

From: [Eric LaFrance](#)
To: [SW Permit Comments](#)
Cc: [Jeff Brauns](#); [Eric LaFrance](#)
Subject: Draft Municipal Stormwater Permit Comments
Date: Friday, February 03, 2012 2:55:24 PM

To Whom it May Concern,

Comments on the 2013-1018 Draft NPDES Phase II Permit
City of Sammamish

Thank you for the opportunity to provide comments on Ecology's draft of the NPDES Phase II permit that becomes effective in August 2013. After reviewing the draft 5-year Western Washington NPDES Phase II permit the City of Sammamish has prepared the following comments. Along with these specific comments, the City of Sammamish also concurs with the positions represented in the AWC's comment letter.

Comments:

Review Process

Many cities, including Sammamish, have expressed concern over the concurrent review process for the combined review of the draft permit language and the supporting technical documents (i.e. the 2012 Stormwater Management Manual for Western Washington and the Low Impact Development (LID) Technical Guidance Manuals). They have also identified concerns over the limited availability of these documents, especially the LID documents, as these documents are interrelated and changes to one will affect the other, the existing comment period does not allow adequate time for review of all of these regulatory and technical documents. We request that the permit issuance be delayed to allow for sequential review of these documents, beginning with the technical documents.

Expansion of the Scope Beyond EPA Requirements

Sections of this draft permit go well beyond the minimum requirements of the EPA and the Clean Water Act, and will create significant financial burdens on municipalities. Examples of these expansions include new LID and monitoring requirements. We request that these sections be removed from the permit and be reassessed in future permits.

If monitoring will be required in the final permit, Sammamish has concerns with the need to contract separately with Ecology for the regional monitoring. This would require City Council action on a yearly basis, and there could be some difficulties convincing the Council in the merits of a regional program that may or may not have any sites with the City of Sammamish. Please consider simply adding the cost of the monitoring program to the permit fee.

Economic Impacts

Compliance with 19.85 RCW Regulatory Fairness Act - The Act defines "small business" as ". . . any business entity, including a sole proprietorship, corporation, partnership, or other

legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.” The Act finds that uniform regulatory requirements can impose a disproportionate burden on small businesses (19.85.011 Findings – 2007 c 239 (5)). Further, Section 19.85.030 (1)(a) of the Act requires agencies to prepare a small business economic impact statement if a proposed rule will impose more than minor costs on businesses in an industry. The City of Sammamish is concerned that the proposed mandatory LID requirements will have significant economic impacts on small businesses and developers and this will result in an adverse economic impact to the City. In addition, it is the City’s opinion that prior to instituting such a mandate, a small business economic impact statement is required.

2013 Phase II Permit Detailed Comments:

Page 14 lines 17-31; S4.F – A Permittee remains in compliance.....

Comment – Please clarify the difference between S4.F notification and G20 notification and how they should be used.

page 19 line 31; S5.C.1.a.iii – Dumpster maintenance for property owners.

Comment – Please delete “for property owners”. This language is too limiting.

page 20 line 15; S5.C.1.c – new targeted audience in at least one new subject area

Comment – Please remove the word “new” in the two places it appears in this sentence. Cities need to be allowed the flexibility to effectively manage their education and outreach programs, by making decisions on whether to reevaluate and update an existing program or evaluate a new program.

page 21 lines 13-14; S5.C.3 – The SWMP shall include an ongoing program to identify, detect, and remove and prevent illicit connections and illicit discharges into the MS4

Comment – Please remove word “prevent” as prevention is not possible in all cases. Revised text should read, “The SWMP shall include an ongoing program to detect, identify and remove illicit connections and illicit discharges into the MS4.”

page 21 lines 31-34; S5.C.3.a.iii – Permittees may rely on permanent stormwater control plans for mapping LID BMPs provided they are spatially referenced to the MS4 map and maintained on an ongoing basis.

