

Phase I, WW Phase II, and EWA PH II Formal Draft Comments				
Name	Document	Section	Page	Comment
Black Diamond	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 Black Diamond 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.
Black Diamond	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.
Black Diamond	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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Black Diamond	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.
Black Diamond	WWA Phase II	Comprehensive Stormwater Planning (WWA)	19 of 92	S5.C.1.c - Stormwater Management Action Planning - The City is concerned with the level of effort that would be needed to develop an assessment, prioritize, then develop a plan for one high priority area. The City has limited staff for doing such work and would likely require the assistance of a consultant. The cost of such an assessment and report would likely put a large burden on City stormwater funds, especially as a small city. The City could accurately identify high priority areas based on local knowledge rather than conducting a large-scale, expensive study.
Black Diamond	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.

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Black Diamond	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.
Black Diamond	WWA Phase II	Comprehensive Stormwater Planning (WWA)	18 of 92	S5.C.1.a.i.(b) - 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.
Black Diamond	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.
Black Diamond	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"
Black Diamond	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><i>If re-evaluating an ongoing program</i></u> , Permittees shall..." This will allow Permittees to select a new program if their ongoing program needs no further evaluation.

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Black Diamond	WWA Phase II	Controlling Runoff (WWA)	34 of 92	<p>S5.C.6.a (Vesting of Stormwater Standards) - The City is 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>

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Black Diamond	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>
Black Diamond	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. Further, how detailed are Permittees expected to be? For street cleaning, we hire a street sweeper. Do we say as much on a document to meet this requirement?</p>

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Black Diamond	WWA Phase II	Source Control Program (WWA)	51-52 of 92	S5.C.8 Source Control Program for Existing Development - The City of Black Diamond 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.
Black Diamond	WWA Phase II	Source Control Program (WWA)	51 of 92	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) 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. 2) Through this language Ecology appears to be requiring Permittees to take over inspection/oversite of construction stormwater permits. Ecology has made it clear to the City that monitoring discharges from construction sites into Waters of the State are not the responsibility of the City. The City is willing to get involved if the City determines there is potential to discharge to the City's MS4. Ecology needs to enforce their own permits. If Ecology is going to make this a requirement, Ecology will need to provide Permittees with funding (on top of capacity grants) to hire inspector(s) to enforce Ecology's permit. 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.

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Black Diamond	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.
Black Diamond	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.
Black Diamond	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.)
				Comments submitted by Scott Hanis, Capital Project/Program Manager with the City of Black Diamond, PO Box 599, Black Diamond, WA 98010