

Snohomish County Comments
Ecology's 2019 Permit and SWMMWW Preliminary Drafts

Document	Section, Page and/or Paragraph #	Ecology Proposed or Modified Language	Comment	Snohomish County Proposed Language, if any
Draft Mapping Guidance for Phase I and Western Washington Phase II NPDES Municipal Stormwater Permittees ("Draft Mapping Guidance")	All	All	If Ecology believes the Permit does not clearly explain the mapping requirements, Ecology should focus its efforts on clarifying the Permit language, not drafting a guidance document that is not part of the Permit. Further, in a number of places noted in comments below, Ecology's Draft Mapping Guidance is inconsistent with the plain language of the Permit mapping requirements or Permit definitions.	
Draft Mapping Guidance	Pg. 2 Pg. 4, Table 1	<p>"This document provides general guidance to the mapping requirements found in the current Phase I and Western Washington (WWA) Phase II Municipal Stormwater Permits (Permit), as well as in the proposed 2019 draft Permits."</p> <p>"Table 1 summarizes the required features to map as described in the Permits, as well as proposed mapping for the 2019 Permits."</p>	<p>These statements are inaccurate, as is Table 1.</p> <p>The Draft Mapping Guidance strikes the phrase "stormwater treatment and flow control BMPs/facilities owned or operated by the Permittee" (Table 1, page 4) as if it is no longer relevant to the current 2013 Permit. That phrase is still the controlling phrase in the 2013 Permit. Absent a Permit modification, Ecology cannot alter the terms of the current Permit or the 1 year (2018 – 2019) extension to substitute "permanent stormwater facilities owned or operated by the Permittee" for "stormwater treatment and flow control BMPs/facilities owned or operated by the Permittee."</p>	
Draft Mapping Guidance	Pg. 5	Definition of Municipal Separate Storm Sewer System	Ecology includes the definition of MS4 in the Draft Mapping Guidance without any "additional guidance." Was the "additional guidance" accidentally omitted?	
Draft Mapping Guidance	Pg. 6	"Map MS4 outfalls at locations where discharges leave the MS4 and enters a private stormwater system, or other conveyance system or pathway, when it is known that discharge will enter a surface receiving water."	<p>This direction is inconsistent with the plain language of the "outfall" definition.</p> <p>The Permit definition of outfall is a point source at the point where two things happen: (1) a discharge leaves the Permittee's MS4 and (2) enters the surface receiving water. The definition contemplates a single point where the discharge leaves the MS4 and enters the surface receiving water. Ecology's interpretation assigns the designation "outfall" to a point where only one of those two events occur, contrary to the plain language of the definition.</p>	

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Draft Mapping Guidance	Pg. 6	Addition of new defined term "permanent stormwater facilities"	Ecology's explanatory text states this new definition is to "correct error in 2013 permits that inadvertently narrowed the scope of mapping (and operations and maintenance)." Ecology has not provided draft Permit language related to operations and maintenance. Ecology's apparent intent is to include stormwater facilities retrofitted under S5.C.6 into both the mapping requirements and the O/M requirements. This could be achieved without adding a new definition to the Permit, by simply adding a description of the stormwater facilities Ecology wants the Permittee to map, which are described in the "Appendix 11" list required in accordance with S5.C.6.	Revise Special Condition S5.C.2.a.iii as follows: "Stormwater treatment and flow control BMPs/facilities owned or operated by the Permittee, <u>and other stormwater facilities or BMPs designed and constructed by the Permittee as part of the Structural Stormwater Controls program required by Special Condition S5.C.6.</u> "
Draft Mapping Guidance	Pg 6	"Receiving waters is intended as a sub-set of 'waters of the state'"	Ecology's additional guidance on this term is not helpful or explanatory. Consider deleting to avoid confusion.	
Phase I Permit	S5.C.2.a.v	Tributary conveyances to all known outfalls and discharge points with a 24-inch nominal diameter or larger, or an equivalent cross-sectional area for non-pipe systems.	Snohomish County continues to have concerns with the requirement to map all ditches with the same ditch cross-sectional area as a pipe. In general, ditch cross section size is a result of the equipment used to maintain those ditch sections, and the size is not related to the flows in the ditch.	
Phase I Permit	S5.C.2.b.i	August 1, 2021, deadline	Allow Permittees until the end of the Permit term, not August 2021, to accomplish the required mapping.	
Phase I Permit	S5.C.5	Ecology proposal to <u>not</u> review Permittees' updated stormwater regulations for equivalency.	The County requests Ecology conduct an equivalency determination for the updated, state-mandated stormwater regulations to be required in the 2019 – 2024 Permit. Ecology's determination of equivalency is an important step in the process of ensuring a Permittee's stormwater regulations comply with the Permit. Ecology's review and formal approval, through modification of Appendix 10, provides important transparency to the regulatory process. While some additional time for Permittees and Ecology will be necessary to engage in this process, if, as Ecology states, the changes are minor and only minimally substantive, that little bit of extra time will be well worth the certainty for all involved that a Permittee's state-mandated stormwater regulations comply with the Permit.	
Phase I Permit	S5.C.5	Deadline of December 31, 2020, to review and make effective the Permittee's local program of state-mandated stormwater regulations.	In general, it is difficult to know whether this deadline provides sufficient time without knowing all of the proposed changes to the Stormwater Management Manual of Western Washington. In any event, the proposed 12/31/2020 deadline does not provide enough time to adopt any needed changes to local codes and manuals and engage in a review and approval process with Ecology.	
Phase I Municipal Stormwater Permit	Pgs. 26-28 (Attachment A)	"How we calculated the Proposed Retrofit Incentive Point-based Defined Level of Effort"	There are significant problems with Ecology's proposed retrofit incentive point calculations. Snohomish County encourages Ecology to work with Permittees to resolve these issues. The calculations in Attachment A are dated and do not reflect the updated calculations in the excel spreadsheet (2016-SSC-Permittee-with-Description.xlsx, the "Calculation Spreadsheet") included with the	