Comment – Please clarify this statement or define “permanent stormwater control plans” so the reader doesn’t need to rely on the fact sheet to interpret.

page 24 lines 37-41 and page 25 lines 1-2; S5.C.3.b.v – The compliance strategy should address the maintenance of permanent stormwater treatment, flow control facilities and catch basis which discharge to the Permittee’s MS4...

Comment – This section duplicates requirements within section S5.C.4.c.i of this draft permit. Please remove this section from the IDDE portion of the permit.

page 26 lines 3-6; S5.C.3.c.i – Permittees shall prioritize conveyances and outfalls and complete field screening for at least 40% of the MS4 within the Permittee’s coverage area no later than February 2, 2016 and 20% each year after...

Comment – Please remove this language from the permit. As we and several other jurisdictions commented on during the public workshops, outfall screening is not an effective tool for identifying illicit discharges due to the intermittent nature of illicit discharges. Adding conveyances onto this screening process will not change that fact, it will only take additional time away from the more effective tools of IDDE detection, such as business inspection and education programs.

page 27 line 36; S5.C.3.d.iv – All illicit connections to the MS4 shall be eliminated.

Comment - Add the word *known* to read, “All known illicit connections to the MS4 shall be eliminated.” The existing language exposes permittees to too much liability.

page 29 lines 15-27; S5.C.4.a – The program shall implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects. Pursuant to S5.A.4., existing local requirements to apply stormwater controls at smaller sites, or at lower thresholds than required pursuant to S5.C.4., shall be retained. The ordinance or other enforceable mechanism to implement (i) through (iii), below, shall be adopted and effective no later than December 31, 2015.

page 34 lines 21-32; S5.C.4.g.i – No later than December 31, 2016, Permittees shall review and revise their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID Best Management Practices (BMPs). The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. In reviewing the local codes, rules, standards, and other enforceable documents, the Permittees shall identify opportunities to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. Permittees shall conduct a review and revision process similar to the steps and range of issues outlined in the following document: *Integrating LID into Local Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011)*.

Comment – All ordinance, procedure, standard, technical manual revisions related to development should be scheduled to occur at the same time. These tasks will represent a tremendous undertaking across multiple municipal departments. Therefore please move the due date to December 31, 2017.

page 29 lines 23-26; S5.C.4.a – Local program adopted to the requirements of S5.C5.a(i) through (iii), below shall apply to all applications submitted after January 1, 2016 and shall apply to projects approved prior to January 1, 2016 and shall apply to projects approved prior to January 1, 2016 which have not started construction by January 1, 2021.

Comment – This vesting language is clear in regards to projects approved prior to January 1, 2016. However, it does not address vesting for projects whose applications are under review and accepted as complete prior to January 1, 2016.

Please provide clear vesting language to address projects under review and accepted as complete prior to the deadline. Said vesting language should be consistent with state law and legal precedent.

page 32 lines 19-21; S5.C.4.c – Inspection of all new stormwater treatment and flow control BMPs/facilities and catch basins for permanent residential developments every 6 months until 90% of the lots are constructed to identify...

Comment – A 90 percent construction threshold is too high of a standard. In the case of a five lot subdivision, the last lot may remain unconstructed/vacant for many years or even decades, during which time there would likely be no environmental benefit from bi-annual inspections. Please change this language back to match the 2007 Phase II permit “every 6 months during the period of heaviest house construction (i.e. 1 to 2 years following subdivision approval).”

page 34 lines 21-32; S5.C.4.g.i – No later than December 31, 2016, Permittees shall review and revise their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID Best Management Practices (BMPs). The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. In reviewing the local codes, rules, standards, and other enforceable documents, the Permittees shall identify opportunities to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. Permittees shall conduct a review and revision process similar to the steps and range of issues outlined in the following document: *Integrating LID into Local Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011)*.

Comments:

Revisions to the codes, standards, and regulations in multiple land use documents are labor intensive. Sammamish, like most other cities, has limited resources and is already committed to completion of other substantial planning projects including a mandatory Comprehensive Plan Update. We request that the timeframe be revised to December 31, 2017 or later rather than imposing December 31, 2016 as the deadline.

