

Attachment 1

City of Tacoma's Comments on the Draft NPDES Phase I Permit (2013-2018)

General Comments

1. Please consolidate all definitions in the Permit "Definitions and Acronyms" and "Appendix 1" to be listed in one section of the Permit and verify consistency and eliminate any duplication. Similarly, please verify consistency between the definitions in the Stormwater Management Manual for Western Washington and the Permit. Currently, the definitions are divided between different sections of these documents and can be difficult to find.
2. Because the referenced documents in the permit are in different stages of draft development and have not all been available for public comment during the comment period for the draft permit, we request the opportunity to provide comments on the referenced guidance documents when they become available, as well as addenda to Tacoma's comment letters on the Draft Permit and Stormwater Management Manual for Western Washington.
3. Generally eliminate special conditions attached to LID BMPs throughout the permit and Stormwater Management Manual for Western Washington. The LID BMPs should have the same requirements as other infiltration-based water quality treatment and flow control facilities/BMPs, in order to reduce the barriers to choosing and using LID BMPs as the preferred solutions for stormwater management.
4. The scope of the Stormwater Management Program (SWMP) needs to continue to be limited to the permit elements described in Sections S5 and S6 of the permit in order to have a well-defined list of activities required for reporting and compliance. Revise the definition of the SWMP in the Definitions and Acronyms (p.87, lines 20-24) to eliminate the language "and any additional actions necessary to meet ... Permit." This will also make the definition consistent with the permit Section S5.C. (p. 12, line 29) which states: "The SWMP shall include the components listed below: (Section C1 through Section C10 only)."
5. Staff training requirements throughout the Permit need to be more consistent and less prescriptive. The City hires qualified staff to complete the requirements in the SWMP, and the current requirements for staff training, testing, and tracking are onerous and unnecessary.

6. The deadlines for implementing code and manual changes need clarification. Please clearly state in each case when the update should be completed versus when it should be adopted and effective. This applies to the LID update described in Section S5.C.5.b.i., the Source Control standards listed in Section S5.C.7.b. and the prohibited discharges listed in Section S5.C.8.b.
7. For each sub-section heading, please include the complete section name starting with the Special Condition number. Alternatively, consider identifying the major sub-section headings in the page footer in addition to page numbers.

AUTHORIZED DISCHARGES

Section S2.A, (page 7, lines 9-18)

Section A indicates that the permit “authorizes the discharge of stormwater to surface waters and to ground waters of the state from municipal separate storm sewers owned or operated by each permittee,” and Section A2.A.1.states that discharges to ground waters of the state through facilities regulated under the UIC program are not authorized. Some infiltration facilities designed to comply with the requirements of Special Condition S5.C.5 Controlling Runoff from New Development, Redevelopment and Construction Sites may also be regulated under the UIC program. In those cases, would the infiltration facilities be excluded from being required to meet the conditions of this permit? Additionally, would those infiltration facilities regulated under the UIC program not be allowed to be used to meet the requirements of this permit? Please clarify the meaning of “authorize” in relation to these issues.

STORMWATER MANAGEMENT PROGRAM (SWMP)

REPORTING and LEGAL REQUIREMENTS

Section S.5.A.1, (page 11, line 39)

Strike the “at least” requirement. The use of “at least annually” indicates that the Permittee may need to update their SWMPR more frequently than annually. Please specify which circumstances might lead to a SWMPR being updated more frequently than once per year.

The SWMPR should be submitted with the first annual report and only resubmitted thereafter when there are significant changes in the SWMP. For most of the components of the SWMP, the planned activities do not change from year to year during the permit term and are explicitly dictated by the permit requirements and deadlines (e.g., 20% business inspections annually, 20% catch basins cleaned annually, etc.).

Section S5.A.1 (page 12, line 4)

Rewrite: “The SWMPR shall ~~be written to~~ inform the public....”

Section S5.A.1 (page 12, line 4)

Please specify whether or not fulfilling a planned SWMP activity will become an enforceable permit obligation. It is not clear, once reported, if the planned activities become permit obligations, subjecting the Permittee to enforcement for non-performance. Can the Permittee decide to modify or eliminate a “planned activity?”

Section S.5.A.1.b., (page 12, line 7)

Planned activities to meet S7 Compliance with TMDL Requirements and S8 Monitoring are not components of the SWMP Section S5 and should not be included in the SMWPR. S7 and S8 reporting is already included in the NPDES annual report form, questions 72 through 88.

Section S.5.A.3, (page 12, line 15)

Strike requirement 3. It does not provide a comprehensive list of what information needs to be tracked. The tracking requirements are listed in the individual component sections of the permit.

Section S5.B (page 12, line 18 - 20)

Please include language at the end of line 20 stating that:

“A SWMP that meets the requirements of this Permit shall be presumed to satisfy MEP and AKART requirements and protect water quality.”

Section S5.B (page 12, lines 26 – 28)

Please remove permit language prohibiting a permittee from repealing “existing local requirements to control stormwater that goes beyond the requirements of this permit, for prohibiting non-stormwater discharges and for new development and redevelopment sites.” It is not clear what is meant to “go beyond the requirements of this permit for prohibiting non-stormwater discharges....” This language in S5.B improperly interferes with the broad legislative power conferred on municipalities under RCW 35.67.020, which includes “full jurisdiction and authority” to manage and regulate their drainage systems. This language also limits the ability of the Permittees to use adaptive management to improve their SWMP.

Section S5.C, (page 12, line 29-31)

Keep redline strikeout and include language at the end of line 31 as follows:

“The requirements of the stormwater management program shall apply to municipal separate storm sewer systems, and areas served by municipal separate storm sewer systems owned or operated by the Permittee and located within the jurisdictional boundaries of the Permittee.”

Please include this language to remove the ambiguity regarding the language “areas served” and what that means in terms of the intended geographical reach of the Permit and to be consistent with language in Section S1.A.

MUNICIPAL SEPARATE STORM SEWER SYSTEM MAPPING AND DOCUMENTATION

Section S5.C.2 (page 13)

As discussed on p. 31 of the permit fact sheet, include language to qualify the ongoing mapping requirements in section a. and new mapping requirements in section b. with the condition that the features identified under sections a. and b. will be mapped as the Permittee becomes aware of them, and prioritized as necessary to meet the needs of the Permittee's SWMP and to support illicit discharge detection and elimination activities and spill response. The mapping requirements are extensive and detailed, and mapping all of the characteristics listed within the timeframes identified in the permit without allowing the Permittee the ability to prioritize some mapping and delay other mapping, would be counter-productive for Tacoma's MS4.

Section S5.C.2.a. (Page 13, line 32 and 33)

Edit language as follows:

"Ongoing Mapping: Each Permittee shall ~~maintain existing~~ continue mapping data ~~the features listed below on an ongoing basis~~ and continue to update the features listed below. All updates shall be completed within six months of additional features being found, modified, or constructed."

The purpose of the ongoing mapping is to maintain and update all mapping that was completed under the 2007 NPDES Permit. The draft permit language as written confuses some of the ongoing mapping priorities with the new mapping requirements.

Section S5.C.2.a.ii (page 13, line 38)

Specify that the mapping requirement for "receiving waters" will not include ground waters since the draft Permit "authorizes the discharge of stormwater to surface waters and ground waters of the state." Ground water may be viewed as a "receiving water" under the draft Permit language, which means the Permittee could have an obligation to map it under S5.C.2.a.ii unless specifically stated otherwise.

