



PUBLIC WORKS

February 3, 2012

Municipal Permit Comments
Water Quality Program
Washington Department of Ecology
PO Box 47696
Olympia, WA 98504

Re: City of Everett comments on the Draft Western Washington Phase II Municipal Stormwater Permit

The City of Everett would like to thank the Department of Ecology (Ecology) for the opportunity to comment on the Draft Western Washington Phase II Municipal Stormwater Permit. Included with this letter is a summary of comments regarding both general and specific comments on the permit extension and also the new draft permit.

We recognize Ecology's efforts in preparing and issuing the draft permit and also the draft guidance documents. In the future we do encourage Ecology to have staged due dates for these reviews. We do have limited staff with expertise in this field and also have our daily needs to implement our current program. By having these current dates we feel our choice was to have inadequate reviews or inadequate program implementation. In our case we could use more time to review and comment on the guidance documents – in particular the Stormwater Management Manual for Western Washington.

In addition, City staff requests that future draft guidance documents be released in multiple stages, at a draft and final review draft stage. We believe the LID Technical Guidance Manual would benefit from this process as we have not yet determine the implications of the document or had adequate time to fully review because of the wealth of documents Ecology has had out for concurrent review. We need more time to provide complete comments.

Our comments on the draft permits are presented in table format as requested by Ecology staff. We do not have comments on the SWMMWW due to the overload on our surface water program staff. We request that Ecology consider extending comments on this document, and the LID guidance document.

Please see the enclosed comments on the Draft Western Washington Phase II Municipal Stormwater Permit. If there are any questions regarding our comments please contact me, or any of the listed City of Everett staff members below, at (425) 257-8800.

Sincerely,

Heather Kibbey,
Surface Water Manager

Encl: Comment Tables

Cc: Mark Sadler, City of Everett
Roy Harris, City of Everett
Grant Moen, City of Everett

Proposed Changes to the Draft 2012 – 2013 Western Washington Phase II Municipal Stormwater Permit

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.5.d	29	32-37	Add language in the permit or introduction stating that “Inspection of all catch basins and inlets owned or operated by the Permittee at least once before the end of the extended permit term (list date). Clean catch basins if the inspection indicates cleaning is needed to comply with maintenance standards established in the 2005 Stormwater Management Manual for Western Washington.”	<p>Deadlines for compliance within the one year permit need to be addressed so it is clear that the permit is a continuation or extension of the previous permit and none of the deadlines, except the annual report requirements, are in effect. Permit limits and requirements are requested to be clear and present in the permit so that all permittees can comply. We also request that either in the permit as extended, or in Ecology guidance materials that the requirements are known – especially relating to the maintenance activities within the extension period.</p> <p>As it reads now to complete all the requirements within the permit term, we want all to know permittees are not required to repeat all of the maintenance activities of the last 5 years. This would create significant financial burdens on permittees if all timelines are compressed to one year.</p>
S5.C.5.e	30	6-10	Compliance with the inspection requirements in b, c and d above shall be determined by the presence of an established inspection program designed to inspect all sites. Compliance during this permit term shall be determined by achieving an annual rate of at least 95% of inspections no later than 180 days prior to the expiration date of this permit	

Table 1: Proposed Changes to the Draft 2013 – 2018 Western Washington Phase II Municipal Stormwater Permit

A. General Comments

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
General Comments			Avoid Concurrent Review Process and Due Dates for Permit and Guidance Documents	<p>The concurrent review process for the combined review of the draft permit language and the two supporting technical documents 2012 Stormwater Management Manual for Western Washington and the LID Guidance Manuals puts an overburden on limited municipal resources to meet timelines (and perform day-to-day program implementation) and we believe it is outside State regulations for administrative procedure. In particular we have concerns over the restricted timeline to review the LID documents. The permit and guidance documents interrelate and that changes to one will affect the other. We believe the LID guidance is not complete and has missing components. LID requirements will cause substantial efforts and costs for municipalities to incorporate into ordinances, stormwater manuals and the permits, which will be passed onto future development. Because of such substantial cost implications for all parties we request that the permit issuance and technical guidance document approvals be delayed to allow for the sequential review of the LID guidance, the Stormwater manual and the Permit document. The administrative procedure needs to be considered for reviews, SEPA, and the evaluation of the cost affects to agencies, development and future owners.</p>

