

**Snohomish County Comments**  
**Ecology’s 2019 Permit Long-Term Municipal Stormwater Planning Proposal**

Document	Section, Page and/or Paragraph #	Ecology Proposed or Modified Language	Comment	Snohomish County Proposed Language, if any
“Long term MS4 planning to protect and recover receiving waters” document (“MS4 Planning Document”)	All	Required processes and deliverables	<p>The MS4 Planning Document describes a purpose, objective, processes, and deliverables for something Ecology calls “long-term MS4 planning.” While there are good points in certain elements Ecology has outlined for MS4 planning, the approach as presented appears to be a “one size fits all,” and the draft concepts, processes, and required deliverables do not address the range of jurisdiction size and numbers of watersheds from small Phase II cities to large Phase I counties. More flexibility and clarity are needed to scale this process to local needs and conditions, local priorities, and existing MS4 planning within a jurisdiction.</p> <p>Many jurisdictions subject to the future MS4 planning requirements of the 2019 Permit have developed stormwater planning processes, and, using these processes, developed plans or are currently doing so. Rather than require starting over on another effort, such jurisdictions should be allowed the option of continuing their processes by implementing existing plans or completing a plan. Those jurisdictions should be able to take credit for work already begun. Otherwise, the requirement to start over penalizes jurisdictions that conducted stormwater planning ahead of the 2019 Permit cycle and effectively rewards those jurisdictions that waited.</p> <p>For example, it appears that the purpose of the first two steps in the proposed planning process described by Ecology is to figure out which basins and catchment areas could yield improvement most readily and on a fairly near-term timeline. <i>See</i> page 1, lines 21-22 and page 2, line 27. If a Permittee already has that information for basins within its jurisdiction will Ecology second guess that Permittee and require it to duplicate effort with Ecology’s process?</p> <p>Snohomish County developed in 2014 a Water Quality Facilities Strategic Planning process that is working well for the County’s local circumstances and planning needs. Snohomish County would like to continue working with this process, which is oriented primarily to water quality improvement in urban growth areas (UGA) in the County.</p>	
MS4 Planning Document	All	Timelines	<p>The MS4 Planning Document does not address how long each step described therein might take or indicate what Ecology views as an achievable number of steps to require within the 2019 – 2024 Permit term. Ecology has not indicated how many catchments should be identified out of an unidentified number of “top priority basins” for an unidentified number of catchment plans. This makes commenting on timeline issues nearly impossible. Snohomish County has directly applicable experience in developing this type of water quality plan, with knowledge of how long these types of processes take. Snohomish County trusts Ecology will remain sensitive to timeline concerns as this Permit requirement is more fully developed and that Ecology will</p>	

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			<p>continue to consider seriously comments from Permittees, especially those that have undergone similar processes, on these concerns.</p> <p>Some general principles should guide Ecology's determination of timelines, and thus required elements, during the 2019 – 2024 Permit term.</p> <p>First, Ecology should strongly consider phasing requirements over two or more Permit terms.</p> <p>Second, if Ecology's goal is to have Permittees come up with catchment level plans that can one day be implemented, are scientifically defensible, and that will address stormwater impacts to receiving waters, then Ecology needs to give Permittees enough time to make those plans good and defensible, including the time to collect data and, possibly, conduct modeling, where Permittees determine that data collection and modeling are necessary to inform a competent plan. As Ecology is aware from the basin planning efforts required in the current Permit under Special Condition S5.C.5.c, data collection, monitoring, and modeling take time and resources. Ecology's MS4 planning requirement must recognize this need for flexibility in the implementation of each stage of this process based on local conditions.</p> <p>Third, there has to be flexibility to acknowledge that the processes described in the MS4 Planning Document likely will take a small Phase I city significantly less time to complete than a large Phase I county. Snohomish County has some 45 subbasins in Puget Sound lowlands where the County has 10% or more of the subbasin, comprising some 735 square miles within Snohomish County. MS4 planning cannot be meaningfully conducted over the entire lowland area within a single Permit term. Snohomish County has significant concerns about a "one size fits all" approach in terms of the unreasonable deadlines this could impose on larger jurisdictions.</p> <p>Fourth, Ecology needs to be realistic about how long each step outlined in the MS4 Planning Document will reasonably take. For example, a single sentence on page 5 lines 27-28 would require permittees to "Identify where build-out at current or proposed zoning will not be adequately mitigated by stormwater facilities or other structural improvements." Phase I counties just engaged in a process to do something similar to that and it took multiple years and a significant modeling effort. Now Ecology proposes that as merely one requirement in a five page document of proposed requirements.</p>	
MS4 Planning Document	Page 3, line 24 Page 4, line 33	The requirement that plans consider land use or zoning code adjustments and new critical area designations.	Ecology's direction in MS4 planning to require more regulation and control over local zoning and land use planning is concerning. Zoning and land use changes are matters properly conducted through the community and regional planning processes provided in the Growth Management Act (GMA). Zoning code and land use changes have the	

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	Page 5, line 3		<p>potential to impact urban development and population capacity and, as such, cannot be done based on stormwater considerations alone.</p> <p>Further, the modeling Snohomish County completed for the current Permit's stormwater planning requirement indicates that the newly adopted stormwater regulations have a positive impact on water quality, and it is the older development with legacy stormwater facilities, that has the greatest capacity for redressing water quality problems, and that is where efforts should focus. Similarly, conclusions about the beneficial effects of stormwater regulations were reached in the WRIA 9 Stormwater Retrofits Study completed in 2014. The effectiveness of current stormwater regulations should be monitored and their benefits or shortcomings ascertained, before adding more regulations or requirements.</p> <p>In addition, Ecology's specific focus on "new critical area designations" is confusing. What does Ecology mean by "new critical area designations" as one of the "complementary strategies" that Ecology would require Permittees to consider? Does Ecology want Permittees to create a new kind of critical area? Expand the definitions of existing critical areas? On what basis does Ecology believe it can require Permittees to modify, or consider modifying, their critical area regulations to comply with an MS4 NPDES Permit? A jurisdiction's adoption of critical area regulations already results from the use of best available science.</p> <p>Snohomish County recommends that the portion of Ecology's proposed MS4 Planning requirement related to further analyzing options for land use or zoning code adjustment or new critical area designations be optional only.</p>	
MS4 Planning Document	page 3, line 7	"Ecology recognizes that many receiving water impairments are tied to a broader set of pressures/sources than just stormwater."	Snohomish County appreciates this statement. Requiring Permittees to plan to solve, or to solve, all receiving water problems through an MS4 Permit is not appropriate in light of this reality.	
MS4 Planning Document	Page 3, line 27	Composition of interdisciplinary team	Ecology's attempt to control who within a jurisdiction should participate in this proposed effort is unnecessary and inappropriate. Permittees have the knowledge to assemble the appropriate teams for various tasks. A jurisdiction may want different team members for the inventory portion of this effort as opposed to the prioritization portion, as opposed to the planning portion.	