload required of local agencies without a defined or measurable outcome, and request that this section be removed or significantly altered to reduce the workload generated. The amount of workload to comply with the guidance would be significant and of little to no benefit to agencies already implementing good stormwater planning practices. We remind Ecology that a permit is intended to be a minimum set of measurable performance standards, and not complete control of all aspects of the permittees management of a system. We suggest, instead, that Ecology's role in requiring good planning practices, should remain with the award of grant funding, and that revised or expanded grant requirements would be a more appropriate mechanism to require such prioritization or planning efforts.
WWA Phase II	Comprehensive Stormwater Planning (WWA)	18-19	Section 'c': We request clarification of how the revisions in this permit section will impact the combined water quality grant funding program. Currently the program does not fund projects which are meeting requirements of the municipal permit; will listing a project on the permit-required prioritization plan, make the project ineligible for funding through the grant program?
WWA Phase II	Mapping and Documentation (WWA)	24	Subsection 'c' forces local agencies to incur additional cost to convert data, which has already been collected and developed using local agency funding, in order to meet specific requirements for the sole use & benefit of others. Local agencies incurring this additional cost will see zero benefit from the requested work effort and it is not clear how the conversion of data will impact discharges from our MS4. We suggest this is more appropriately, and more cost effectively, addressed if Ecology performs the data conversion. We request that this subsection be removed or revised so that Ecology performs data conversion of existing mapping data provided by local agencies.
WWA Phase II	Controlling Runoff (WWA)	29	The new manual should apply <i>after</i> Dec 31, but not <i>on</i> Dec 31 if desire is to start at the beginning of calendar year.

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WWA Phase II	Controlling Runoff (WWA)	29	We understand that changes to the manual are minimal except for re-organization, but it is still critical to be able to point accurately to corresponding sections within ordinances, code, staff reports, and other legal documents. We believe the proposed instant adoption makes this nearly impossible and that some degree of "vesting period" must be provided.
WWA Phase II	Source Control Program (WWA)	37-39	We request clarification on Ecology's expectation for local agencies to "require" source control BMPs or what types of "enforcement mechanisms" are required to meet this condition.
WWA Phase II	Source Control Program (WWA)	37-39	We believe this section to be legally problematic and request that it be removed in its entirety. It remains unclear how a local agency is to take enforcement action without a violation occurring. If a known or active discharge is occurring, the situation must be handled as an IDDE issue; it is no longer a 'source control' issue. Therefore, this section suggests that a local agency must mandate "corrective action" without any documentation that a violating discharge has actually occurred. We request that Ecology clarify the legal mechanism by which a local agency is authorized to require corrective action based on "potential" and how this falls within the authority of this permit.
WWA Phase II	Source Control Program (WWA)	37-39	We believe this section to be politically problematic. This section asks local politicians to pass ordinances and/or code which proactively requires businesses, which have been fully and legally permitted at the time they were built/opened, to mandate revisions or retrofits which have a real cost for the business owners to incur. Business owners will not take kindly to the City forcing improvements where no violation has actually occurred and, therefore, local politicians may not want, or be able, to pass such ordinances. We believe that staff do not have sufficient control of this process to ensure ordinance passing and believe options must be provided for political barriers which are outside of City staff control.
WWA Phase II	Source Control Program (WWA)	37-39	We believe the requested source control inspection program to be flawed in achieving the end goal. We believe the program, as currently written, will be ineffective in achieving any changes to the discharge from our MS4. Accordingly, we do not foresee a measurable benefit being achieved from the additional workload required; it is estimated that this requirement generates a need for new half-time employee. We understand that Ecology has done no evaluation of the effectiveness of the program before pushing the requirement out to local agencies to start incurring significant costs. We request this section be removed in its entirety or at least until the due diligence of an adequate benefit analyses can be done. The program specifically targets businesses which do not have an active discharge or violation; if an actual violation occurred, it would be addressed per IDDE requirements. So the inspector is specifically being sent to sites where discharges are not known to occur, and therefore it is not likely that much improvement can be made at the targeted locations because no polluted discharge is actually occurring. Again, if a discharge is not occurring, this is outside the scope of the municipal permit, which specifically authorizes <i>discharges</i> from the permittee's MS4.
WWA Phase II	Source Control Program (WWA)	37-39	We believe, assuming the end goal of this section aligns with the goal of the permit and is intended to reduce polluted discharges from the MS4, that the intent would be best met as an expanded IDDE program. We believe the intent can be met by requiring more stringent or defined corrective actions to address IDDE issues. However, attempting enforcement before a discharge occurs, or mandating retrofits to current standards, makes this section exceptionally problematic. We request that revisions proposed in this section be migrated to the IDDE section of the permit, and all 'source control' sections be removed in their entirety.
WWA Phase II	Source Control Program (WWA)	37-39	If Ecology believes that mandating retrofits is critical to the health of the Sound, we suggest there are several state or County agencies doing work which is already similar in nature to the requested requirement. We suggest that a more appropriate way of mandating businesses to perform upgrades or retrofits would be through the state business license program. Requiring upgrades prior to reissuance of a business license would appear a more appropriate mechanism for forcing businesses to current codes and suggest Ecology pursue this avenue. Furthermore, health departments and other County agencies already maintain business lists with contact information and already access many of the sites during other inspections; we suggest that cross training those staff and implementing requirements within those agencies would be more effective at achieving measurable outcomes.
WWA Phase II	Monitoring and Assessment	49	We request clarification of the expectations of S8.B.3. It appears to create an open-ended permit requirement in which permit requirements can drastically change at any point in time based on SAM's request. It has been, and still is, unclear how SAM directly impacts the discharges from our MS4 without the City being offered a vote or controlling say in what undertakings SAM elects. But this new requirement appears suggest that SAM requires even more resources than previously outlined and local agencies must, again, object to Ecology requiring the use of our local agency resources to achieve regional impacts. These sort of regional efforts should be done with Ecology resources and not by continuing to drain resources and limited budgets of local agencies. Understanding the time for objection to the entire program is past, we limit our request for this permit cycle to removal of the requested for data <i>in addition to</i> opting for the payment option. If not removed, at a minimum the specific requests for data must be listed as part of the written and defined permit requirements prior to issuance.