S5.C.2.a.ii (page 14, line 3)

Delete "LID" and replace with "permittee-owned BMPs." LID is included in the definition of "stormwater treatment and flow control BMPs/facilities" (see fact sheet, page 30, sixth paragraph). The definition of "stormwater treatment and flow control BMPs/facilities" on page 87 of the Permit doesn't distinguish between public and private, therefore the qualifier "permittee-owned" is necessary.

In addition, the permanent stormwater control plans should be considered a valid mapping format for any of the attributes of the tributary conveyances or connections to the MS4 under S5.C.2.c.

S5.C.2.a.iv (page 14, lines 8 and 9)

Clarify the mapping requirement as: “Geographic areas served by the Permittee’s MS4 that discharge stormwater to infiltration systems shall be mapped.”

Section S5.C.2.a.v. (Page 14, line 10)

For consistency with the 2007 permit language, replace “Tributary conveyances” with “Attributes”. Items (1), (2) and (3) are attributes which include tributary conveyances.

Section S5.C.2.a.v. to viii., (page 14, lines 10-26)

Please define the terms “Tributary conveyances” and “Connections” as identified in the mapping requirements under v, vi, vii, and viii. in terms of the publically-owned MS4 or privately-owned drainage systems to be consistent with the mapping intent of the 2007 permit.

Section S5.C.2.a.vii., (page 14, lines 20-21)

Modify this ongoing mapping requirement to be consistent with the 2007 permit requirement to have a *program* to update and maintain a map of all connections authorized or allowed by the Permittee after Feb. 16, 2007. It is not feasible to expect that all of those connections would be completely mapped within six months; however, as consistent with the previous permit, having a program in place to update the maps is reasonable and necessary.

Section S5.C.2.b.ii, (page 15, lines 14-16)

The requirement to map all existing, known connections equal to eight inches is infeasible and should be eliminated or further defined. This smaller diameter now encompasses most of the 18,300 catch basin leads in Tacoma’s MS4. The catch basin structures connected to our MS4 are mapped, but the leads and culverts themselves are not mapped individually. Mapping the catch basin leads would be extremely time and labor intensive. The additional information would not provide significant value for the City’s IDDE and spill control activities as suggested in the Fact Sheet (page 31, S5.C.2.b.ii). We propose that this requirement be eliminated or further defined.

S5.C.2.d.(page 15, lines 32-37)

The redlined language is unnecessary and should be removed. The City already has a statutory obligation under Chapter 42.56 RCW (Public Records Act) to provide public records to those who make a request and charge for copying.

COORDINATION

Section S5.C.3.a, (page 16, lines 14-16)

Delete “key personnel” and replace with “key positions or job titles”. Individual personnel filling the positions can change frequently. The NPDES permit contact person can provide specific contact information for key personnel, upon request.

In order for us to implement this requirement, the Permit language needs to further define the list of activities that comprise the phrase “stormwater-related activities.”

Section S5.C.3.b.i, Page 16, lines 20-23)

Please insert qualifying language consistent with the permit fact sheet stating that coordination mechanisms between physically interconnected MS4’s “may occur on a variety of scales appropriate to the activities being coordinated” and still fulfill this permit obligation.

PUBLIC INVOLVEMENT AND PARTICIPATION

Section S5.C.4.a.(page 16, lines 36–38)

This paragraph requires the City to “create opportunities for the public to participate in the decision-making process.” (Emphasis added.) As written, this language would compromise the City’s independent decision-making processes and improperly interfere with the discretion of the Director to administer the City’s stormwater program. Please consider the following language as an alternative:

“Permittees shall create opportunities for the public to comment on ~~participate in the decision-making processes involving~~ the development, implementation and update of the Permittee’s SWMP.”

CONTROLLING RUNOFF FROM NEW DEVELOPMENT, REDEVELOPMENT AND CONSTRUCTION SITES

Section S5.C.5.a.iii, Page 18, lines 20 – 24

Delete lines 20-24. The language in lines 20 – 24, as applied, may violate state vesting law. Imposing the Phase I Stormwater Permit requirements on private developers will, in all likelihood, be subject to the principles of the vested rights doctrine as applied in Washington State. Under state vesting laws, “a proposed division of land must be ‘considered under the subdivision of short subdivision ordinance, and zoning or other land use control ordinance’ in effect at the time the fully completed application is submitted.” *Graham Neighborhood Assn. v. F.G. Associates*, 252 P.3d 898, 907, (Wash. App. Div. 1 2011). (Emphasis added.) The Washington Court of Appeals has held that “[s]torm water drainage ordinances are land use control ordinances.” *Westside Business Park, LLC v. Pierce County*, 100 Wn.App. 599, 5 P.3d 713 (Wash.App. Div 2 2000). The court in *Westside Business Park* also noted that the state Supreme Court “has indicated that stormwater drainage ordinances are subject to the vesting rule, when it held that “the vested rights doctrine required...[King]... County to apply the surface water drainage regulations in effect at the time of the developer’s application for a preliminary plat approval.” *Id.* at 607; citing to *Phillips v. King County*, 136 Wn.2d 946, 963, 968 P.2d 871 (1998). If the SWMP requirements set forth in S5.C.5.b.i through ii are captured by ordinance and imposed on a developer after January 1, 2015, the City’s ability to impose them will depend

on whether a developer's project has vested under a previous stormwater ordinance. For this reason, the City may not be able to comply with S5.C.5.a.iii, as written, in every instance.

Additionally, this requirement is difficult to implement as written because a definition for *complete* project description and site plan is not currently included in permit. Also, the definition for 'started construction' under Note 4 is too vague. Site work with the definition provided could include any sort of utility work, which could be really minimal depending on the site. The definition needs to be very specific or it will be open for too much interpretation.

Section S5.C.5.a.iii. (Page 19, lines 1-3)

In order to provide adequate time to review and update the Permittees' existing manuals and ordinances for equivalency with the newly revised Stormwater Management Manual for Western Washington, please update the deadline to provide a minimum of 24 months after the effective date of the permit to complete the requirement. With the additional and simultaneous effort of updating the manual and standards for LID in addition to the equivalency issues, additional time to meet this deadline in the current permit is reasonable. Please add language here to clarify that this update of the Permittee's "enforceable requirements, technical standards and manual" is specifically related to Ecology's manual and is independent from the requirement to update "rules, standards, or other enforceable documents" for LID (p. 20, lines 37-38).

Section S5.C.5.a.v. (2), (page 19, lines 26-30 and Appendix 7)

In Tacoma, the majority of development sites do fall under the High Sediment Transportation Potential (HSTP) definition and Tacoma's policy is to require all development sites that meet the minimum thresholds in Appendix 1 to be inspected prior to clearing and grading whether or not they qualify as HSTP sites, so the "HSTP" category and special requirements are superfluous for our program. Please add language under Section a.v.(2) that allows Permittees to choose to inspect all construction sites that meet the minimum thresholds as an alternative to being required to evaluate each site according to Appendix 7.

Section S5.C.5.a.v.(3), (page 19, line 40)

Remove "*, including LID.*" The definition for stormwater facilities already includes LID BMPs.

Section S5.C.5.a.v.(3),(page 19, lines 40-42 and page 20, lines 1-2)

Remove "*including LID*" and keep original language for the following sentence: "*A maintenance plan shall be developed for permanent stormwater BMPs and responsibility for maintenance shall be assigned.*"

This requirement is important for all stormwater facilities, including onsite management facilities and conveyance systems which may not be designed to meet Minimum Requirements #6 and #7, but still require regular maintenance.

