

City of Everett

Please find attached the Excel spreadsheet for the City of Everett's compiled Draft Phase II 2019 Municipal Stormwater Permit comments.

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

Name	Document	Section	Page	Comment
Everett	WWA Phase II	Permit Coverage Area and Permittees	9 of 92 (redline version)	We note that several school districts listed. Why don't our local school districts (Everett and Mukilteo) have to get Municipal SW permits? Similarly are Drainage and Flood Control District supposed to have their own coverage?
Everett	WWA Phase II	Responsibilities of Permittees	12 of 92	Are maintenance responsibilities for sites with Industrial SW permits similar or identical to those in this permit, so that in practical terms the entity would be fulfilling the permittee's responsibilities? Does this negate the need to include Industrial Permitted sites within the MS4 program?
Everett	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> Please remove the words "or likely" from the above language, because it requires the permittee to speculate on whether a violation may have occurred and as such is inappropriate for a regulatory document.
Everett	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.
Everett	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...). Otherwise if it is kept here then standards like this should be included in the GMA guidebooks or WACs so that they can be readily reviewed during the update process. Additionally the date doesn't line up with the GMA update cycle. The documentation is also too onerous in asking for titles/positions, names, etc. This should be up to the agency.
Everett	WWA Phase II	Comprehensive Stormwater Planning (WWA)	17-20 of 92	This section is detrimental to opportunistic water quality retrofits where a water quality retrofit is added on to or in partnership with other non-water quality projects in an effort to improve water quality and reduce costs of stand alone water quality retrofits. 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. Without this new language, these cost effective and beneficial retrofits will not occur, unless they fall within a priority basin or area.

Everett	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.
Everett	WWA Phase II	Comprehensive Stormwater Planning (WWA)	18 of 92	S5.C.1.a.i.(b) Does not align with GMA update cycle. Next update is required by June 30, 2023. Should revise to reference GMA update schedule in RCW 36.70A.130(5). If this is to be done through the comprehensive plans, instead of the comprehensive surface water plans as recommended above, then <u>the Department of Commerce should provide guidance and perhaps WAC guidelines for how to incorporate into comprehensive plans.</u>
Everett	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.
Everett		Comprehensive Stormwater Planning (WWA)	17-20 of 92	The City understands that stormwater management / water quality mitigation policies and standards are being promulgated by Ecology, while our comprehensive plan guidance is being promulgated by Commerce creating the likelihood of overlaps and gaps in guidance and water quality management given the built out condition of most of Everett, and the very high densities that will be required on redevelopment sites for Everett to accommodate its growth targets under GMA and Vision 2040.
Everett	WWA Phase II	Education and Outreach	21 of 92	<i>We would recommend using “provide” instead of “create” stewardship opportunities in this section. The permit clarifies in section 55.C.2.iii that jurisdictions can create or partner with existing organizations to encourage residents to participate in activities. Using the term here implies that jurisdictions are creating the stewardship opportunities themselves, without the use of outside partnering agencies.</i>
Everett	WWA Phase II	Education and Outreach	23 of 92	Please clarify if the July 1, 2020 deadline means the evaluation must be started by that date or if the evaluation needs to be completed by the July 1, 2020 deadline.
Everett	WWA Phase II	Education and Outreach	23 of 92	It would be beneficial if Ecology could clarify and perhaps compile a list of “evaluation” methods that would be preferable. This would help permittees understand Ecology’s expectation for how permittees should measure the effectiveness of a behavior change program or campaign.
Everett	WWA Phase II	Education and Outreach	23 of 92	“Ongoing” gives the impression that the same program needs to be used and ran continuously through the term of the permit. If a program was or is started and determined to not work, jurisdictions need the flexibility to drop the ineffective program and develop a more suitable program. Using the term “ongoing” does not allow for that. We recommend the wording be changed to include “the ongoing or new behavior change...”

Everett	WWA Phase II	Education and Outreach	23 of 92	We would recommend that when discussing "program" that the word campaign be added or strictly used for this requirement. The word campaign is used for efforts directed towards a specific topic or behavior for a limited duration of time whereas "program" is a term used more broadly and are generally ongoing.
Everett	WWA Phase II	Education and Outreach	23 of 92	The due dates for the behavior change program should be after the Stormwater Management Action Plan (SMAP) is completed (Due date: 12/31/2022). That way jurisdictions can utilize the water quality data and basin prioritization information to inform where the behavior change program should be implemented. We recommend a due date of 7/31/2022 for this requirement, 6 months after the SMAP is completed to develop our program.
Everett	WWA Phase II	Education and Outreach	23 of 92	Please clarify if the program development shall commence no later than February 1, 2021 or if it needs to be completed by that date.
Everett	WWA Phase II	Education and Outreach	24 of 92	S5.C.2.a.i.c - Please clarify the intent of the language "ongoing or strategic schedule"
Everett	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 " <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.
Everett	WWA Phase II	IDDE	31 of 92	Do we have to re- screen areas that were just screened in the previous year? Are we expected to screen 100% of our area in the permit cycle, or using the "average" of 12%/year for less than 100% over the permit cycle?
Everett	WWA Phase II	Operations and Maintenance	38-39 of 92	The City of Everett disagrees with moving the private inspection program into the public Operations and Maintenance section of the permit. This is for multiple reasons: budgeting of resources, location of inspectors for private inspection programs (not part of crews), differing protocols for private facilities and land ownership, enforcement policies that require ordinances, regulatory framework, and code/Police involvement; and the repercussions of failure to maintain are different. Please move section b and copies of applicable portions of section a into a new standalone section (similar to what was done for Mapping) that is titled "Private Stormwater Facilities Inspections". This section should reside after the Runoff Controls Section for New Development and Redevelopment but prior to the Operations and Maintenance section of the permit.
Everett	WWA Phase II	Operations and Maintenance	38 of 92	7.a.ii; Circumstances beyond permittee's control needs to also include weather and for private facilities budget planning. Some maintenance is exorbitantly costly and small private entities may need time to budget for the costs the next year.
Everett	WWA Phase II	Operations and Maintenance	39 of 92	b.i.(b) Private catch basins aren't required to be inspected, but it seems required for public. Why is catch basin inspection required during construction (every six months) and not after?
Everett	WWA Phase II	Operations and Maintenance	39 of 92	b.i.(b) Do facilities built prior to 2007 have to be inspected?
Everett	WWA Phase II	Source Control Program (WWA)	51 of 92	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." 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. The City should not be responsible for enforcing negotiated standards. The City asks that the language: ", including sites with discharges authorized by a separate NPDES permit." be removed from the permit.