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
General Comments			Keep rule making to the scope per EPA NPDES-MS4 Requirements	We do not believe that the delegated requirements the EPA and the Clean Water Act gave to Washington State included the expansion of the NPDES permit outside of the MS4, into private property, and into receiving waters. Sections of this draft permit go well beyond the requirements of the EPA and the Clean Water Act for the MS4s, and will create significant financial burdens on municipalities, and development and future owners. Examples of these expansions include Low Impact Development (LID), managing private systems and Monitoring requirements.
General Comments			Economic Impact Assessment	The City of Everett is concerned that the proposed mandatory LID requirements will have significant economic impacts on the city, businesses, development and property owners that will in turn result in an adverse economic impact. We believe that prior to instituting such a mandate, that a SEPA/NEPA and an economic impact statement should be required.

B. Specific Comments

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S1.A.1	5	7-8	Add to the end of the sentence "serviced by the MS4."	This coverage area needs modified wordage as suggested, because combined sewer areas of combined sewer cities are covered under other NPDES permits and thus not applicable to the stormwater permit. Include the exception of combined sewer systems as per 40 CFR 122.26 (a)(7)". This is very important to agencies that have combined sewers, as there is language elsewhere in the permit that states a particular requirement applies throughout the area of coverage, and it clearly would not apply in a combined sewer area, because it is covered under other NPDES permits. We believe there is liability in this language to the combined sewer cities, because of the difference of the permit requirements in each permit. For example a litigant could maintain that we were not implementing certain portions of the stormwater permit in the combined area, when it really does not apply because it is not a part of the MS4.
S2.E	13	10-14	Provide clear definition of either Indian Reservations or Indian Country Lands. It is difficult to determine if these should be two different references, OR if you need to include both references in both places.	Regarding reference to Indian Reservations. On Page 7, S1.C.1.b, the reference is to "federally recognized Indian Tribes located within Indian Country Lands". This state has both reservation and non-reservation Indian tribes within permitted areas. The Puyallup tribe is an example of a non- reservation tribe, and yet they do have control over segments of waterways that DOE cannot authorize discharges into. We would propose that you need to look carefully at the definitions regarding both types of tribes, as this reference to Reservations clearly leaves the Puyallup Tribe out. This error probably also exists in the Phase 1 permits. Definitions would be helpful as well.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S4.F.2	14	38	Delete "MS4 contribution to the"	This will provide consistency with efforts to date and remove the assumption language from Ecology that concluded that permittees contributed to any potential violation.
S4.F.3.f	16	5-7	For this entire S4F section, there is still uncertainty and concern among permittees regarding how this meshes with G3 and TMDLs.	King County has stated that it is spending approximately \$100,000 each on 2 actions under S4F. That would indicate that there needs to be an off-ramp here that leads to a TMDL looking at long-term actions with appropriate partners, rather than spending a lot of money immediately for something that may not solve the problem entirely, and remove money from other programs which may be of greater value. The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property or waters of the State/US (receiving waters) outside of the MS4 under the CWA NPDES permit.
S5.A.1	16	35	Add to the end of the sentence "serviced by the MS4."	Provided the geographic area has been amended to exclude the combined sewer area, as provided for in 40 CFR 122.26(a)(7)
S5.A.2	17	1-6	Take out the SWMPR, and leave in the explanation of what the SWMP update is supposed to accomplish.	Having a new term (SWMPR) does not clarify this, it only confuses it. If a jurisdiction can't figure it out, then please have a personal chat with them rather than confuse the issue in permit language
S5.C.1.b	20	9-12	Leave in existing language and delete the new language.	This portion of the permit should remain the same, recognizing the different levels entities are at, and the financial realities. The increase in categories of clients, types of information required, and addition of stewardship is an increase in staff time and expense with little or no benefit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.1.c	20	15	Delete the word "new" in front of "target audience" and "subject area".	One new target audience and a new subject area may reduce the effectiveness of the program by spreading resources too thin and targeting less effective audiences. Most training has new audiences that move through the window of training; for example teaching a group of school aged children who enter the training and then move on and new children come in so there is a constant new audience. The requirement to have a new audience and subject area will reduce the efforts of developing an effective program that works because it takes time to put it together, implement, make adaptive management changes that can be reproduced multiple times.