Section S5.C.5.a.v.(4), (page 20, lines 6-8)

Revise to read: "Compliance during this permit term shall be determined by achieving at least 80% of ~~scheduled~~ required inspections described in sections S5.C.5.a.v.(2) and (3)."

As written, it is unclear whether inspections are required for all sites being constructed and/or those sites already constructed during a given year.

Section S5.C.5.a.vii, (page 20, lines 25-34)

The City hires qualified staff and many of the detailed training requirements are redundant and onerous. This applies to the training requirements throughout the permit. We suggest using consistent language for all five staff training sections in the permit based on the language for IDDE staff training in Section S5.C.8.e (p.34, lines 36-40 and p. 35, lines 1-2):

"Permittees shall train staff who are responsible forto conduct these activities. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained."

Section S5.C.5.b.i., (page 20, line 36)

Update the LID code-related update deadline to two years and four months after the Permit's effective date (Dec. 31, 2015), which aligns with the LID advisory group's recommendation to provide at least two years to complete this activity. The current deadline would only provide two years to comply if the Permittee started this activity during the 2012 permit which does not include this permit requirement. The Permittees cannot be expected to comply with both the 2012 Permit and the 2013 Permit at the same time.

Also, please clarify the date on which the revised codes and standards must be adopted and effective. Tacoma suggests providing at least four months between the reviewed and revised deadline and the adopted and effective deadline to allow time for the City Council adoption process.

Section S5.C.5.b.i., (page 20, 40-41)

Revise as follows:

"The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development when feasible."

The "when feasible" addition helps the sentence conform to the PCHB's 2008 LID decision.

Section S5.C.5.b.i.ii. (Page 21, lines 3-7 and lines 8-19)

Please clarify the sentence requiring Permittees to, with the mandatory term "shall" at line 3, "...conduct a review and revision process similar to the steps and range of issues outlined in" the Puget Sound Partnership's ("PSP") 2011 LID Guidance (emphasis added). The underlined language is confusing in terms of determining compliance. It would help to identify specifically

which “range of issues” Ecology is referring to and what happens if the Permittee fails to consider each and every issue mentioned in the LID Guidance. For example, in the Second Year Annual Report, will Ecology expect a Permittee to demonstrate that each and every issue has been considered? Considering every issue may not be possible because the processes and procedures used by the City for reviewing and revising its ordinances may be in conflict with the review and revision process proposed in PSP’s LID Guidance. Because the PSP 2011 LID Guidance document appears to be referenced as guidance only, Ecology’s use of the mandatory term “shall” in line 3 is not appropriate.

The following revision to S5.C.5.b.i addresses the concerns raised above:

“Permittees shall refer to the information contained within the document titled: *Integrating LID into Local 5 Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011)*, as guidance when ~~conduct~~ reviewing and revising ~~on~~ local development-related codes, rules, standards and other enforceable documents ~~process to incorporate LID Principles and BMPs~~. ~~The Permittee shall use a process similar to the steps and range of issues in such document to the extent outlined in the following document: *Integrating LID into Local 5 Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011)*.”~~”

Section S5.C.5.b.ii, (page 21, lines 1-3)

It is unclear how the LID Principles to minimize impervious surfaces, minimize loss of native vegetation, and minimize stormwater runoff can be consistently implemented by all Permittees unless design goals are specified, such as the LID flow control performance standard referenced in Appendix 1. Please specify what design goal(s) are established for the LID Principles.

STRUCTURAL STORMWATER CONTROLS

Section S5.C.6.a.i.(5), Page 23

In order to avoid making LID an exception, rather than the standard practice, consider eliminating the distinction of listing “*New LID BMPs*” separately from the “*New flow control facilities*” and “*New water quality treatment facilities*” listed in (1) and (2).

Make all categories listed under 6.a.i. match the categories listed in the Appendix 11 table for consistency.

Section S5.C.6.a.i.(6), (page 23, line 31)

Revise (6) to read: “*Maintenance or repairs with ~~capital construction~~ costs...*”

Section S5.C.6.a.ii.(3) (page 24, lines 7 and 8)

Revise item (3) to read “*other actions*” rather than “*other projects*.” Please define or list types of actions that should be considered and would fall under this requirement.

Section S5.C.6.a.i. (Page 24, lines 9 and 24)

Section number appears incorrect and should be iii and iv.

Section S5.C.6.b.ii. (page 24, line 27)

As previously stated in the comment on Section S5.A.1 (page 11, line 39), the SWMPR should be submitted with the first annual report and only resubmitted thereafter when there are significant changes. The Structural Stormwater Control Program goals and planning process are unlikely to change during the term of the permit. We suggest only reporting the items listed under C.6.b once during the permit term and as updates occur.

Section S5.C.6.c. (page 25, lines 15-18 and Appendix 11)

If the “*Application of LID Principles*” is going to be counted as a Stormwater Structural Control project type, it should be included and documented in the Appendix 11 Structural Stormwater Controls Project List as a project Type under Note 1. Since the project list identified in 6.c. will be included in the annual report, we suggest eliminating the separate SWMPR and continuing to use the annual NPDES Report as the exclusive annual reporting tool under the permit.

SOURCE CONTROL PROGRAM FOR EXISTING DEVELOPMENT

Section S5.C.7.a.ii. (page 25, line 30)

In order to provide more consistent inspections between Permittees, please add a definition of the number of housing units in a multi-family dwelling that qualifies for the required inspection under this section.

Section S5.C.7.b. (page 26, lines 14– 16)

The Section reads “Permittees shall update the ordinance(s), or other enforceable documents...no later than February 2, 2018. Please clarify whether the updates must also be adopted and effective by February 2, 2018.

Section S5.C.7.b.ii (page 26, lines 39 – 40)

The term “*sites*” in line 39, and phrase “*potentially pollution generating*” in line 40 is vague. Please consider the following revision:

“Permittees shall implement a program to identify commercial and industrial properties sites which have the potential to contribute pollutants to the Permittee’s MS4 and represent the business categories listed in Appendix 8 are potentially pollution-generating.”

Section S5.C.7.b.ii (1), (page 27, lines 1-5 and Appendix 8)

The codes listed in Appendix 8 for developing the site inventory do not easily apply to cases such as multiple businesses in a business park or strip mall with one property manager. Please include language allowing latitude for individual source control programs to determine how they will develop and categorize their inventory of sites, to be consistent with the permit fact sheet, page 45.

Also, rather than requiring annual updates of the inventory, note that the inventory will be updated as necessary, in order to avoid draining resources which could be used for achieving the goals of the inspection program. Based on City of Tacoma’s experience, the inventory does not change significantly from one year to the next.

Section S5.C.7.b.iii (1) (page 27, line 12)

Add electronic communications to the list of approved means of providing information to all identified sites with a business address. The City currently uses email and websites to communicate with the public and we would like this to be included as an option to meet this requirement.

Section S5.C.7.b.iv.(2) (page 28, line 3)

Please revise as follows:

“...shall take enforcement action, if, in the judgment of the Permittee, enforcement is needed, as established...”

The language requiring the City to “take enforcement action” when a facility has failed to “adequately implement BMPs after a follow-up inspection” seems to strip away the City’s independent enforcement discretion. The permit should not dictate to Permittees when, and under what circumstances enforcement should be pursued.