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<p>Guidance for Structural Stormwater Control Program ("SSC Draft Guidance")</p> <p>SSC Draft Guidance</p> <p>Phase I Permit</p>	<p>Pg. 10</p> <p>S5.C.6.d</p>	<p>Proposed Retrofit Incentive Point Achievement Requirement</p> <p>Requirement for 1300 retrofit incentive points</p>	<p>Revised (as of 10/24/17) SSC Draft Guidance. Based solely on Ecology's own updated documentation and calculations, the retrofit incentive point total should be 1000, not 1300.</p> <p>Even Ecology's 1000 point total, however, is off significantly from current levels of effort and would represent a requirement for a cost-prohibitive level of effort.</p> <p>The grant project data used by Ecology in its calculations are not representative of typical SSC projects. For a grant project, a grantee jurisdiction leverages local funds with grants to achieve a larger project than otherwise attainable solely with local funding. The average project acreage used by Ecology in its calculations, of about 60 acres, over-represents the typical Appendix 11 project in Snohomish County for the current Permit term by a factor of about 5 times. Snohomish County has evaluated the Calculation Spreadsheet using Snohomish County real acreage values for its SSC projects for a period slightly longer than the current Permit term, and this resulted in, at most, about 104 retrofit incentive points, substantially lower than the 1573 points projected by Ecology using the non-representative grant project data. Ecology provided some clarifications on scoring and suggested reviewing some calculations for additional points. Snohomish County appreciates the clarifications, but on further review, the project designs would preclude any significant potential increase in incentive points. The proposed minimum level of effort remains too high.</p> <p>In addition, by setting minimum requirements for addressing potential gaps, Ecology is effectively stating that the other Permit requirements underachieve water quality compliance by the number of points set by Ecology for S5.C.6 projects. Ecology has not conducted a comprehensive review of the Permit to determine this, and to set performance levels with only the Monte Carlo simulation provided does not equate to a fully considered study.</p> <p>Finally, it does not appear Ecology considered the costs of the evaluated grant projects, leading to a fundamental misunderstanding by Ecology of the cost impact to Phase I jurisdictions of achieving the proposed level of effort. The cost to achieve the 1000 retrofit incentive points proposed by Ecology would require an approximately \$50 million CIP effort or more over the Permit term. This is unreasonable, impracticable and cost-prohibitive given the County's current level of funding.</p> <p>Snohomish County recommends the proposed retrofit incentive point requirement be adjusted downward, consistent with real SSC project data, and that the proposed retrofit incentive point requirement be a target only (rather than a requirement) during this 2019-2024 Permit cycle. That will ensure that issues with Ecology's proposed level of effort assessment can be worked out without subjecting Permittees to unnecessary liability exposure brought on by the uncertainties of a new program approach.</p> <p>Further, reflecting the imprecise nature of these metrics, the point set aside for completed projects should be combined with the design-stage points, and be simply made a single total of retrofit incentive points, where it could be a combination of design-stage, construction-stage, or completed, pending further evaluation to be done based on results from the 2019-2024 Permit term.</p>	