S5.C.2	20	7-12	Leave in existing language and delete the new language.	The timing is just not feasible. If you are a new permittee, just developing a SWMP or a rate structure, this may make sense. If you are just updating your SWMP annually, it does not. Updating the SWMP and producing the annual report takes place after the end of January, when all the required numbers for educational activities, inspections, trainings, etc. are compiled for the previous year. That leaves 2 months total to gather everything, do a report, update the SWMP , run it thru councils and committees, advertise, hold public hearings, etc. That is just not physically possible in the time proscribed. Advertising the SWMP updates in the local papers and posting it on our website should be adequate. Many jurisdictions have tried holding public hearings, and you only do that for a year or two with no one attending before you revert to what works for most of the rest of state activities, which is public notice and web publication for review.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.2	20	26	Leave in existing language and delete the new language.	Ecology should not be adding elements to stormwater permits for public hearings that go beyond current city statutes or the MS4 system. Once a rate structure is in place, as Everett has, rate adjustments require an approved increase per the City of Everett process, where it is handled at the Council level with 3 public readings and a decision. Routine, small upgrades do not need further public hearings unless the public appears at the Council to insist on a further process.
S5.C.3	21	14	Delete "and prevent"	The new language implies that agencies are able to prevent an illicit discharge activity from taking place. We can certainly educate, identify, detect and remove illicit discharges and connections but we cannot control the actions of people to prevent them from an illicit discharge activity.
S5.C.3.a.iii	21	29-34	Please add "also known as 'as-builts' or recorded drawings" after ..."permanent stormwater control plans..." Please add the following for mapping LID BMPs "within the MS4 system"	To provide clarity, as you did in the Fact Sheet. This will make it clear and consistent with the ownership language in the preceding sentence.
S5.C.3.a.viii	22	22-28	Please also add "federally recognized Tribes" in the second sentence.	Is the intent of the second sentence clarification of this requirement intended to preclude cost recovery from Tribes, the state, and the Federal government? We understand the need for the state and federal government, as regulators of stormwater permits, to obtain information from us on a regular basis. This should not apply to the federally-delegated tribes except in those areas of waterbodies where federally-delegated tribes have promulgated water quality standards.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.3.b.ii	23	18-20		We appreciate the positive tone this section now takes, and believe it has been clarified.
S5.C.3.b.v 1st bullet	24	30-36	Delete all language included under this bullet.	It is not part of the MS4 and once "should" is incorporated into an ordinance it becomes a city rule through permit guidance. Once a redevelopment project is permitted, the site will come into compliance with current building requirements. The NPDES permit should not be "a requirement for a retrofit program" for an existing land use or activity - we believe this is outside of the MS4.
S5.C.3.b.v 2nd bullet	24	37-41	Delete all language included under this bullet.	It is not part of the MS4 and once "should" is incorporated into an ordinance it becomes a city rule through permit guidance. The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) – this is outside of the MS4 as defined under the CWA NPDES permit.
S5.C.3.b.v	24 25	37-41 1-2	Delete all language included under this bullet.	Water quality testing of receiving waters and sediments are outside of the MS4 and should not be part of the NPDES permit. Also, "sediment management standards" should be removed since this is governed by other regulations, and is outside the MS4.
S5.C.3.b.vi	25	3-5	Request language regarding the ordinance clarify that the "owner is responsible for their drainage system".	The city is not the owner of a development, private property, or waters of the State/US (receiving waters), all of which are outside of the MS4 and are not managed by the city under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.3.c.i 1st paragraph	25	12-16	Add to the end of the section: "The cleaning and inspection of the MS4 system will detect indications of an illicit discharge within that section of the MS4 system. The process of inspection, cleaning as needed and tracking a discharge back to the point of entry into the MS4 meets this requirement of this permit."	This provides clarity regarding what is required when screening for illicit discharges. Otherwise the effort required is unknown, and opens the city up to liability where there are different interpretations.
S5.C.3.c.i 2nd paragraph	25	30-37	Add to the end of this sentence: "This screening methodology will be met by participating in the regional water quality testing of outfalls along with the inspection and cleaning of the systems if needed."	This provides clarity regarding what is required when screening for illicit discharges. Otherwise the effort required is unknown, and opens the city up to liability where there are different interpretations.
S5.C.3.c.i	26	3-6	Add to the end of this sentence: "Trained field staff inspecting, cleaning and maintaining stormwater systems and facilities at nodes within the MS4 meets the requirement for complete field screening in a drainage basin."	We believe the term "complete field screening" needs to be defined. Without further clarification such as the suggested language this could be interpreted that the entire MS4 needs to be inspected via CCTV in order to provide "complete field screening" of all conveyances. Ecology staff has verbalized that this is not the intent. However, we believe this term needs to be clear in the regulation. Interpretation could open cities up to liability if there is not further clarification. Requiring the hiring of additional staff or dedicating staff to do this level of analysis is not cost effective and does not increase detections illicit discharges.
S5.C.3.c.i	26	3-6	Delete the word "conveyances" in line 3.	Trained field staff, going about their daily business of inspecting, cleaning and maintaining stormwater systems and facilities is the best method of detecting illicit discharges.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.3.c.iv	26	19-21	Delete in its entirety.	This is already covered in Public Education and Outreach, S5.C.1.a.ii, and does not need to be repeated here.
S5.C.3.d	26	22-24	Delete all of d. (Lines 22, 23, and 24) and then add the Lines 25 to 33 and Lines 1 to 36 on page 27 to this section and renumber. Note: we do have separate comments for these renumbered items per below.	This is a repeat of S5.3.c above, so it makes it very confusing as to what is trying to be accomplished; we believe language between 'program' and 'procedures' are being mixed.