Section S5.C.7.b.v (page 28, lines 20 - 30)

The City hires qualified staff and many of these detailed training requirements are redundant and onerous. Annual training and testing seem excessive, costly in terms of money and staff resources and unnecessary. The permit should have consistent and common requirements among all five staff training sections. Eliminate the special source control staff training and evaluation requirements under Section b.v.(1), (2) and (3) that exceed the other staff training requirements in the permit. Modify language to be consistent with Section S5.C.8.d:

“Permittees shall implement an ongoing training program for all staff whose primary job duties....Permittees shall document and maintain records of the training provided and staff trained.”

ILLICIT CONNECTIONS AND ILLICIT DISCHARGES DETECTION AND ELIMINATION

Section S5.C.8.b, (page 29, lines 18 – 22)

The Section reads “No later than February 2, 2018, each Permittee shall evaluate, and if necessary update...” Please clarify whether the updates must be adopted and effective by February 2, 2018.

Section S5.C.8.b.(4), (page 30, lines 29-35)

These allowable discharge requirements should reference and be consistent with the related best management practices outlined in the Stormwater Management Manual for Western Washington.

Section S5.C.8.c.iii. (Page 32, line 26-37)

This training requirement for “all municipal field staff” is infeasible. During the previous permit term, Tacoma was required to submit a G20 Notification of Non-compliance related to this permit requirement because we were unable to enforce the training requirement on the field staff outside of the Public Works Department including the Police and Fire Departments. Please revise the language to eliminate “all” from the description of the staff to be trained in order to allow flexibility for the Permittees to determine the list of staff who should receive this training according to their organizational structures and logistics.

Section S5.C.8.d. bullets i, and ii (page 33, lines 29- 38)

Delete the specific lists of procedures included here. This is largely a restatement of the minimum performance measure a. on page 29, lines 5-13 and the details of procedures required to accomplish the program performance measures should be determined by the individual Permittees.

Section S5.C.8.d.i (page 33, line 39): Bullet “i” should be “iii”

Section S5.C.8.d.i (page 34, line 1): Bullet “ii” should be “iv”

Section S5.C.8.d.iv.(1) (page 34, line 3)

Add the following revision to line 3:

“Upon becoming aware of an illicit discharge or spill, a Permittee must immediately respond to it...in accordance with General Condition G3.”

Section S5.C.8.e (page 34, line 36)

This training language is well written and should be used as a model for the rest of the training sections in the permit.

OPERATION AND MAINTENANCE PROGRAM

Section S5.C.9.b.ii. (page 37, lines 4-5)

Modify to state:

“Permittee shall implement on on-going inspection program to annually inspect all known stormwater treatment and flow control BMPs/facilities regulated by the Permittee.”

Section S5.C.9.b.ii. (page 37, lines 7 - 9)

Please revise the language to state:

“The inspection program is limited to facilities to which the Permittee can legally gain access, provided the Permittee shall ~~seek~~ request access to all stormwater treatment and flow control BMPs/facilities.”

This will help Permittees avoid any expectations to pursue an administrative search warrant from Superior Court if access is denied; since those can be extremely difficult to get.

Section S5.C.9.b.iv. (Page 37, line 18-24)

Update language for this inspection requirement so inspections will not be required for fully stabilized sites where construction has stopped and no activity is occurring:

“...every 6 months, until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized) to identify maintenance needs and enforce compliance with maintenance standards as needed.”

Section S5.C.9.c.i. (page 37, lines 38-43)

Please add language saying that the obligation applies to Permittee-owned and operated stormwater facilities which are part of the Permittee’s MS4 and located within the jurisdictional boundaries of the Permittee.

Section S5.C.9.e. (page 39, lines 36-41)

This language sets up a potential conflict with another MS4 jurisdiction because not “*all lands owned or maintained*” by the City will necessarily be located within Tacoma’s jurisdictional limits. Please make the following revision:

“...stormwater impacts associated with runoff from all lands owned or maintained by the Permittee located within the jurisdictional boundary of the Permittee, including and road maintenance activities under the functional control of the Permittee. Such ~~±~~ lands owned or maintained by the Permittee include, but are not limited to...”

Section S5.C.9.e.viii, xi and xiii. (Page 40, lines 15, 18-20, and 22)

Please consolidate these similar vegetation maintenance activities into one activity to simplify reporting and compliance; these activities are all similar and can be grouped.

Section S5.C.9.e.xi. (page 40, lines 18-20)

The phrases “*appropriate application*” and “*environmental friendly*” are vague. I would suggest the following revision:

“~~Appropriate a~~Application of fertilizers, pesticides, and herbicides according to the instructions for their use, including reducing nutrients and pesticides using environmentally friendly alternatives that minimize environmental impacts.”

Section S5.C.9.f.xv. (page 41, lines 7-12)

By striking “*primary*” on line 7, the group of employees required to be trained becomes too broad and difficult to define. Please re-insert the word “*primary*” to make the definition more clear.

Section S5.C.9.h (page 41, lines 31-32)

Please be more specific by listing which “*inspections and maintenance or repair activities conducted by the Permittee*” require documentation. We suggest listing the requirement under each of the applicable sub-sections of S5.C.9.

EDUCATION AND OUTREACH PROGRAM

Section S5.C.10.b, (page 42, lines 9-12)

In order to allow the programs and activities of existing organizations to fulfill this permit obligation, we suggest Ecology modify the language to state the Permittee shall:

“*Create stewardship opportunities or coordinate with and promote build-on existing organization’s activities and programs to encourage residents....*”

Also specify that activities conducted within the Permittee’s jurisdiction by a non-permittee shall satisfy this permit requirement, but shall not be subject to the requirements of Section S3B.

Section S5.C.10.b, (page 42, line 11)

Change the language to “*storm drain ~~stenciling~~ marking*” to include both curb markers and stenciling techniques.

Section S5.C.10.c, (page 42, lines 16-36)

Qualify the target list of audiences and subject areas by adding the term “*as appropriate*” to the list of audiences assigned to each list of subject areas. For example:

“iii. Homeowners, landscapers, and property managers, as appropriate” (follow by the list of subject areas.)

As it is written, the draft language implies that all audiences listed in each grouping must receive every message listed in their section, which is not always appropriate.

Section S5.C.10.c.ii, (page 42, lines 21-22)

Remove home-based and mobile businesses from the list of target audiences for the Permittees. This group is very difficult to track and their contact information is very limited. Also, these businesses tend to be more transient and short-term, so keeping an updated and complete list of contact information for mobile businesses is difficult.

Section S5.C.10.c.ii, (3) (page 42, lines 27)

Further define which BMPs for equipment maintenance must be included in this education effort. Suggest identifying pertinent BMPs as listed in Volume IV of the Stormwater Management Manual for Western Washington.

Section S5.C.10.d, (page 43, lines 14-21)

Do not restrict measurement to only one *new* audience and one *new* subject area. The usefulness of the results of only monitoring and measuring a newly developed program for only a short term (1-2 years), may be much less useful than being able to continue monitoring trends of an existing program over the long-term. Tacoma recommends flexibility on whether a new audience and subject area or an existing audience and subject area may be measured, whichever the Permittee deems more successful.

STORMWATER MANAGEMENT PROGRAM FOR SECONDARY PERMITTEES

Section S6.D.6.a.i, (page 52, lines 3)

Add to the end of this sentence: “or an equivalent manual.”

Section S6.E.6.a.ii, (page 59, lines 32)

Add to the end of this sentence: “or an equivalent manual.”

REPORTING REQUIREMENTS

Section S.9.D, (page 70, lines 12-17)

The sentence beginning with “the” at the end of line 12 is unnecessary. The City already has a statutory obligation under Chapter 42.56 RCW (Public Records Act) to provide public records to those who make a request, and impose reasonable copying charges.

