



# Port of Skagit

June 24, 2022

Skagit County Board of County Commissioners  
1800 Continental Place, Suite 100  
Mount Vernon, WA 98273

Re: Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32

Dear Commissioners:

I am writing on behalf of the Port of Skagit (“Port”) to share the Port’s comments on the above-referenced proposed amendments to the County’s stormwater management standards (the “Amendments”).

The Port currently operates Bayview Business Park and Skagit Regional Airport on Bayview Ridge within the Skagit County NPDES coverage area. These enterprises are home to 75 businesses that provide good paying jobs for 1,155 people. The Port is also in the process of planning for future development of Port owned property called Watershed Business Park located adjacent to Peterson Road also within the NPDES coverage area.

We submitted comments on the Amendments to staff and the Planning Commission, and we appreciate the work they did to improve draft language affecting regional stormwater facilities. We ask the Commission to build on that work by making the following additional improvements.

**1. The Port requests removal of the “sunset date” for regional stormwater facilities.**

In the initial draft Amendments, Staff proposed adding a “sunset date” that would require applicants seeking to use regional facilities to re-evaluate the facilities for compliance with stormwater standards in the most recent NPDES permit. After discussions with the Port, Staff and the Planning Commission agreed to revise language affecting regional stormwater facilities, but declined the Port’s request to remove the “sunset date” for regional facilities.

As explained in the Port’s comment letter to the Planning Commission, the proposed “sunset date” is not required by the NPDES permit. In the Supplemental Staff Report dated June 7, 2022, staff confirmed that “the intent of the proposed sunset language is in alignment with the delta process recommended in the 2019 Stormwater Management Manual for Western Washington,” rather than to comply with any requirement in the NPDES Permit. Our research indicates that no similar “sunset” requirement for regional facilities has been adopted in other Phase II jurisdictions, including Mount Vernon (see [Ordinance 3824 \(2020\)](#)), Kitsap County (see [Ordinance No. 599-2021](#)), and Whatcom County (see [Ord. 2020-045](#)). Because the “sunset date” is not required by the NPDES Permit, we ask the Commission to remove it from the Amendments.

If the County chooses to voluntarily impose a “sunset” requirement on regional facilities, that decision will undermine the County’s and the Port’s shared interests in developing effective regional stormwater solutions. As also explained in the Port’s previous comment letter, the Port relies heavily on the use of planned regional stormwater facilities to serve future developments on Port property. As a result, regional facilities are especially important in pursuing the Port of Skagit’s mission: Good Jobs for the Skagit Valley. Between 1998 and 1999, the Port invested approximately \$2M to construct regional stormwater facilities to serve Bayview Business Park and Skagit Regional Airport.

Designing, receiving approval and constructing regional stormwater facilities in advance, rather than parcel by parcel, helps the Port better position its real estate development assets as “shovel-ready” and thus achieve the Port’s near and long-term economic development objectives. The regional systems at the Port have allowed the Port to maximize infrastructure investment because construction of regional facilities is more cost effective than standalone systems, allowing developers to maximize use of buildable lots by providing stormwater storage capacity outside the lot boundary, and providing the Port and developers certainty in the permitting process as new projects are proposed.

For example, the facility located along Higgins Airport Way has capacity remaining to serve approximately 6.5 acres new impervious area. At least three Port tenants are planning expansion projects for construction in the next year. Combined, these projects are expected to bring up to 20 new jobs and over \$30M in private investment. These projects rely on the ability to utilize existing stormwater capacity.

Alternatively, if the Commission decides to voluntarily impose a “sunset” requirement on regional facilities, we ask the Commission to allow more time for existing regional facilities to comply. The Planning Commission approved language stating that “regional facilities constructed prior to June 30, 2022, are not subject to review prior to June 30, 2027,” and we appreciate the effort to accommodate regional facilities, but the 2027 date might not protect all of the Port’s existing facilities, which were built based on the understanding that they could be used for future development regardless of changes in NPDES permit standards. There is currently much uncertainty regarding the economy; an economic decline has the potential to slow private development proposals resulting in a longer timeline for build out of Port properties served by the existing regional facilities. Accordingly, we ask the Commission to extend the 2027 date to 2035, as follows: “regional facilities constructed prior to June 30, 2022, are not subject to review prior to June 30, 2035.”

**2. The Port requests changes to the “General stormwater management standards” in SCC 14.32.120(1).**

SCC 14.32.120(1) states that “[a]ll development must meet the following performance standards so that adjacent properties are not unreasonably burdened with surface waters resulting from such development” and lists specific standards in subsections (a) through (h).

The Port is concerned that some of the standards in SCC 14.32.120(1) are duplicative and could be used by project opponents to attempt a “second bite at the apple” for projects that meet all standards in the NPDES permit and the Department of Ecology’s stormwater manual, or even a “third bite at the apple” for projects that have also completed SEPA review. For example, SCC 14.32.120(1)(h) states that “[r]unoff from development may not cause a significant adverse impact to down-gradient properties.” If a project complies with all established requirements in the NPDES permit and the Ecology manual requirements, there should not be runoff that causes negative impacts to downstream properties.

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We recommend the County remove this entire subsection 14.32.120(1) from the code language and adopt similar language in the findings that explain the intent behind the adopting ordinance. Alternatively, the County could add language to the code clarifying that these provisions are deemed to be met if a project complies with the adopted stormwater regulations and, if required, has been reviewed through SEPA with no significant adverse impacts identified.

Alternatively, if the Commission decides to retain subsection 14.32.120(1), the Port requests the following changes:

- Revise SCC 14.32.120(1) to state that “all development subject to review under this chapter must meet the following performance standards...” (added language underlined).
- Revise SCC 14.32.120(1)(d) to require consultation with the Drainage District rather than written authorization, and to clarify that the consultation requirement applies only to new proposed discharges into a Drainage District's system, not existing discharges.
- Remove SCC 14.32.120(1)(h) because it is duplicative and unnecessary in light of the standards in the NPDES permit and the Ecology manual, or at least revised to specify what it means to have a "significant adverse impact (e.g., to require some kind of quantifiable determination of negative impacts).

Thank you for your consideration of these requests and comments. The Port would welcome an opportunity to meet again with staff and assist with drafting language that will meet the Port's and County's shared goals of managing stormwater and protecting water quality while also supporting business development and economic opportunities for Skagit County.

Sincerely,



Heather A. Rogerson  
Director of Planning and Development