The City of Sammamish remains committed to reducing the impacts of development on drainage systems and natural habitats. The City’s current Comprehensive Plan and Zoning Code include policies and regulations to protect and enhance water quality and drainage. However, the City objects to the imposition of mandatory requirements of LID and Best Management Practice (BMP) standards. In updating the City’s Comprehensive Plan and Zoning Code, the City plans to allow and encourage the use of LID principles and BMPs.

The proposed guidance document referenced in this section cites the need for updating comprehensive land use planning documents. Changes to comprehensive planning documents such as growth management plans and shoreline master plans are not appropriate for a stormwater permit. Changes to these documents should be mandated through revisions to the Shoreline Management Act and the Growth Management Act, not circumvented through a stormwater permit. Please add clarifying language to the permit indicating that updating of growth management

planning and shoreline management plan documents is not mandated under this requirement.

page 34 lines 33-34; S5.C.4.g.ii – Each Permittee shall submit a summary of the results of the review and revision process in (i) above with the Fourth Year Annual Report...

Comment – Please remove this requirement. Reporting requirements are already burdensome enough. This item should be addressed through a check box on the annual report.

page 37 lines 1-2; S5.C.5.d – Inspections of all catch basins and inlets owned or operated by the Permittees at least once every two years.

Comment – Please change the inspection frequency back to once every five years. A two year inspection standard of all CB and inlets is unattainable for most Phase II's, especially given these economic times.

page 37 lines 17-23; S5.C5.d.i – Inspections at least once every two years may be conducted on a "circuit basis" whereby a sampling of catch basins and inlets within each circuit is inspected to identify maintenance needs. Include in the sampling an inspection of the catch basin immediately upstream of any system outfall. Clean all catch basins within a given circuit for which the inspection indicates cleaning is needed to comply with maintenance standards established under S5.C4.a., above.

Comments:

- Please change the inspection frequency back to five years. A two year inspections standard of all CB and inlets is untenable for most Phase II's, especially given these economic times.
- Please change the second sentence to read "Include in the sampling an inspection of the catch basin immediately upstream of any system outfall, *if applicable.*" CB inspection circuits are often based on land use or traffic areas and do not necessarily include system outfalls. This change will clearly give permittees the flexibility needed to effectively and efficiently manage these assets.

page 37 lines 25-26; S5.C5.d.ii – The Permittee may clean the entire MS4 within a circuit, including all conveyances and catch basins, once during the permit.

Comment – Please define "conveyances" in the Definitions and Acronyms section.

pages 51-63 All lines; S8.C, D & E – Monitoring Requirements

Comment – Please remove these new sections from the draft permit. The expansion of monitoring requirements will provide little resource management insight into the stormwater quality issues of our region and will create an additional burden on permittee's already scarce financial resources.

page 74 lines 18-19; Definitions – Common plan of development or sale...and 4) linear projects such as roads pipelines, or utilities.

Comment – Please remove the above identified language from the definition of Common Plan of Development or Sale, or exempt municipal projects from the definition. Permittees are already conducting inspections of municipally owned or operated flow control facilities and catch basins, pursuant to S5.C.5.b and S5.C.5.d, respectively.

page 74 lines 31-34; Definitions – Circuit means a portion of the municipal separate storm sewer system (MS4) discharging to a single point and serving a discrete area determined by both topography and the configuration of the MS4....

Comments – Please revise the above language to read as follows: “Circuit means a portion of the municipal separate storm sewer system (MS4) discharging to a single point and or serving a discrete area determined by both traffic volumes, land use type, topography and or the configuration of the MS4.” CB inspection circuits may need to be based on land use or traffic areas and do not necessarily include system outfalls or single discharge points. These changes will allow permittees the flexibility we need to effectively and efficiently manage these assets.

page 75 lines 35-39; Definitions – Illicit Discharge means any discharge into or from municipal separate storm sewer that is not composed entirely of stormwater or which is not an allowed discharge as specified in this permit. Illicit discharges include, but are not limited to, spills, discharges associated with illicit connections, and infiltration/exfiltration of non-stormwater that takes place in pipe bedding.