GENERAL CONDITIONS

Section G17 (Penalties) (page 78, lines 29-30)

This section incorporates by reference the penalty authority in 40 CFR 122.41(a)(2) and (3), 40 CFR 122.41(j)(5), and 40 CFR 122.41(k)(2). The City does not believe that Ecology is authorized to increase its statutory civil penalty authority by incorporating by reference higher federal limits through a permit condition.

DEFINITIONS AND ACRONYMS

Page 81, lines 32-40

“Common Plan of Development or Sale”: Please clarify the term “filings” in the context of this definition.

Page 84, lines 12 and 21

In the LID definitions, choose to use either the term “pre-development” or “pre-disturbance” and use that term consistently throughout. Please provide a definition of the chosen term.

Page 84, lines 9-15

“Low impact development best management practices”: Suggest removing examples from the LID definition. The list of examples may not be all encompassing.

Page 87, lines 16-19

“Stormwater Management Manual for Western Washington.” This definition is misleading because the permit body references compliance to the 2012 version. The finalized 2012 version should also be referenced in the definition.

Page 87, lines 20-24

“Stormwater Management Program (SWMP)”: the definition should be limited to the activities and deadlines listed in Sections S5 and S6. To add “*any additional actions necessary to meet the requirements of this Permit*” makes the scope of the SWMP too broad and difficult to determine what things need to be included in the SWMPR, annual report, and SWMP documents in order to be in compliance with the Permit reporting and public involvement requirements.

Page 87, lines 25-27

“Stormwater Treatment and Flow Control BMPs/Facilities”: the definition is not inclusive of the entire list of types of facilities that could be categorized as treatment and flow control. Suggest revising definition:

“means detention facilities, infiltration facilities, treatment BMPs/facilities, and ~~bioretention, vegetated roofs, and permeable~~ low impact development BMPs designed in accordance with the Stormwater Management Manual for Western Washington or equivalent manual that help meet minimum requirement (treatment) and/or minimum requirement (flow control).”

MISCELLANEOUS

Appendix 1 – See Attachment 2 for City of Tacoma Comments on Appendix 1.

Appendix 8

For Tacoma’s Source Control Program, it is more useful to reference NAICS codes rather than SIC codes when identifying business categories for potential pollution generators. Provide qualifying language that allows NAICS categories as an option to develop the site inventory.

Appendix 10

It appears that only the 2008 City of Tacoma SWMM is equivalent. Does this mean that whenever there is an update it needs an equivalency review? Consider changing language to include updated versions of local manuals that do not substantially change content that relates to equivalency.

Annual Report Form for Cities and Counties

Question 21 through 23 – Add “that meet the permit thresholds” to qualify number of sites inspected and enforcement actions taken.

Question 28 – Use consistent language for all five staff training questions on the annual report (#28, #39, #46, #50, and #66). Suggest replacing language committing that all relevant staff are trained with language stating that a training program is in place. For example: “*Implemented a training program to train (relevant staff) to conduct the activities referenced in Section #####.*”

Question 68 – Revise to read: “*Implemented a Stormwater Pollution Prevention Plan for all identified heavy equipment maintenance and storage yards, and material storage facilities per S5.C.9.g?*”

Question 70 –Eliminate the “new” designation from the subject area and audience that may be monitored. The value of a short period of initial monitoring of a new program may not be as valuable to Permittees in guiding program assessment and updates as a longer period of evaluation and data collection on an existing program.

MONITORING

General Comments

S8 – Monitoring, Overall

Tacoma appreciates and supports Ecology's and Stormwater Work Group's (SWG) continuing efforts to develop an improved approach to permit-required monitoring. Tacoma also supports the regional approach to monitoring developed by SWG and Ecology, and Ecology's addition of independent study options for program effectiveness monitoring. Our comments and recommendations on S8, Appendix 9, and Appendix 12 are discussed in more detail below.

S8 - Monitoring, Total Cost/Cost Allocation

The monitoring costs do not reflect the cost of Tacoma staff time that will be needed to support the SWG and associated subgroups. While Tacoma continues to support the SWG efforts, Tacoma is concerned that it will have limited ability to dedicate its current amount of staff time, or more, to SWG and associated subgroups to help assure the success of the regional monitoring program. Cost increases, including staffing costs, place additional pressure on already escalating utility rates.

Tacoma supports an equitable cost allocation methodology and disagrees with a "flat rate" contribution for all Phase I Permittees. Other factors that Ecology may consider for an equitable cost allocation methodology are land area, land use, and median household income.

S8 - Monitoring, Costs

Due to the nature of the organizational structure, Tacoma believes that fiscal control and responsibility to stay within available resources belongs to Ecology as the administrator of the RSMP contracts. It would be unworkable for a committee to have this responsibility, and individual Permittees must be able to rely on permit-based payment amounts for defining their financial obligation and exposure. As a starting point, Tacoma recommends removing Appendix 12 from the Permit to clarify that Ecology, not the Permittees, has responsibility for the regional monitoring project and to allow Ecology the flexibility to adjust the RSMP as needed to operate within available funds.

S8 - Monitoring, SWG Support

Tacoma recognizes that the success of the regional monitoring program relies heavily on the work of the SWG and other groups. It is important that Ecology, SWG, and associated SWG subgroups develop well defined roles and responsibilities for the successful implementation of the RSMP. It is also very important that SWG subgroups have sufficient support to assist them in their work, including staff or consultant resources to organize and plan meetings, provide draft materials or analyses for committee review and to follow up on the actions or assignments of the committees. Without this support, it will be difficult to ensure that members will be able to manage committee and their own organizational responsibilities over the long term, and it is reasonable to expect that the potential for this program will not be realized. It is very important

that these groups have the sufficient resources, especially now when studies are being planned and the program prepared for the implementation phase of regional monitoring.

One recommendation to help ensure the success for the RSMP is for Ecology to provide or contract with a technical expert to coordinate each SWG technical subgroup to make the best use of volunteer SWG subgroup members' time. The funding needed to provide this additional staffing should be accommodated by reducing the level of effort associated with that component of the RSMP or from other non-permittee sources, not increasing total RSMP costs.

Specific Comments

S8.C.1.a – Status and Trends Monitoring Option #1, payment clarification (page 64, lines 9-16)

Tacoma does not believe that Appendix 12 should be included in the Permit. To clarify Permittee obligation and reflect removing Appendix 12 from the permit, Tacoma recommends the following revision:

“Status and Trends Monitoring Option #1: Pay to Ecology, on or before the dates specified in this Section S8.C, the amount specified below, which Ecology shall use into a collective fund and enter into an agreement with Ecology to implement the Puget Sound marine nearshore and small streams status and trends components of a RSMP. Each agreement shall be substantially in the form of Appendix 12. Ecology will administer the collective fund and implement the monitoring program in accordance with the arrangements between Ecology and each Permittee. The agreement will specify the tasks and deliverables of the RSMP. By timely making such payment to Ecology, the Permittee shall have satisfied the requirements of this Section S8.C for the calendar year at issue.”