Everett	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.
Everett	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.
Everett	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.)
Everett	WWA Phase II	Operations and Maintenance	61 of 92	S6.D6.i What is the definition of "regularly inspect and maintain" mean? Annual inspections? Quarterly?
Everett	WWA Phase II	Reporting Requirements	73 of 92	Since the 2019 permit is issued in August Ecology should have the first annual report comprise of the questions from the previous permit cycle so that there aren't two different permit questions/requirements being reported on in one annual report. This allows the jurisdictions to adjust their resources to the new permit for the following reporting year and also avoids confusion and logistical issues for the online reporting format.
Everett	WWA Phase II	Appendix 2	10-11	The draft Permit requires various actions to implement a fecal coliform TMDL for certain tributaries to the Snohomish River. Ecology is amending the state water quality criteria to use <i>E. coli</i> instead of fecal coliform because EPA (2012) determined that <i>E. coli</i> is a substantially better indicator of potential human health risk associated with fecal contamination in recreational waters. The proposed <i>E. coli</i> criteria are higher (less stringent) than the existing fecal coliform criteria for primary and extraordinary contact water bodies. Thus, it is possible that some of the water body segments included in the fecal coliform TMDL meet the new <i>E. coli</i> criteria, while other segments require smaller load reductions to meet the new criteria. The City recommends that Ecology revise the Snohomish Tributaries TMDL to align with the new <i>E. coli</i> criteria and adjust the City's Phase II permit requirements as appropriate. To that end, the Permit should require <i>E. coli</i> characterization monitoring instead of fecal coliform trend monitoring and evaluate the results to identify any segments that meet the new criteria (and are therefore candidates for de-listing) and adjust the load reduction targets for segments that do not meet the new criteria.

Everett	WWA Phase II	Appendix 2	12-13	<p>The draft Permit requires various actions to implement a fecal coliform TMDL for the North Creek watershed. Ecology is amending the state water quality criteria to use <i>E. coli</i> instead of fecal coliform because EPA (2012) determined that <i>E. coli</i> is a substantially better indicator of potential human health risk associated with fecal contamination in recreational waters. The proposed <i>E. coli</i> criteria are higher (less stringent) than the existing fecal coliform criteria for primary and extraordinary contact water bodies. Thus, it is possible that some of the water body segments included in the fecal coliform TMDL meet the new <i>E. coli</i> criteria, while other segments require smaller load reductions to meet the new criteria. The City recommends that Ecology revise the North Creek TMDL to align with the new <i>E. coli</i> criteria and adjust the City's Phase II permit requirements as appropriate. To that end, the Permit should require <i>E. coli</i> characterization monitoring instead of fecal coliform trend monitoring and evaluate the results to identify any segments that meet the new criteria (and are therefore candidates for de-listing) and adjust the load reduction targets for segments that do not meet the new criteria.</p>
Everett	WWA Phase II	Appendix 2	14-15	<p>The draft Permit requires various actions to implement a fecal coliform TMDL for the Swamp Creek watershed. Ecology is amending the state water quality criteria to use <i>E. coli</i> instead of fecal coliform because EPA (2012) determined that <i>E. coli</i> is a substantially better indicator of potential human health risk associated with fecal contamination in recreational waters. The proposed <i>E. coli</i> criteria are higher (less stringent) than the existing fecal coliform criteria for primary and extraordinary contact water bodies. Thus, it is possible that some of the water body segments included in the fecal coliform TMDL meet the new <i>E. coli</i> criteria, while other segments require smaller load reductions to meet the new criteria. The City recommends that Ecology revise the Swamp Creek TMDL to align with the new <i>E. coli</i> criteria and adjust the City's Phase II permit requirements as appropriate. To that end, the Permit should require <i>E. coli</i> characterization monitoring instead of fecal coliform trend monitoring and evaluate the results to identify any segments that meet the new criteria (and are therefore candidates for de-listing) and adjust the load reduction targets for segments that do not meet the new criteria.</p>
Everett	WWA Phase II	Appendix 2	11,13,15	<p>The draft Permit requires monitoring to implement a fecal coliform TMDL. It is unclear how this is to be handled when the TMDL is located in a headwaters that run dry during the summer months and makes the 12 minimum samples difficult to achieve unless the agency samples twice a month. If the agency is able to collect enough samples it is also unclear if there is a consistent reportin format (i.e. calendar or water year, whether or not data is to be segregated between wet and dry seasons, how to report the two parts of the WQStandard). Sampling should not be attempted if there isn't flowing water in which to collect the sample. Please add language that samples will be collected to the extent feasible so that an agency isn't penalized if there isn't enough flow to collect 12 valid samples in a year. Or even more preferable please remove TMDL sampling requirements from locations in the headwaters that to do not meet certain flow criteria.</p>