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SSC Draft Guidance	Pgs. 7-10	“When creating the point system, Ecology placed particular emphasis on:”	The acreage-based point system created by Ecology’s reliance on non-representative grant project data places emphasis on larger-scale projects to acquire more points. This is burdensome to jurisdictions with limited opportunities for large site projects, and encourages Phase I counties to favor rural projects, where land is available, to get larger sites and more points, over urbanizing locations where sites are smaller and land acquisition is more expensive. This would have the effect of discouraging S5.C.6 projects in areas that arguably need it most. In general, Ecology assigns priority and level of effort that does not relate to actual mitigation that may be needed. Phase I jurisdictions may be forced to perform activities that achieve the most points, and not achieve the most appropriate environmental benefit. Correction of this unintended consequence requires a revision of the point system to incentivize projects in urban locations.	
SSC Draft Guidance	Pg. 1 Pg. 6	“Ecology does not intend SSC projects to mitigate or compensate for previous impacts from MS4s.” “Projects that mitigate or compensate from previous impacts to the receiving water body from MS4 discharges,” are non-qualifying.	The existing and proposed permit language for paragraph 1 of S5.C.6 provides a Permittee shall implement a SSC program “to prevent or reduce impacts to waters of the state caused by discharges from the MS4. Impacts that shall be addressed include disturbances to watershed hydrology and stormwater pollutant discharges.” Further, the Permit directs that Permittees shall consider impacts caused by discharges from areas of existing development and areas of new development. In this context, what does Ecology mean by excluding projects that address “previous impacts from MS4”?	
SSC Draft Guidance Phase I Permit	Pg. 6 S5.C.6.a.iii	“Permittees may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement.”	Channel restoration work should be allowed under S5.C.6. S5.C.6.a.ii(4) allows “Other actions to address stormwater runoff into or from the MS4 not otherwise required in S5.C.” This should not preclude actions on runoff from the MS4 that may be located outside the MS4, e.g. instream improvements, including channel restoration. Because such actions are not in the MS4, they should not be required. Since they may mitigate impacts of the MS4, however, such downstream actions should be allowed.	Revise S5.C.6.a.iii to read, “Permittees may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement.”
SSC Draft Guidance	Pg. 5, item (10)	“Ecology intends this category to encompass ‘enhanced maintenance’ projects, such as high efficiency street sweeping...”	Allow other forms of street sweeping that pick up sediments and materials, including regenerative vacuum sweepers and mechanical sweepers.	
SSC Draft Guidance	Pgs. 5-6, item (10)	Street Sweeping	Recommend “curb” be changed back to “lane”.	
SSC Draft Guidance	Pg. 7	“Note to reviewers: Should Ecology include a qualifying project type for the permanent protection of working farmland	Ecology should allow protection of agricultural land as a project type. The incentive multiplier should be higher, and be consistent with other land acquisition incentive factors (0.50 times acreage).	Revise “Property Acquisition” in Table 2 to read, “Property Acquisition, farmland preservation, and impervious area conversion to vegetation.”

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Phase I Permit	Pg. 9, Table 2, Incentive Factor for Project Type #5 Appendix 11	(i.e., easements and transfer of development rights)?" "Note to reviewers: Should Ecology include a qualifying project type for the permanent removal of hard surfaces and conversion to vegetation? Would a retrofit incentive point multiplier of 0.25 be appropriate?"	Consistent with other types of open space protection to mitigate development impacts on stormwater, Ecology should allow permanent restoration of vegetation as a project type. The incentive multiplier should be higher, and be consistent with other land acquisition incentive factors (0.50 times acreage).	Revise "0.5 times acres acquired" to read, "0.5 times acres acquired, preserved, or restored to vegetation."
SSC Draft Guidance Phase I Permit	Pg. 9, Table 2, Incentive Factor for Project Types #7 and #8 Appendix 11	Incentive factor is given as 0.35 times acres restored for riparian buffer, and 0.25 times acres restored for forest cover.	This is too fine grained, and Ecology should acknowledge the experimental nature of point assignments. The error factor could be large, and rounding to 0.5 should be used to acknowledge the uncertainty.	Revise both "0.35 times acres restored," and "0.25 times acre restored," to "0.5 times acres restored."
SSC Draft Guidance Phase I Permit	Pg. 10 S5.C.6.d	"Ecology proposes December 31, 2022 as the cut-off date for calculating points toward the required minimum. This allows for reporting by March 31, 2023 in advance of the permit expiration date. This equates to a tallying period of 3.5 years."	The period stated would actually be 1 month short of 3.5 years. Allow Permittees until the end of the Permit term, not December 2022, for point calculation.	
SSC Draft Guidance	Pg. 11 Pg. 12	"equivalent area" and use of Stormwater Financial Assistance Program (SFAP) Runoff Treatment (MR#6) Benefit Ratio and Equivalent Area Process	A metric used to report on success with grant implementation of policy may not be appropriate as a metric for this Permit requirement. The metric needs to be further evaluated for fitness for Permit purposes.	
SSC Draft Guidance	Pgs. 12-13	Flow Control (MR#7) Benefit Ratio and Equivalent Area Process	This procedural elaboration should be further clarified and evaluated for impact on the representation of required, non-grant funded projects, for NPDES compliance purposes. It may have the effect of using the metric of equivalent area for different purposes than originally intended (grant evaluation) and may lead to unintended outcomes and discouragement of potentially beneficial retrofits. As an example, whether the incremental storage or the entire storage is counted in retrofit projects should be determined case-by-case. If the pond being retrofitted was designed and built to pre-1992 stormwater standards, there was no	