If Appendix 12 remains in the Permit, Tacoma recommends changing the reference to it in this section as follows:

“Status and Trends Monitoring Option #1: A Permittee may elect to satisfy the monitoring requirements under Special Condition S8 of the Permit by P paying into a collective fund and entering into an agreement with Ecology to implement the Puget Sound marine nearshore and small streams status and trends components of a RSMP. Ecology views any such agreement as an efficient means to achieve the monitoring requirements of this Permit, but does not view the agreement itself as a permit condition enforceable under the State and Federal Clean Water Act. Each agreement shall be subject to negotiation. Ecology’s proposed agreement and payment schedule is included in ~~be~~ substantially in the form of Appendix 12. Ecology will administer the collective fund and implement the monitoring program in accordance with the arrangements between Ecology and each Permittee, as set forth in the agreement. The agreement will specify the tasks and deliverables of the RSMP, including payment obligations. Compliance with the agreement and disputes that arise under it shall be governed by Washington state contract law. However, failure to make the payments required in the agreement shall constitute a violation of Special Condition S8.”

S8.C.1.a.i – Status and Trends Monitoring Option #1, payment clarification (Page 64, line 17)

Tacoma recommends clarifying that payment is to Ecology by adding “to Ecology” after “Each Permittee shall pay”.

S8.D.1 – Effectiveness Studies Option #1 (Pages 65 and 66)

Tacoma recommends removing the list of RSMP effectiveness studies from the Permit as the list may change as the program moves forward and it would be better to have the document live outside the permit. Attachment C should contain a description of how the studies were solicited, selected, questions developed and what happens if a topic cannot be studied or if studies are completed, how the next study is implemented. The list of studies should be public but not in the permit.

S8.D.1 – Effectiveness Studies Option #1, payment clarification (Page 65, lines 40-41 and Page 66, lines 1-2)

To clarify Permittee obligation and reflect removing Appendix 12 from the permit (see Comment S8.C.1.a above), Tacoma recommends that this section be rewritten as follows:

“a. Pay to Ecology, on or before the dates specified in this Section S8.D.1, the amount specified below, which Ecology will use into a collective fund and enter into an agreement with Ecology to implement the effectiveness studies component of the RSMP. Each agreement shall be substantially in the form of Appendix 12. Ecology will administer the collective fund and implement the monitoring program in accordance with the agreement will specify the tasks and deliverables of the RSMP. By timely making such payment to Ecology, the Permittee shall have satisfied the requirements of this Section S8.D.1 for the calendar year at issue.”

If Appendix 12 remains in the Permit, Tacoma recommends changing the reference to it in this section as follows:

“Effectiveness Studies Option #1: A Permittee may elect to satisfy the monitoring requirements under Special Condition S8 of the Permit by ~~P~~ paying into a collective fund and entering into an agreement with Ecology to implement the effectiveness studies component of the RSMP. Ecology views any such agreement as an efficient means to achieve the monitoring requirements of this Permit, but does not view the agreement itself as a permit condition enforceable under the State and Federal Clean Water Act. Each agreement shall be subject to negotiation. Ecology’s proposed agreement and payment schedule is included in ~~be substantially in the form of Appendix 12.~~ Ecology will administer the collective fund and implement the monitoring program in accordance with the arrangements between Ecology and each Permittee, as set forth in the agreement. The agreement will specify the tasks and deliverables of the RSMP, including payment obligations. Compliance with the agreement and disputes that arise under it shall be governed by Washington state contract law. However, failure to make the payments required in the Agreement shall constitute a violation of Special Condition S8.”

S8.D.1a – Effectiveness Studies Option #1, payment clarification (Page 66, line 3)

Tacoma recommends clarifying that payment is to Ecology by adding “to Ecology” after “Each Permittee shall pay”.

S8.D.3 – Effectiveness Studies Option #3 (page 67)

Tacoma supports the independent study option for effectiveness monitoring. However, it is not appropriate to include the expectation stated in the draft permit fact sheet that “*Permittees selecting this option are expected to invest an equivalent amount of funding into conducting the independent study ...*”(p. 68). The measure of a meaningful study is best determined by its value; something that can be evaluated through the study objectives and design rather than the study budget. Since Ecology would need to approve the proposal for any independent studies (S8.D.3.b.i), the quality of the study can be assured through this review. Therefore, Ecology should clarify in its Response to Comments document that studies are not expected to meet a specific cost threshold to meet permit obligations.

S8.D.3.a – Effectiveness Studies Option #3, payment clarification (page 67, line 13)

To clarify Permittee obligation, Tacoma recommends that this section be rewritten as follows

“a. Pay to Ecology, on or before the dates specified in this Section S8.D.3, the amount specified below, which Ecology will use to implement the effectiveness studies component of the RSMP. Ecology will administer the collective fund and implement the monitoring program in accordance with the tasks and deliverables of the RSMP. By timely making such payment to Ecology, the Permittee shall have satisfied the requirements of this Section S8.D.3.a for the calendar year at issue prescribed in this section, according to the following schedule.”

S8.E.1 – Source Identification and Diagnostic Monitoring Information Repository Option #1, payment clarification (page 68, lines 25-29)

To clarify Permittee obligation and reflect removing Appendix 12 from the permit (see Comments S8.C.1.a and S8.D.1 above), Tacoma recommends that this section be rewritten as follows:

“1. Source Identification and Diagnostic Monitoring Information Repository Option #1: Pay to Ecology, on or before the dates specified in this Section S8.E, the amount specified below, which Ecology will use to implement the source identification and diagnostic monitoring information repository component of the RSMP. ~~Each agreement shall be substantially in the form of Appendix 12.~~ Ecology will administer the collective fund and implement the monitoring program in accordance with the tasks and deliverables of the RSMP. By timely making such payment to Ecology, the Permittee shall have satisfied the requirements of this Section S8.E for the calendar year at issue.”

If Appendix 12 remains in the permit, Tacoma recommends changing the reference to it in this section as follows:

“Source Identification and Diagnostic Monitoring Information Repository Option #1: A Permittee may elect to satisfy the monitoring requirements under Special Condition S8 of the Permit by P paying into a collective fund and entering into an agreement with Ecology to implement the source identification and diagnostic monitoring information repository component of the RSMP. Ecology views any such agreement as an efficient means to achieve the monitoring requirements of this Permit, but does not view the agreement itself as a permit condition enforceable under the State and Federal Clean Water Act. Each agreement shall be subject to negotiation. Ecology’s proposed agreement and payment schedule is included in ~~be substantially in the form of~~ Appendix 12. Ecology will administer the collective fund and implement the monitoring program in accordance with the arrangements between Ecology and each Permittee, as set forth in the agreement. The agreement will specify the tasks and deliverables of the RSMP, including payment obligations. Compliance with the agreement and disputes that arise under it shall be governed by Washington state contract law. However, failure to make the payments required in the Agreement shall constitute a violation of Special Condition S8.”

S8.E.1.a – Source Identification and Diagnostic Monitoring Information Repository Option #1, payment clarification (page 68, line 30)

Tacoma recommends clarifying that payment is to Ecology by adding “to Ecology” after “Each Permittee shall pay”.

Appendix 9 – Monitoring Frequency (page 2, lines 18-21)

Recommend deleting requirement that states:

“Additionally, the Permittee shall analyze up to a maximum of three (3) samples that are collected as a result of attempts to sample the eleven (11) qualifying storm events and do not meet the rainfall volume storm event criterion but do meet the other storm event and sample criteria. The maximum number of sampled storm events to be analyzed is fourteen (14) per year.”

In two years of sampling, Tacoma has been unsuccessful in acquiring three additional samples in one year that “do not meet” 0.20 inches. When Tacoma did collect a storm event which was less than 0.20 inches, the volume of stormwater collected was minimal and only a very few of the total number of parameters could be analyzed. The requirement should also be deleted because it has been a source of confusion and this data is not comparable to other data collected. If this requirement is not deleted, clarification should be provided as to whether these additional three events are to be used for statistical and loading calculations or treated separately.