Comments:

- Please remove the words “or from” from the first sentence. This additional language opens permittees up to too much liability potential from noncompliance and third party lawsuits, as we cannot control non-point source discharges into the MS4 and the resulting cumulative impacts to the MS4 discharge.
- Please remove the words “and infiltration/exfiltration of non-stormwater that takes place in pipe bedding” from the last sentence. This additional language also sets permittees up for non-compliance as we have no control over infiltration/exfiltration of stormwater into pipe bedding. Further, we do not have the ability to effectively trace and remove discharges into from groundwater or pipe bedding.

Appendix 1 page 5 Lines 31-33; Definitions – Receiving waters – Bodies of water or surface water systems to which surface water runoff is discharged via point source of stormwater or via sheet flow. Ground water to which surface water is directed by infiltration.

Comment – Please remove the last sentence from this definition and return it to its original form. Adding ground water to this definition opens permittees up to a new world of liability. Further, this broadened definition would result in conflicts with the intent and benefits of LID – filtration and infiltration, as well as its implementation. This would also create conflicts with state water quality standards: For example: Based on this definition, sediment ponds that infiltrate would meet the definition of receiving waters, and by definition violate state water quality standards when turbid water is discharged to them. Infiltration is already regulated by Ecology’s Underground Injection Control program.

Appendix 1 page 11 lines 2-3; Section 3.2 New Development – All new development, regardless of size, shall be required to comply with Minimum Requirement #2.

Comment – The requirement of a SWPPP for a single family residence (SFR) is burdensome. Include language that exempts SFRs from this requirement. Sammamish currently conducts TESC plan reviews for all projects. The requirement of a SWPPP would likely result in the need for the homeowner to hire someone to produce it without adding any environmental benefit.

Appendix 1 page 25 lines 6-7; Minimum Requirement # 5 – LID Performance Standard...Project sites that must also meet minimum requirement # 7 – flow control – must match flow durations between 8% of the 2-year flow through the full 50-year flow.

Comment – Please remove this language. This increased flow standard is too onerous, and likely unattainable on till soils. Application of this standard would result in large scale changes to the form and function of how development occurs. An example would be taking a site that was intended to have SFR at an R-6 density, but discovering that the only way to meet this standard would be to use townhomes. This conversion from free standing to attached homes appears to be a bigger land use discussion and should be considered within the Growth Management Act and not in this stormwater permit.

Appendix 1 page 38 line 33; Section 8 Feasibility Criteria – Permeable Pavements within an area designated as a Landslide Hazard Area.

Comment – Please revise language to read “Within or draining to an area designated as a Landslide Hazard Area.” Projects that would increase drainage (surface and/or groundwater flows) to landslide hazard areas are also hazardous and should be classified as infeasible.

Appendix 1 page 39 lines 1-5; Section 8 Feasibility Criteria – Permeable Pavements; Where a site cannot reasonably be designed to have porous asphalt surface at less than 5 percent slope, or pervious concrete at less than 6 percent slope, or a pervious paver surface (where appropriate) at less than 10 percent slope...

Comment – Any type of pervious paving, should be considered infeasible at greater than 5 percent slope. Slopes greater than 5% would require significant engineering, and would go against Sammamish’s goal of not requiring a professional engineer for most SFR’s drainage designs.

Appendix 6 page 1 line 24; - Discharge to a MS4 requires approval of the sewer authority.

Comment – Please return language to its previous form that references the sanitary sewer. Municipal sanitary sewer does not equal an MS4.

Once again, the City of Sammamish thankful for the opportunity to address our concerns to Ecology in the form of the preceding comments. If any follow up is necessary, please contact Eric LaFrance at (425) 295-0562, or by email at elafrance@ci.sammamish.wa.us.

Sincerely,

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