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			effective standard for water quality treatment and the entire volume of the facility being retrofitted should count, not just the incremental storage added.	
Phase I Permit	S5.C.6.a.ii(4)	Deletion of "Capital projects related to the MS4 which implement an Ecology-approved basin or watershed plan."	What is Ecology's reasoning behind this deletion? Elimination of project types will make it more difficult for Permittees to achieve the incentive point total.	
Illicit Discharge Detection and Elimination (IDDE) Draft Guidance Phase I Permit	Pg. 1 S5.C.8.g	Recordkeeping proposed revisions	<p>While Snohomish County understands Ecology's desire for more information, it has the following concerns with the proposed IDDE recordkeeping revisions.</p> <p>First, Snohomish County has logistical and other concerns regarding data on "potential" illicit discharges. A "potential" illicit discharge is a subjective concept. Permittees need clear language. Ecology must identify with more detail what a "potential" illicit discharge is and what it is not. Is Ecology expecting documentation of the following circumstances, for example: a call about a water quality issue outside of the Permittee's jurisdiction or a call about a non-water quality issue within a Permittee's jurisdiction or call about a water quality issue unrelated to the Permittee's MS4? A Permittee should not be required to provide Ecology with the long list of attributes, specifically #6-16 in the "IDDE Questions and Answers" (page 2: English) when, for example, the "potential" illicit discharge is in another jurisdiction.</p> <p>Second, Snohomish County has concerns regarding funding, logistical, and operational issues associated with the information Ecology is proposing to require for IDDE reporting. Snohomish County expended significant financial resources to design and implement a database for IDDE in previous permit cycles. This database was not designed for the reporting requirements Ecology is now proposing. Making changes to this database is not easy as the system has multiple roles within the County (permitting, business inspections, code enforcement, etc.). Additionally, it is not clear that the County's current system can produce data in the requested format without a significant investment in time and money. The County would rather spend those resources improving water quality. Utilizing WQWebIDDE as suggested by Ecology would break the linkages needed to other work groups within the County.</p> <p>Snohomish County asks that Ecology be thoughtful in the process changes it proposes to require. Different Permittees successfully implement their Permits using different approaches and processes. Overly prescriptive process and database requirements can lead to significant and unnecessary costs for Permittees that will utilize local resources better spent on on-the-ground water quality improvements.</p>	
Phase I Permit	S5.C.10		Ecology should consider establishing a pay-in option for compliance with S5.C.10.a.i General Awareness, similar to that used for S8 Monitoring. The intended General Awareness outcomes of public education and outreach can be achieved through a regional program. This approach would provide a more economically efficient way to achieve these outcomes, with more standardization of approaches as well.	
Public Education and	Pgs. 1-3	References to proposed revisions	Ecology's description of the proposed Permit changes references draft Permit subsections that do not exist. For example, the preliminary draft does not have a subsection S5.C.10.a (although it does have an	