Appendix 9 – Qualifying Storm Event Criteria (page 2, lines 22-34)

Recommend replacing the separate qualifying wet and dry season storm event and have only one qualifying storm event for all seasons (0.20” and less than or equal to 0.02” in 24 hours). These recommendations are meant to be more realistic and to reflect Tacoma’s experience during the current permit cycle. In Water Year 2010, only two dry season events met the 72 hour antecedent period and Tacoma was unsuccessful in sampling either of these events. In Water Year 2011, two of the three outfall locations met the criteria of two dry season events. Tacoma was successful in collecting dry weather samples based on less than or equal to 0.02” in 24 hours in both years.

Appendix 9 – Types of Sampling (page 3, line 6)

Recommend clarifying this criteria by replacing “*must consist of*” with “*should be targeted to contain*” to prevent confusion with the next sentence which allows for “7 to 9 aliquots.”

Appendix 9 – Types of Sampling (page 3, lines 11 and 12)

Recommend clarifying confusing existing criteria that required the need for only one year of flow data, but needing flow data for all sampled events. Recommended change: “*Ongoing continuous flow monitoring is required for the entire storm events monitored as is necessary to properly operate the flow-weighted composite sampling.*”

Appendix 9 – Sediment Samples (page 4, line 14)

Recommend moving grain size from first to last in priority order. In Tacoma’s ten years of sampling using sediment trap sampling methods, we have found that some years have had only a small amount of sediment in the sampler, and with grain size first on the list, the only analytical data for that year would have been grain size. Tacoma prioritized metals and PAHs first and grain size last in our program to get useful data for trend analyses and thus recommends moving grain size to last on the list. Similar language was included in the 2007 NPDES Permit, see page 52.

Appendix 9 – Recordkeeping & Reporting (page 4, lines 40 and 41)

Recommend that Ecology provide an additional month for data submission to more evenly distribute workload as March 1 is the peak of annual report production. Recommend changing “*March 1*” to “*April 1*” and “*April 30*” to “*June 15*.”

Appendix 9 – Recordkeeping & Reporting (page 5, lines 28-30)

Recommend deleting: “*(remember your pollutant load calculation must include flow for the entire storm event, not just the water quality sampled portion).*” See Comment: Recordkeeping & Reporting (page 6, lines 6 and 7) for discussion about pollutant loading calculations for each storm and each parameter.

Appendix 9 – Recordkeeping & Reporting (page 6, lines 6 and 7)

Recommend deleting lines 6 and 7. Tacoma believes that pollutant loading calculations for each storm and each parameter for the most part will not generate useful information (the

amount of data generated would be 5 outfalls X 11 Storms X 38 parameters which is 2,090 calculations).

Storm flow and concentrations vary greatly. Storm flow is fundamentally affected by random, year to year changes in weather and runoff hydrology in the drainage basins beyond the control of municipalities. If the purpose for storm-by-storm pollutant loading calculations is trend analysis, Tacoma recommends using pollutant concentrations as opposed to pollutant loading, because the large component of random variability in pollutant loads is more likely to confound the interpretation of long-term changes in stormwater quality, including the effects of a municipalities source control actions.

Appendix 9 – Recordkeeping & Reporting (page 6, lines 18 and 26)

Recommend adding “*for each successful storm event*” to clarify intent.

Appendix 9 - Recordkeeping & Reporting (page 6, lines 26-33)

Recommend deleting or clarifying the following text

- *“An explanation and discussion of the results from each sampled storm event at each monitoring site and sediments collected at each site, including:*
 - *A narrative analysis of the event mean concentrations for each parameter*
 - *Any conclusions based on trend data that may result from this study or from previously collected data from these sites.*
 - *A description of the Stormwater Management Program activities currently taking place or planned within the monitoring station’s drainage are that may have affected or may potentially affect future monitoring results.”*

First sub-bullet: The requirement for a narrative analysis of the EMC for each parameter for each sampled storm event should be clarified or deleted. There are over 50 parameters analyzed per event so a narrative analysis would be unreasonable and challenging to write and read. Requiring statistical analysis (e.g., listing the statistics of interest) is reasonable.

Second sub-bullet: A trend analysis would be reasonable after three years of data collection, but not after each event or even one year. This requirement should be clarified or deleted.

Third sub-bullet: Recommend making this a standalone bullet as it is not an appropriate sub-bullet to the discussion of results from each sampling event.

Appendix 9 – Table 9-1 Analytical Procedures in Stormwater

Recommending deleting the word “*Target*” in the heading of the third column or replacing it with “*Required*” as Ecology has indicated these are limits, not targets to aim for. In addition, recommend deleting the associated footnote as labs are, as a practice, not willing to provide results below reporting limits. They do not want to be accountable to provide data below the limits that they can defend.

Appendix 9 – Table 9-1 Analytical Procedures in Stormwater

1. Recommend adding missing reporting limit for BTEX. The BETX method should be 8260, not 602. Please add a reporting limit. Tacoma's Laboratory currently uses a reporting limit of 1 ug/L.
2. Tacoma suggests listing Standard Method (SM) 4500 Cl- E for water analysis of chloride. This method is equivalent to Ecology required method 325.2, is accredited by Ecology's Laboratory Accreditation Unit (LAU), is approved under 40 CFR 136 – Guidelines for Establishing Test Procedures for the Analysis of Pollutants and is able to perform at a detection limit lower than the Ecology Reporting Limit Target of 0.2 mg/l.
3. EPA approved City of Tacoma Alternative Methods 200.8 and 2340 B for Hardness. We suggest you add these methods to Table 9-1.
4. 4SM 2340B and 2340C are incorrectly listed for MBAS analyses (they are for Hardness).
5. Total and Dissolved Copper EPA 200.8 MDLs for this element are often above the stated reporting limit goal of 0.1 ppb. All of Tacoma's WY2011 stormwater samples resulted in total and dissolved copper detections exceeding 4.96 and 1.81 ug/l, respectively. A realistic detection limit of 0.5ppb is more appropriate given technical sampling limitations in an urban environment, and representativeness of the environmental (detection) profile.
6. Total Kjeldahl Nitrogen. Tacoma requests to begin using our EPA-approved alternative test method, Total Nitrogen by Combustion and Chemiluminescence. It has a comparable MDL, is more automated, requires no sample preparation, and eliminates the use of mercury and sulfuric acid. This will reduce analytical and waste disposal costs for the City while producing defensible results.
7. Recommend setting the reporting limit to an achievable level. The reporting limit target of 0.25 ug/L for bis(2-ethylhexyl)phthalate (DEHP) is not achievable in most laboratories. Tacoma Laboratory's DEHP method detection limit (MDL) is 0.41 ug/L for our current extraction method. With Tacoma's new laboratory, our blanks have been below 0.25 ug/L. However, there have been two blanks over MDL at 0.48 and 0.50 ug/L which were traced to maintenance on the water system. Other issues with the 0.25 ug/L reporting limit target are variability of recovery which has been a problem with the LCS also for this compound.

Appendix 9 – Table 9-2 Analytical Procedures in Sediment

Recommend deleting BTEX for sediment samples. Processing sediment trap samples requires the use of a centrifuge. This processing method would compromise any volatiles in the sediment sample.

The BETX method also appears to be mistyped as method 8320. The BETX method is 8260.