S5.C.3.b.v	24	30	Delete all of 'bullet one' from S5.C.3.d.v	Private facilities are not part of the MS4 and once "should" is incorporated into an ordinance it becomes a city rule through permit guidance. Once a redevelopment project is permitted the site will come into compliance with current building requirements. The NPDES permit should not be "a requirement for a retrofit program" for an existing land use or for any activity that is outside of the MS4.
S5.C.3.b.iv	24	37	Delete the second bullet in its entirety from S5.C.3.b.v Add language that clarifies that the 'owner is responsible for their drainage system'.	Private facilities are not part of the MS4 and once "should" is incorporated into an ordinance it becomes a city rule through permit guidance. The city is not the owner of a development, private property or waters of the State/US (receiving waters) outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.3.d.iv	27	11-13	Add "The compliance strategy should not include the application of operational and/or structural source control BMPs for pollutant generating sources associated with existing land uses and activities outside of the MS4."	Private facilities are not part of the MS4 and once "should" is incorporated into an ordinance it becomes a city rule through permit guidance. The city is not the owner of a development, private property or waters of the State/US (receiving waters) outside of the MS4 under the CWA NPDES permit.
S5.C.3.d.iv 1st bullet	27	18	Delete "immediately" , and replace with "respond as soon as possible after notification."	The term "immediately" opens the city up to liability. This is an opinion driven term.
S5.C.3.d.iv 3rd bullet	27	27-31	Add "known" such that it reads "For all known illicit connections ..."	
S5.C.3.d.iv 3rd bullet	27	33-36	Add the word "known" when referencing 'illicit'	
S5.C.4 3rd bullet	27	36	Delete the sentence: "All illicit connections to the MS4 shall be eliminated."	The city may not have the authority to remove all illicit discharges. An alternative could be that this sentence is revised to state that it reverts back to Ecology to solve the problem between the property owner and Ecology
S5.C.4	29	7-13	Keep original wordage of 1 acre or greater throughout permit and Appendix	Removal of the one acre threshold has greater implications than just those for developers; it also will be substantial for maintenance of transportation, streets and other public projects and municipal cost to implement this program. This could add as much as an FTE to our program. Even pervious pavement is still a "hard" surface which triggers additional LID requirements, so there is no incentive for this.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4	29	7-13	Do not piecemeal intentions	It is also unclear how this will relate to Construction NPDES permits—will they also drop below the 1 acre threshold?
S5.C.4	29	7-13	Keep original wordage of 1-acre large or greater	Less than 1 acre construction, NPDES still require a SWPPP for each construction site, particularly for road projects, maintenance, or small private property.
S5.C.4	29	10	Delete "private"	The permit should clarify that the owner is responsible for their drainage system. If the city is not the owner of a development or private property; the runoff from areas into the MS4 is outside of the NPDES permit.
S5.C.4.a	29	15-27	The time frame for completing manuals and ordinances is not sufficient – see general comments.	With the addition of LID (it is recognize that Ecology is allowing an extra year for those code changes, but we do not see how we can accomplish the code changes and an manual updates and other requirements with our current FTEs. These changes will involve multiple personnel searching code, proposing changes, and taking these thru a Council process of 3 readings (at minimum). There are also boards and commissions that must be informed and convinced of the changes (e.g. the Fire Code has requirements for road radii and proximity of housed to each other). We estimate changes to our Manual will also take 1 FTE over 6 months to do full time, while we have no replacement to do needed program implementation and review while this is happening. We request extending the time frame through at least the end of 2016, but is still not guaranteed due to money and staff shortages.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.a	29	23-26	Delete all new wordage after "Dec. 31, 2015.", ie, " <u>The local program adopted to meet...</u> "	As for the vesting portion of this requirement, as in the past, we would emphasize that the Department of Ecology has no jurisdiction in changing vesting rights that are guaranteed in the State Constitution, and allowed interpretation by jurisdictions. We also wonder how, if this is upheld, this will affect Master Site Plans that are already approved for very long term development of large sites.
S5.C.4.a	29	26	Add " the owner is responsible for their drainage system."	The permit should clarify that the owner is responsible for their drainage system. The city is not responsible for the owner of a development, private property, or a private construction site, all of which are outside the MS4 and outside the CWA NPDES permit.
S5.C.4.a.i	30	1-9	Keep original "equivalent" wordage throughout permit.	The word "program" in this section and the following section is confusing. Ecology no longer approves programs with regard to stormwater permits. We guess this means the Manual plus ordinances, but we are not aware that Ecology was approving ordinances for Phase 2s. We request that "equivalent" is language we all understand, with no guessing on what is meant.
S5.C.4.a.i	30	1-9	Add that "The owner is responsible for their drainage system." throughout the permit and the Appendices.	The city is not responsible for the owner of a development, private property, or private construction site, all of which are outside of the MS4 and thus outside of the CWA NPDES permit.
S5.C.4.a.ii	30	12	Delete "program" and keep per the original wording of "equivalent"	Same as comment above.
S5.C.4.a.ii	30	18	Add that "The owner is responsible for their drainage system."	The city is not responsible for the owner of a development, private property, or private construction sites, all of which are outside of the MS4, and thus outside of the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.a.iii	30	27-30	Delete "and enforce maintenance standards for all"	The permit should clarify that the owner is responsible for their drainage system. The city is not responsible for the owner of a development, private property, or a private construction site, all of which are outside of the MS4, and thus outside of the CWA NPDES permit.