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Outreach (Phase I) Preliminary Draft “Fact Sheet”			S5.C.10.b). Ecology’s descriptions at pages 1 -3 of this document of the non-existent subsections of S5.C.10.a appear to be relevant to S5.C.10.b instead. Ecology should avoid the use of unnumbered “introductory paragraphs” in the Permit because they are difficult to cite to, can cause formatting problems (as they apparently did here), and lead to confusion.	
Phase I Permit	S5.C.10	“Each Permittee shall implement what is developed regionally at the local jurisdiction.”	This statement is open to multiple interpretations. Is each Phase I Permittee required to implement locally every program developed regionally, even if that Permittee was not directly involved in its development? If a Permittee was involved in a regional group during a previous Permit cycle, is that Permittee required to implement locally any regionally developed program under the 2019 – 2024 Permit cycle? Do Permittees only have to implement locally those regionally developed programs with which they were involved? Please revise this sentence to clarify the meaning.	
Phase I Permit	S5.C.10.b	“ . . . The program design must be based on local water quality and demographic information to identify high priority target audiences, subject areas, and/or BMPs.”	This language is vague and susceptible to multiple interpretations. What local water quality information and demographic information must be used? What determines “high priority” target audiences? Is the minimum performance measure meant to select all local water quality issues or to focus on one? Is the Permittee meant to identify high priority target audiences AND subject areas AND BMPs or just one of each or some other combination of those three categories? The use of “and/or” creates confusion.	
Phase I Permit	S5.C.10.b.ii	“To effect behavior change, Permittees shall select from the following target audiences and BMPs”	This language is vague and susceptible to multiple interpretations. How many target audiences and BMPs must be selected? If the local water quality issue is determined to be fecal coliform bacteria and school age children are determined to be the high priority target audience, need a Permittee assume focus only on animal waste management and disposal BMPs? Or must a priority BMP be selected for each target audience? Or must a high priority target audience be selected for each listed BMP?	
Phase I Permit	S5.C.10.b.ii(1)	List of BMPs	The list is a remnant of the 2013-2018 BMPs which were separated by audience type. Now that the audiences are consolidated into a single list, the BMP list should be re-organized and consolidated further for clarity. Like-items should be listed together. One possible consolidation is as follows: <ul style="list-style-type: none"> • Equipment maintenance including vehicle (auto repair and maintenance), equipment, and home/building maintenance – as well as the use and storage of related chemicals and hazardous materials • Home/building maintenance including carpet cleaning, related chemicals and hazardous materials • Yard care techniques protective of water quality, including the use and storage of pesticides and fertilizers • LID principles and LID BMPs • Pet waste management and disposal • Prevention of illicit discharges • Stormwater facility maintenance • Dumpster and trash compactor maintenance 	

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Phase I Permit	S5.C.10.c	“No later than April 31, 2020 [~nine months from permit effective date], each Permittee shall conduct a new evaluation of the effectiveness of the ongoing behavior change program (required under S5.C.10.a.ii of the 2013-2018 Permit).”	<p>This statement is confusing and does not provide enough time for compliance.</p> <p>Is April 31, 2020, the deadline to complete the new evaluation? On what is the Permittee supposed to conduct a new evaluation? The behavior change program “required under S5.C.10.a.ii of the 2013-2018 Permit” will not be “ongoing” at that time because that Permit will have expired. The reference to an “ongoing” requirement from an expired Permit is confusing. Further, this is an infeasible compliance deadline. It is not feasible because it is based on the wrong assumption of an “ongoing” program required under an expired Permit and because it does not give Permittees enough time to complete each step of the proposed requirements in S5.C.10.c. Snohomish County recommends adding a minimum of 9 months to the deadlines in proposed S5.C.10.c. Also, there are only 30 days in April.</p> <p>Is the intention that a Permittee will both conduct a behavior change program <u>and</u> evaluate that program’s effectiveness at the same time (from August 2019 – April 31, 2020)?</p>	
Phase I Permit	S5.C.10.c	Reference to “S5.C.10.b.iii”	There is no “S5.C.10.b.iii” in this preliminary draft.	
Phase I Permit	S5.C.10.c	“Based on this evaluation, [within 18 months from eff. date] by February 1, 2021, each Permittee shall use community-based social marketing methods (including the development of a program evaluation plan), or equivalent, to:”	<p>This statement is confusing and does not provide enough time for compliance.</p> <p>Given that the deadline to implement the strategy developed in S5.C.10.c is April 1, 2021, what is required by the February 2, 2021, deadline? Selection of one of the three strategies described in S5.C.10.c? Selection of one of the three strategies <u>and</u> development of that strategy? This is unclear.</p> <p>Is it Ecology’s intention that Permittees must use community-based social marketing methods to select one of the three strategies? Or is it Ecology’s intention that only once the Permittee has selected one of the three strategies, the Permittee is then required to use community-based social marketing methods to develop that strategy and schedule? This is unclear.</p> <p>Is it Ecology’s intention that the Permittee use the “program evaluation plan” to develop the strategy or that the Permittee include as a component of any of the three strategies a program evaluation component? Or is Ecology requiring Permittees to use community-based social marketing methods to develop a program evaluation plan?</p>	
Phase I Permit	S5.C.10.d	“No later than April 1, 2021, implement the strategy developed in S5.C.1.b.”	This reference should be to “S5.C.10.b”. The deadline should be adjusted based on the comments above on proposed S5.C.10.c.	
Phase I Permit	S5.C.10.e	“No later than March 31, 2024, evaluate and report on the changes in understanding and adoption of targeted behaviors resulting from the implementation of the strategy and any changes to the program in order to be more effective;	<p>The direction to “report on ... any changes to the program in order to be more effective” is confusing. Is this a requirement to, as part of the evaluation, describe recommendations for future changes that could make the program/strategy more effective?</p> <p>When Ecology directs a Permittee to “describe the strategies and process to achieve results” is this a requirement for a description of the strategy and process that was implemented, or is it a requirement for a description of recommended strategies and processes for improved future implementation?</p>	

