

City of SeaTac

Please see the attached/uploaded comments for the WW Phase II Draft Permit.

COMMENTS on WW Phase II Formal Draft Permit

| Name | Document | Section | Page | Comment |
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| SeaTac | 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 SeaTac 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. |
| SeaTac | 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. |
| SeaTac | 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...) |

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| SeaTac | 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. |
| SeaTac | 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. |
| SeaTac | 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. |
| SeaTac | 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. |

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| SeaTac | 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. |
| SeaTac | 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" |
| SeaTac | 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. |
| SeaTac | WWA Phase II | IDDE | 33 of 97 | 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 SeaTac, 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 implemented by several permittees will be considerable (estimated at \$20,000). For these reasons SeaTac respectfully requests that these new record keeping requirements be removed. 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 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. |

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| SeaTac | 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> |
| SeaTac | WWA Phase II | Controlling Runoff (WWA) | 34 of 92 | <p>S5.C.6.a (Adoption of Standards) As written the Phase II Permittees wishing to adopt/implement a Phase I's equivalent stormwater standards (i.e. King County), must do so by December 31, 2021. This gives Phase II Permittees one year to adopt said Phase I standards if the Phase I jurisdiction meets their adoption/implementation deadline of December 31, 2020. However, the Draft Phase I Permit language includes an allowance for Phase Is to push back the deadline for adoption of their equivalent stormwater standards based on delays of Ecology's review, but this same flexibility is not present for Phase II Permittees. For example, if Ecology is delayed by four months in completing their review of the King County standards, King County then has until April 30, 2021 to complete their adoption/implementations. In this scenario, Phase II Permittees would only have eight months instead of a year to complete their adoption/implementation of said standards. The City requests that the language in this section be revised to allow Phase II Permittees to extend their implementation deadline based on the delays of the Phase I standard adoption, thus ensuring that Phase IIs have the full year to complete the adoption of these standards.</p> |
| SeaTac | 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 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.</p> |

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| SeaTac | WWA Phase II | Source Control Program (WWA) | 51-52 of 92 | <p>S5.C.8 Source Control Program for Existing Development - The City of SeaTac 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.</p> |
| SeaTac | WWA Phase II | Source Control Program (WWA) | 51 of 92 | <p>S5.C.8.a.iii. <i>"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."</i> The City has significant concerns regarding this language. They are as follows: 1) This language creates a significant potential for non-compliance due to the Port of Seattle - Sea-Tac International Airport and their site industrial permit. Specifically, City staff do not have legal access to the site industrial permit area because it is federally controlled and access is restricted by the FAA. So City staff cannot physically perform these inspections, due to access limitations. 2) 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. 3) Sea-Tac Airport's site industrial permit issued by Ecology allows the Airport to use different stormwater standards than the City of SeaTac has adopted. The City should not be expected to inspect two different stormwater standards. 4) The Airport's site industrial permit includes allowances and negotiated terms that are outside of the City's purview. The City should not be responsible for enforcing negotiated standards. Given the above issues and concerns, the City asks that the language: <i>" including sites with discharges authorized by a separate NPDES permit. "</i> be removed from the permit or that language be added that exempts sites with federally restricted access, such as the Airport.</p> |
| SeaTac | WWA Phase II | Source Control Program (WWA) | 52-53 of 92 | <p>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.</p> |

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| SeaTac | WWA Phase II | Source Control Program (WWA) | 53 of 92 | 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. |
| SeaTac | 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; and 2) The form the referral should take (i.e. letter, email, phone call, etc.) |
| SeaTac | WWA Phase II | Reporting Requirements | 73 of 92 | S9.A. This section indicates that Annual Reports are due beginning on March 31, 2020. The permit will have been in effect for less than six months by 3/31/20, so there will be very little to report on, the City believes this time period does not warrant a formal Annual Report. Therefore, the City is requesting that the first Annual Report date be changed to March 31, 2021, to avoid wasting Permittee's and Ecology's time on a unnecessary report. |