S5.C.4.a.iii	30	27-30	Delete everything in this permit that is outside of the MS4 - these are not part of the CWA NPDES permit.	
S5.C.4.a.iii	30	30	Add "Property owners are responsible for facilities approved since implementation the 2005 DOE Manual or equivalent in 2010..."	Perhaps should clarify here that this does not mean all private stormwater facilities. Property owners are responsible for those approved under the manual we adopted in 2010, and all subsequent manuals. The way this reads, it could have liability for us if misinterpreted.
S5.C.4.b	31	3-10	Retain the one acre and greater limit wordage throughout the permit.	The one acre limit has been a successful implementation with existing available resources. Going to a more restrictive threshold will cause additional resources necessary to implement the program. The new permit will cause significant impacts to costs and rates, and how an agency will afford to comply needs to be considered.
S5.C.4.b.i	31	11-12	The permit should clarify that the owner is responsible for their drainage system.	The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.b.ii	31	13-16	The permit should clarify that the owner is responsible for their drainage system.	The city is not the owner of a development, private property or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.b.iii	31	18-21	The permit should clarify that the owner is responsible for their drainage system.	The city is not the owner of a development, private property or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.b.iv	31	35-36	Delete "including LID BMPs"	Where will the training come from for inspection of LID BMPs? This seems to be highly specialized, and will involve money and manpower (already in short supply) if the training can be found. It is obvious that failures of LID BMPs occur even when large municipalities are doing installation and inspection. With no proven manual of inspection available, this seems to be the cart before the horse.
S5.C.4.b.v	31	30-34	Add that " The owner is responsible for their drainage system."	The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.b.vi	31	35-36	Add that "The owner is responsible for their drainage system."	The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.c	32	3-7	Add that "The program shall require that the owner is responsible for their drainage system."	The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.c.i	32	8-11	Add that "The owner is responsible for their drainage system."	The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.c.ii	32	19-23	<p>Delete all new modifications of S5.C.4.c.ii, and keep existing language.</p> <p>The permit, program and ordinances should clarify that the owner is responsible for their drainage system.</p>	<p>This change in language over the existing language is problematic for municipalities. With the extreme downturn in the construction industry, many partially completed developments currently exist. Many have been abandoned and gone back to bank ownership. Nothing is being constructed, yet this requirement would force us to inspect and try to track down owners when nothing is happening beyond the initial efforts.</p> <p>We prefer the existing requirement, as is better language, especially if it is modified to remove the bracketed language (i.e., 1 to 2 year following subdivision approval), which would recognize that "heaviest house construction" may now be many years down the road on these abandoned sites. Also, how does this apply to Master Site Plans—do we have to inspect these every 6 months for decades even if construction not occurring at the time?</p>
S5.C.4.c.iii	33	7	Add that "The owner is responsible for their drainage system."	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.c.iii	34	2-5	Keep all deleted. Per above comments on the 1 acre threshold.	
S5.C.4.e	34	11	Add, at the end of the sentence "the owner is responsible for their drainage system."	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.f	34	12-13	Add "within the MS4" at the end of line 13 before "control stormwater runoff"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.g.i	34	26	Delete "development" and replace with "BMPs"	As stated earlier regarding revisions to Manual, we do not think decoupling the 2 processes is practical—we will naturally be doing code changes all together to minimize disruption to constituents and our Council, and eliminate duplicative processes. Both of these processes will take a large amount of resources, and the time frame should be extended, perhaps pushing this requirement into the 2018-2023 permit.
S5.C.4.g.i	34	29	Add "MS4" on line 29 after "runoff in all types of"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.g.i	34	32	Add "MS4 develop" on line 32 after "partnership 2001"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.g.ii	35	4	Add "used for MS4 development" on Line 4 after "principles and LID BMPs"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.4.g.ii	35	6	Add "for the development of the MS4" on Line 6 after "related codes"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.4.g.ii.2	35	9	Add "if it exists" on Line 9 after "vegetation"	This is an area where cities are different from counties—cities such as Everett we have not had native vegetation for a long time. So this requirement needs to be for counties, and for cities to promote the use of native vegetation in LID plantings.
S5.C.4.h	35	12-17	Delete all of S5.C.4.h	Watershed planning is outside the boundaries of an MS4 permit, and should be removed from both Phase 1 and 2 permits. There have been many watershed planning efforts promoted and funded by the state (400-12 program springs to mind), and a great many more done by jurisdictions. Ecology can choose to compile these efforts and create a gap analysis, which can be discussed outside of the permit process. The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S5.C.5.b	36	24-25	Keep original wordage.	If less frequent inspection needs are documented they should be allowed.
S5.C.5.d	37	2	Delete "every 2 years" keep "before the end of the permit term" throughout the permit.	