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		describe the strategies and process to achieve the results.”		
Phase I Permit	S8.A	All of proposed S8.A	<p>In Ecology's note to reviewers concerning modifications to S8.A, Ecology states it is trying to limit the scope of S8.A to “unexpected or other findings reported to the permittees.” There are a number of problems with this.</p> <p>First, the plain language of proposed S8.A does not express this stated intention. Ecology must draft the plain language of the Permit so it clearly expresses the intended meaning of the provision. It is problematic for Ecology to provide guidance inconsistent with or unsupported by the plain language of the Permit.</p> <p>Second, “unexpected or other findings” is an impossibly vague standard. Unexpected to the Permittee? Unexpected to Ecology? Unexpected to a citizen? Unexpected in what sense? If Ecology means Permittees should, under proposed S8.A, provide a summary description of the findings of stormwater monitoring or stormwater-related studies that are not provided to the Permittee in the normal course (thus excluding stormwater studies, monitoring, or investigations required as part of a development permit application, for example), Ecology should just state that in clear, unambiguous language.</p> <p>As Ecology is aware, Snohomish County challenged the S8.A reporting requirement in the 2013 Permit. The PCHB concluded that past practice is the best indicator of how the parties intended “stormwater monitoring or stormwater-related studies” or “stormwater-related investigations” to be interpreted and applied and that past practice has not included the reporting of the many project- and site-specific reports and plans submitted as part of a development permit application. Is it Ecology's intention that proposed S8.A for the 2019 Permit be consistent with the PCHB conclusion, Ecology's assertions in briefing on that issue in 2013, and this past practice?</p>	
Phase I Permit	S8.B	Keep the amount a Permittee pays during the Permit term the same as the 2013 Permit, with payments over 5 years instead of 4 years.	Snohomish County supports this proposal.	
Phase I Permit	S8.B.2	Whether Ecology should do away with “permittee monitoring” and require all permittees to pay into the status and trends program?	Snohomish County supports this proposal.	
Phase I Permit	S8.C	Combine the current S8.C (Stormwater Management Program Effectiveness Studies) with the current S8.D (Source Identification and Diagnostic Monitoring).	Snohomish County supports this proposal.	

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Phase I Permit	S8.C.1	"Each permittee shall submit records of SWMP activities tracked and/or maintained in accordance with S5 and/or S9 in response to requests for information associated with effectiveness and source identification studies under active SAM contracts."	<p>Ecology should delete this proposed provision.</p> <p>First, this provision is unnecessary. Special Condition S9.C already requires a Permittee to make all records related to the Permit and the Permittee's SWMP available to the public. There is no need for this proposed requirement in Special Condition S8.C.1.</p> <p>Second, this provision is vague and unclear. It does not identify who or what entity can make the request for information contemplated. Is it Ecology? While Ecology's Note to Reviewers indicates the requests contemplated would come from "SAM," that assertion is not consistent with the plain language of the proposed provision.</p> <p>Third, this provision is inappropriate, unreasonable, and will expose Permittees to liability. With this proposed provision, Ecology appears to be making it a Permit violation for a Permittee to decline to <u>create</u> records related to SWMP activities when requested to do so by <u>anyone</u>. Such a requirement is not supported by law or logic.</p> <p>Ecology should not and cannot turn into a Permit violation a Permittee's reasonable determination that it will not create records not otherwise required under the Permit.</p>	Delete proposed provision.