

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

Name	Document	Section	Page	Comment
Vancouver	WWA Phase II	Comprehensive Stomwater Planning (WWA)	pp 16-19	<p>S5.C.1.a. Coordination with long-range plan updates. The City agrees that it should take a holistic approach to stormwater planning, including discussion with City land use planners. To the extent Ecology intends to someday require implementation of stormwater plans that include zoning code changes, designation of critical areas, etc., as a condition of NPDES permits, however, the City objects to such an approach. Almost all of the proposed considerations and planning strategies (land use and zoning code changes, critical area designations) for the long-term MS4 plan fall outside of stormwater monitoring and control, and into the purview of the Growth Management Act (“GMA”). Such land use considerations touch on a variety of state and federal laws, other than just the federal Clean Water Act. For example, the designation and protection of critical areas also has a connection to the Safe Drinking Water Act, Endangered Species Act, the National Environmental Policy Act, the Washington State Environmental Policy Act (SEPA), Shoreline Management Act, Watershed Planning Act, Salmon Recovery Act, the GMA, and may implicate tribal treaty rights. The GMA requires the City to apply its comprehensive plan and development regulations, developed in accordance with the GMA, to specific permitting decisions and land uses. To the extent the City’s NPDES permit was to impose land use and zoning requirements inconsistent with the City’s comprehensive plan and development regulations, the result could be a regulatory debacle. Attempting to regulate land use and zoning through stormwater permits could expose municipalities to conflicting standards and considerations when planning and may expose municipalities to legal challenges when such NPDES permit obligations cannot be met due to conflicting laws and regulations. Requiring changes to the City’s growth management plan, not directly related to the standards required under the CWA for NPDES permits, is also outside of Ecology’s authority.</p>
Vancouver	WWA Phase II	Comprehensive Stomwater Planning (WWA)	pp 16-19	<p>S5.C.1.c. Stormwater Management Action Planning. Vancouver agrees that a deeper understanding of the State’s watersheds and establishing priority basins for restoration can be a beneficial tool in stormwater planning and management. However, we believe the proposed assessment method would take extensive resources and do nothing to restore beneficial uses or protect surface waters from harmful pollutants. Vancouver supports monies better spent on a retrofit program targeting areas developed without stormwater control or treatment. A required retrofit program inherently involves a level of planning and prioritization but one that is appropriate to each jurisdiction’s size and needs. A requirement to follow the prioritization framework outlined in the guidance documents (Building Cities in the Rain and Development of a Stormwater Control Transfer Program) is an unnecessarily complex process for smaller Phase II communities to identify priority basins and develop an effective retrofit program, particularly without the benefit of the ground work laid in the Puget Sound Watershed Characterization. As stated in step2 of the “Stormwater Management Action Planning Guidance”; “Ecology does not intend for very small jurisdictions with little expected influence on any receiving waters to continue SMAP beyond this step.” Vancouver, although not a small jurisdiction, does by area of watershed have very little influence on the receiving waters of the Columbia River. In a more flexible prioritization scenario, Permittees can still produce a qualitative assessment and achieve the deliverable desired: a watershed inventory with key characteristics of each basin. Each Phase II could determine the extent of retrofit opportunities and submit this plan and prioritization for Ecology review. Retrofit projects developed within this planning framework could also be given preference in the competitive Stormwater Financial Assistance Program (SFAP). The Puget Sound Watershed Characterization indicates in Appendix A that basin scales used (“assessment units”) are a tool to “narrow the field of candidate locations for investments through grants and loans” and a similar approach can be applied to a more flexible planning requirement.</p>
Vancouver	WWA Phase II	Comprehensive Stomwater Planning (WWA)	pp 16-19	<p>The Puget Sound Watershed Characterization, a significant multi-agency project, served to give a starting point for many of the Phase I communities and would provide baseline data for implementing a Phase II requirement in the Puget Sound region. However this level of data and analysis is not provided nor funded by Ecology or the U.S. EPA for other regions in Western Washington, including the Columbia River basin. Significant hydrogeomorphic differences exist between the Puget Sound Lowlands and the Columbia River basin, so strategies developed for watersheds in the Puget Sound are not directly transferrable to stormwater management in the Southwest region. City staff understands that Pierce County had to hire an outside consultant to complete the study that was required under its current Phase I permit, at a cost of over \$1 million—even with the baseline data advantage provided from the Puget Sound Watershed Characterization. Early feedback from the Ad-hoc Watershed Planning Subgroup, including the agencies already employing this model, indicated it was “not generating transferrable knowledge to build the case” that this exercise can offset other watershed plans. This funding could be better spent on design expertise for retrofit projects and addressing known capital issues related to flooding and other important municipal priorities not tied to water quality outcomes, but which may still take precedence for local elected officials and utility rate payers.</p>