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S5.C.5.d.i	37	17	Delete "every 2 years" keep "before the end of the permit term" throughout the permit	
S5.C.5.d.ii	37	26	Delete "and conveyances"	Including conveyances would include ditches, swales, all pipes, etc. and makes this option infeasible. This is a catch basin maintenance requirement and should only include catch basins. This is where the majority of sediment is located, and cleaning all catch basins in a circuit would meet the intent more cost effectively.
S5.C.5.f	37	39-43	Delete new language contained in lines 39-43	The permit should clarify that the owner is responsible for their drainage system. The city facilities, development, property or ROWs are all outside of the MS4.
S5.C.5.f	38	6	Delete "and disposal"	Disposal is regulated by other regulations and outside of the MS4 and CWA.
S5.C.5.f	38	11-13	Delete this new bullet (the 11 th) in its entirety.	Activities listed are all regulated by other regulations and have practices associated with them and fall outside of the MS4 and CWA.
S5.C.5.f	38	15	Delete "and vegetation disposal"	Disposal is outside of the MS4. Disposal is managed within WAC 173-350.
S5.C.5.h	39	12	Add "MS4" on line 12 after "implement a"	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
S6.A	39	32-34	Add "the owner is responsible for their drainage system."	The permit should clarify that the owner is responsible for their drainage system. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) which are all outside of the MS4 under the CWA NPDES permit.
S8.A.3	50	18	Add after line18 new condition #4 "This screening methodology will be met by participating in the regional water quality testing of out falls. The program testing limits should match the limits of the MS4 system."	The City of Everett has participated in the development of the Regional Stormwater Monitoring Program, and believes this is the most cost effective way to gather data about stormwater effectiveness, status and trends and source control to impact future permits and the recovery of Puget Sound. We appreciate Ecology's participation in the process, and their adoption of SWG recommendations as evidenced in this permit. Questions we believe the RSWMP should address are: How will testing the shoreline, sediment, mussels or bacteria in the marine near shore of the Puget Sound develop a background level? How will the test be able to tell if the copper in the sediment is from stormwater, trees, boats, industry, animals or natural sediments from the river floods.
S9.E.1	64	14-15	Delete "Report" Add "Update"	As noted previously, now calling this a report does not clarify, but confuses. Report in the context of permits has always meant something you have done, not what you intend to do. "Program update" communicates the intent much more clearly.
G3.D	67	8	Delete "substances" and keep old wordage " materials".	
G9.F	69	10-11	Add " Ammonia, surfactants, salinity and other quick field methods of detection."	This needs to be changed to add additional parameters done in the field, if Ecology chooses to include IDDE sampling in this same category.