Appendix 12 – Funding Agreement, General Comment - Remove

As indicated above, Tacoma recommends removing Appendix 12 from the permit to clarify that Ecology, not the Permittees, has responsibility for the regional monitoring project and to allow Ecology the flexibility to adjust the RSMP as needed to operate within available funding. If Ecology includes Appendix 12, Tacoma has made recommended tracked changes to clarify Ecology's intent that the Permittee's obligations will be limited to paying the funding payment amounts required in the permit and that potential cost overruns will be managed by Ecology by either reducing the scope of the RSMP or finding additional, non-permittee funding.

Appendix 12 – Funding Agreement, General Comment

For consistency and clarity throughout the document, Tacoma recommends providing consistent terminology by referring to "RSMP" instead of "project" and referring to "funding payments" instead of "funding shares." These changes are shown as tracked changes throughout Appendix 12.

Appendix 12 –Statement of Work (page 2, lines 37-39)

One concern about the approach is the ability to leverage existing municipalities' expertise and providing an avenue for municipalities to participate in the RSMP either as a part or all of one of the studies beyond the options outlined in the Permit. The concern is about the ability of municipalities to participate in a competitive process for work to be completed under RSMP. Tacoma recommends a process that allows municipalities to participate through interagency agreements, leveraging our expertise, prior to the RSMP competitive bid process.

Recommended revision:

"Ecology agrees to manage the funds, participate in an oversight committee, solicit requests for proposals, conduct an open and transparent process to rank applications, and enter into contracts with other entities (which may include Permittees) to perform the activities described in Attachment A – Scope of Work, attached hereto by reference."

Appendix 12 – Attachment A, Ecology Tasks 0. (page 5, line 12)

One concern about the approach is the ability to leverage existing municipalities' expertise and providing an avenue for municipalities to participate in the RSMP either as a part or all of one of the studies beyond the options outlined in the Permit. The concern is about the ability of municipalities to participate in a competitive process for work to be completed under RSMP. Tacoma recommends a process that allows municipalities to participate through interagency agreements, leveraging our expertise, prior to the RSMP competitive bid process.

Appendix 12 – Attachment A, Ecology Task 0.3 & Task 0.6 (page 5, lines 10-11 and 20-21)

In Ecology's response to comments on draft permit, please clarify the project management oversight process being referred to.

Appendix 12 – Attachment A, Ecology Task 0.7 (page 5, lines 23 and 28)

Recommend clarifying to indicate that all subtasks are not data interpretation tasks. Recommend changing “*to the data interpretation tasks listed below*” to “*conduct the tasks listed below.*”

In addition, add Task 0.7 as follows: “*d. Share data, results, and conclusions with Permittees and other interested parties*” as RSMP results should be made available through other venues than the annual review.

Appendix 12 – Attachment A, Add new Ecology Task 0.8 (page 5, line 28)

Recommend adding new Ecology task as follows: “*8.0 Identify or develop suitable data management systems for Contractor Tasks 1, 2, and 3*”. Recommend adding this task to address the gap in the Scope of Work of who is responsible for identifying or developing suitable data management systems. Status & Trends contractor tasks indicate “*Confirm that data management tools are available.*” Data management is not included in contractor tasks for Regional Effectiveness studies. As the overall coordinator of the RSMP, Ecology seems the logical entity to identify and/or develop suitable data management systems, and this additional task reflects this approach. If Ecology is not going to do this, it needs to be added as a task to the contractor scope of work.

Appendix 12 – Attachment A, Add new Ecology Task 0.9 (page 5, line 28)

Recommend adding new Ecology task as follows: “*9.0 Provide a technical program lead for each of the technical SWG subgroups (Status & Trends, Program Effectiveness, and Source Identification and Diagnostics).*” Recommend adding this task to increase the efficiency of the SWG subgroups by centralizing some organizational functions so these tasks do not need to be performed by committee. This would decrease the anticipated heavy workload and potential strain on SWG subgroup staff.

Appendix 12 – Attachment A, Contractor Task 1.1.3.d.ii (page 6, line 34)

Recommend deleting this task if not anticipated to be conducted during 2013 – 2018 permit term.

Appendix 12 – Attachment A, Contractor Task 2.1.d (page 7, lines 9-12)

This task will require a large database that currently does not exist and is potentially unfunded. Refer to Comment Add new Ecology Task 0.8 (page 5, line 28), regarding Tacoma’s recommendation that a new Ecology task be added to identify a suitable database.

Appendix 12 – Attachment A, Contractor Task 3.1 (page 7, lines 28 and 29)

Recommend deleting reference to Attachment C as the list of ranked effectiveness studies is a living list that should be outside of the permit.

Appendix 12 – Attachment A, Contractor Task 3.2 (page 7, line 32)

Recommend adding the following language “*As part of the RFP process, the contractor will provide input to Ecology on the ability to implement or conduct specific studies in the permit*”

timeframe and an estimated cost to implement.” Given the broad range of potential questions on the ranked list, it would benefit all to understand whether the question can be answered in the timeframe of the permit with the available funding. If a question is too large or hard to answer, the oversight committee can move the question to a lower ranking or ask the effectiveness subgroup to develop additional questions for the topic. For this reason it is also important that the list of studies be held outside of the permit.

Appendix 12 – Attachment A, recommend adding Contractor Task 3.5 (page 7, line 36).

Recommend that the following reporting task be added to facilitate sharing of results: *“5. The contractor will provide bi-annual and final report to Ecology on the implementation status, any results and conclusions of the effectiveness studies for Ecology to summarize and provide to the Permittees.”*

Appendix 12 - Task 4 Source Identification and Diagnostic Monitoring Information Repository (page 7, lines 37-42 and page 8, lines 1-5)

Tacoma supports Ecology and SWG in setting aside funding to develop and share best practices for detecting common pollution sources and developing a framework to identify the pollutants of concern for local and regional source control efforts. Based on Tacoma’s participation in the SWG subgroup and further discussions with Seattle, Tacoma supports and recommends the following scope of work for the RSMP Source Identification and Diagnostic Monitoring:

4. *“Source Identification and Diagnostic Monitoring Information Repository*
 1. *Create a manual of “best practices” for source control based upon local experience and other sources. This could include:*
 - a. *Summary of methods for conducting various source control activities (e.g. smoke testing, bacterial investigations, dry weather screening) including the following information for each method:*
 - *Description*
 - *Case study(s)*
 - *How to determine DQOs, including specific case applications*
 - *SOPs*
 - *Example QAPPs; and*
 - *Report templates*
 - b. *Summary of ranges of chemical parameters found in different regions of Western Washington; and*
 - c. *Procedures for characterizing the nature of, and potential for, public or environmental threat posed by illicit discharges, including when immediate containment is appropriate.*
 2. *Develop an information repository to evaluate current source identification programs and enable permittees to share information. This repository could be web-based or a SharePoint format to encourage interaction. Webinars could also be sponsored on topics of regional interest.*

3. *Develop a framework to identify the pollutants of concern for local and regional source control efforts. The framework could include elements such as:*

- *Identifying the key questions the region needs to answer about each pollutant or pollutant class;*
- *Identifying the type of information and data that should be collected over time for each pollutant or pollutant class;*
- *Recommending standard methods and formats to be used for tracking and sharing this information and data; and*
- *Identifying management or treatment practices that have been used or hold promise in managing the pollutant or pollutant class.”*

Appendix 12 – Attachment C (pages 12-16)

Tacoma recommends that this list should not be included in the permit. Tacoma will be providing input on individual studies to SWG Effectiveness subgroup outside of permit comments as Tacoma believes that the study list should not be a part of the permit.