Vancouver	WWA Phase II	Comprehensive Stomwater Planning (WWA)	pp 16-19	<p>The prescriptive basin scale set in the proposed requirement is unnecessarily rigid for basins not already characterized in the Puget Sound Watershed Characterization. A flexible and scalable planning requirement with an emphasis on data Permittees already have or institutional knowledge that can be dovetailed into the planning and prioritization process is more appropriate. Smaller scale basin analysis gives Permittees in the Lower Columbia more achievable goals for basins within our operational control and practical implementation abilities, and allows Permittees to tailor priorities or target achievable projects. The stated purpose of this requirement is to protect and restore beneficial uses of receiving waters and if the scale is flexible, more projects are likely to be implemented and benefits materialized rather than abstract, arbitrarily large-scale goal setting.</p>

Vancouver	WWA Phase II	Comprehensive Stormwater Planning (WWA)	pp 16-19	Finally, the required planning considerations and the development of a proposed long-term plan have no clear goal. There is no clear requirement to implement a long-term MS4 plan—and as explained above, any requirement based on the required considerations could pose a variety of problems—so there seems to be no point in spending the City’s stormwater budget to go through such a comprehensive exercise to develop a theoretical long-range plan. As with the proposed analysis and mapping requirements, if Ecology supports long-range planning as a valuable component for municipal stormwater management, Ecology should provide further guidance and funding to alleviate the cost burden on Phase II communities. In sum, the scope and design of any planning model should be dictated by the jurisdiction’s size and unique watershed. Further, resources should be put toward retrofits rather than strict and extensive uniform modeling requirements. The City would like to see grant funds made available to perform community-specific watershed analysis and planning.
Vancouver	WWA Phase II	Education and Outreach	p 21	The City requests Ecology clarify what Ecology means by a “new evaluation;” in other words, can Permittees use the same methods for evaluating the effectiveness of its programs as in the past? Is something different anticipated? What is anticipated by the requirement to “document lessons learned and recommendations for which option to select.” If documentation is intended to be in a report to Ecology, the City recommends that Permittees be given a full year to comply, and that it be included in the City’s annual reporting to Ecology for 2021.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	Appendix 8 includes an extensive list of businesses and activities with potential pollutant-generating sources, including “food stores,” “miscellaneous retail,” “real estate,” and “business services.” Effectively, no business with a parking lot is excluded as a potential pollutant-generating source that must be evaluated for inclusion on the City’s inspection inventory. The extensive list will create an unnecessary and huge burden on Vancouver in the early stages of implementing the new source control program. Vancouver suggests limiting the list in the Phase II permit, beginning with the businesses of higher threat to waters of the State. This data should be readily available from previous implementation of Phase I requirements over the last 5 years. Trends should be identified from the Phase I program concerning what types of businesses are the most likely to be pollutant-generating, and Appendix 8 can be properly narrowed. If inconsistent or incomplete risk data has been provided by the Phase I programs, the Phase II programs should not be held to the same arbitrary list and level of effort. Even the Industrial Stormwater General Permit has fewer activity groups identified for a permit requirement. There is no data-based precedent or quantitative basis for the list as written.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	The scope of Ecology’s proposed program will have varying impacts on Phase II permit holders, based on the size of the jurisdiction, number of businesses, and whether each jurisdiction is already receiving funding from Ecology under the Hazardous Waste Local Source Control Partnership. The City of Vancouver receives no funding from Ecology to visit small businesses’ stormwater facilities and, as the fourth largest city in Washington, it is home to many businesses. Staff, training, resources and support offered through the Local Source Control Partnership are not available to most Phase II permit holders or ANY Phase II agency in Southwest Washington. Ecology must not rely on funding and permit requirements of Phase I communities to conduct enforcement inspections under this permit requirement in Phase II communities where they have no jurisdiction or authority.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	Currently, there are approximately 10,000 properties within the City that would fall under the purview of this proposed Program, meaning the program would create an extreme burden on City staff and existing resources. Even assuming the number of businesses remains static, the program would require the City to inspect 20% of Vancouver businesses each year, or approximately 2,000 businesses annually until the extensive list of business on Appendix 8 can be narrowed into an appropriate inventory. Again, Ecology can reduce this needless burden by using Phase I data to eliminate certain types of businesses that present little to no risk of generating pollutants and should not be on the list to begin with. Additionally, the number of businesses in Vancouver is a constantly moving target, with new businesses opening, other businesses closing, and City annexation of previously unincorporated areas. This reality will make creating an inventory and keeping track of the annual inspection requirements nearly impossible. The City strongly recommends the inventory of businesses be limited explicitly to a one-time snapshot for the term of the five year permit to reduce this complexity and staff burden. The City currently has two staff members assigned to stormwater monitoring and enforcement. These employees are already tasked with enforcing compliance on a list of 65 high-risk businesses in vulnerable areas as well as responding to nearly 200 illicit discharge issues each year and simply do not have time to inspect an additional 1,935 facilities. The City estimates it would need to hire and train at least four new employees to implement the inspection requirements of the proposed program alone. This will take significant time and money, funded by rate payers. Further, the City does not want resources to shift from ensuring compliance of the 65 high-risk businesses to inspecting low-risk businesses such as real estate offices, retail shops and food stores.

Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	The Program's enforcement provision would be equally challenging and costly to implement. It is difficult to predict how many businesses would fail Stormwater inspection, or fail to adequately implement required operational BMPs. Under Vancouver's current private stormwater facility inspection program, inspections revealed about a 60% deficiency rate. But if just 20% of 2,000 businesses in Vancouver require some enforcement action, that will require an estimated additional 500 hours of employee time each year. In sum, requiring the City to inspect and enforce operational and structural BMPs at every business in Vancouver is an incredibly burdensome proposition. Further, requiring inspection and BMP enforcement as to every food store, personal services business, and retail establishment will not quickly and efficiently reduce the amount of pollutants in the City's MS4. The proposed program would be much more appropriate as an outreach program where any enforcement action comes from the City's existing illicit discharge code and the provisions already in place to protect our water resources.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	Ecology would better achieve its goals and maximize a reduction in pollutants through a focused source control outreach program. Rather than require inspection and BMP retrofitting of every business, Ecology should focus on those businesses that have an observed high potential to generate pollutants, such as sites identified by previous Phase I inspections. That way, Phase II permittees would target businesses that are most likely to pollute the State's water resources, rather than wasting resources visiting businesses of little to no concern. Moreover, a focused source control outreach program would likely lead to greater public support, and allow ease of implementation through the City's existing Stormwater program.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 52	The proposed approach is problematic because there is no Ecology guidance on structural source control retrofits for existing buildings/sites. Per the draft permit language, structural source control BMP's "must be required" if operational source control BMPs do not prevent discharges or violations. This would trigger a site retrofit and there is no Ecology design guidance for retrofits, only guidance for new construction. The city resource requirements per site would increase for those triggering structural controls. The requirements for such sites would escalate to plan review, construction, extra inspections and likely hearings and appeals to enforcement actions requiring retrofitting of existing facilities. This could be a disincentive for some communities to inspect those businesses suspected of needing structural improvements. Removing this language from the draft and emphasizing the existing illicit discharge enforcement requirements as a best fit for any identified issues found in the course of the outreach program would be a better fit; although additional guidance on retrofits and source controls in the Stormwater Manual is also needed.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	Volume IV of the Stormwater Manual provides information on a broad set of operational BMPs which, while intended to provide the most cost-effective practices, are notoriously hard to regulate and enforce, particularly at the scale at which this requirement is proposed. "Recommended" BMPs further add confusion and a lack of clarity on what is required and, thus, cause the regulatory burden for enforcement to remain unclear. Clarification is needed on what constitutes a requirement for enforcement, how agencies should specifically satisfy operational compliance and what the permit reporting standards will be. Such clarification is necessary to reduce liability and the potential for extraneous data to be published regarding private business operations. Alternatively, shifting the program to an outreach focus is both consistent with the language in the manual and effectively avoids creating an additional, ineffective enforcement burden for Phase II permittees.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	The proposed Source Control Program will require extensive planning by City staff, including drafting policy, enforcement codes and procedures, estimating increased time and costs, identifying funding sources for the new program, public stake holder meetings, public outreach and education, and City Council briefings and approval. Further, the proposed program will require significant changes to the City's code. For Low Impact Development, ordinance changes alone were a two year process that included internal/external stakeholder meetings, internal subcommittees for code revisions, Planning Commission Hearings, and City Council Workshops and Hearings. However the permit deadline was the last year of the five year permit. This allowed time to educate city staff and the community as well as fund, plan and prepare for the comprehensive process of ordinance adoption. Capacity funding was also available to help offset the additional outreach and stakeholder involvement required. The propose source control program should emphasize outreach, thus eliminating the need for extensive code revisions and time consuming duplicative ordinance creation by referring to existing illicit discharge enforcement ordinances already in place in all Phase II permittees of Western Washington.

Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	To the extent Ecology relies on the Local Source Control program, which is coordinated and funded through Ecology's Hazardous Waste program, as evidence that the proposed Source Control Program may be easily implemented or cost-effective, it shouldn't. The majority of Phase II communities do not receive funding to support staff for this requirement and the existing partners participate on a voluntary basis in an outreach program. Since outreach is what this partnership exemplifies, this is more appropriate for a Phase II permit requirement. Enforcement costs are not included in this voluntary program and represent a considerable burden particularly for structural retrofits. Additionally, the scope and scale of the Local Source Control program is not an exhaustive business inventory like the draft permit describes based on pollution generating activities but an opportunistic approach based on solid waste generation, among other factors. The program funds a self-determined number of site visits not the estimated proportion of businesses in each jurisdiction. The reported ratio of businesses with identified "issues" varies widely from 9%-86% in the Partnership with no actionable issues found. This "issues" data is based on both stormwater AND hazardous waste best practices and is not a clear comparison to the typical scope and authority of a municipal stormwater agency or the guidance provided in Vol IV of the Stormwater Manual. For example, the third most commonly reported "issue" is "products and wastes not properly stored". The Local Source Control program focuses on Safer Alternatives assessment, waste designation and verifying dangerous waste generator status. While a valuable program, it is not comparable to the NPDES permit requirement proposed and both fundamentally misrepresents the program and overstates the transferability of the work.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	The draft permit includes text indicating the "requirements of this subsection are met by using the source control BMPs in the SWMMWW or a functionally equivalent manual approved by Ecology" but Ecology staff indicated NO such equivalency will be required. Equivalent manuals are not required to adopt the revised State manual sections and this permit language is misleading and unfairly burdens Permittees who have adopted the actual State manual.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	The draft Phase II permit language indicates "sites with discharges authorized by a separate NPDES permit" must also be inspected and subject to local enforcement. The basis of this permit requirement to look at businesses with the "presence of activities that are pollutant generating" is a blatant duplication of the same requirement in the Industrial Stormwater General Permit. It is unreasonable to require local Phase II communities to inspect sites ostensibly already inspected and enforced under the authority of the Dept of Ecology. Further, since both the draft Phase II permit and the ISGP refer to the same Stormwater Manual, it is duplicative and a waste of government resources to require both agencies to inspect the same sites for the same stated outcome. Regulatory oversight by two agencies may also lead to inconsistency and confusion by property owners and business operators. In the draft permit workshop, the intent of Ecology adding this language was not at all clarified. Since local agencies may have more protective standards, a cooperative approach between Ecology's ISGP inspection staff and local agencies is more appropriate. Requiring local agencies to inspect and functionally extend their NPDES coverage to sites already covered by their own NPDES ISGP permit appears to convey a lack of faith or efficacy in Ecology's ISGP program.
Vancouver	WWA Phase II	Source Control Program (WWA)	p 51-54	S5.C.8(b)(i): The third paragraph states "Structural source control BMPs, or treatment BMPs/facilities, or both, must be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls." Because MS4 permittees would typically not be sampling receiving waters to establish whether or not the property in question has discharges to the MS4 that are causing water quality standards violations, we feel this is an inpracticable requirement. We recommend deleting "or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls" and replacing with "to the MS4."
Vancouver	WWA Phase II	Monitoring and Assesment	pp 48-50	The City of Vancouver is in agreement with and supports the City of Longview and Clark County's comments to Ecology on the preliminary draft permit wording under S8 Monitoring.
Vancouver	WWA Phase II	Monitoring and Assesment	pp 48-50	It should be clearly stated that all Phase I and Phase II Southwest Washington permittees will meet S8.B permit requirements by paying into a collective fund, managed by Ecology, for a contract to conduct status and trends monitoring in the Lower Columbia Region. It is our preferred option to have Clark County implement the monitoring through this contract with Ecology.