DEFINITIONS

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
Common Plan of Development or Sale	74	18-19	Delete the new language "and 4) linear projects such as roads, pipelines, or utilities."	
Discharge	75	3-4	Keep existing language for the definition of "discharge"	Existing language is understood.
Illicit Discharge	75	35-41	Delete "into or" - this is outside of the MS4. Keep existing language. Delete "infiltrating/exfiltration of non-stormwater that takes place in pipe bedding"	We strongly disagree with the "infiltrating/exfiltration of non-stormwater that takes place in pipe bedding". There are many types of BMPs and LID that use "infiltrating/exfiltration of non-stormwater that takes place in pipe bedding "as a beneficial use". This would include groundwater, French drains, rain gardens and other LIDs that use this type of process for overflow which is an allowable discharge as part of the LID BMP. Ungasketed drainage pipes will allow stormwater, groundwater, overflow from BMPs and inflow from BMPs into the system. Drain systems that allow infiltrating/exfiltration would be astronomically expensive to replace or correct and beyond the expected resources of permittees. We request the infiltration/exfiltration language be deleted.
Municipal Separate Storm Sewer System	77	14	Delete "Washington State" keep " the United States"	Per the CWA the United States is listed in Section 208 of the CWA and therefore for the whole NPDES permit.
Stormwater	79	36	Delete "interflow"	There is no definition provided for interflow in the permit. The LID guidance defines interflow as a shallow ground water flow. The city is not the owner of a development, private property, or waters of the State/US (receiving waters) or interflow, all of which are outside of the MS4 under the CWA NPDES permit

APPENDIX 1 – Minimum Technical Requirements for New Development and Redevelopment

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
Minimum Requirement #5			<p>Add "Exemptions for this requirement include resurfacing of streets and alleys within public right of way."</p> <p>Also, add language allowing adjacent geotechnical studies to be submitted to meet requirements for proving infeasibility of LID requirements.</p>	<p>The additional geotechnical evaluation needed to meet the requirements of this section will greatly add to project costs and timelines. Also, the resulting inspection and maintenance costs will greatly add to the financial strain on cities.</p>

APPENDIX 6 – Street Waste Disposal

Location	Approx. Page No.	Line	Requested Change	Reasoning or Comments
Street Waste Solids, at end of appendix			<p>Delete "Contaminated soils are considered solid waste and are regulated by local health departments/ districts and laws/regulations governing the disposal of solid waste and hazardous waste."</p>	<p>Comment –Delete all of the soil reference they are not regulated by the NPDES permit but by the WAC 173-350 or other regulations outside of the MS4.</p>