

Snohomish County Comments
Ecology’s Draft 2019 Phase I Permit, Phase II Permit, Fact Sheet, and Guidance Documents (August 2018)

#	Document	Section, Page and/or Paragraph	Ecology Proposed or Modified Language	Comment	Snohomish County Recommendation or Proposed Language, if any
1	Fact Sheet		Entire document	<p>The Fact Sheet is required by WAC 173-226-110 and must address the topics identified therein. The use of the Fact Sheet to explain Permit requirements in a manner inconsistent with the Permit language is contrary to WAC 173-226-110 and creates unnecessary confusion.</p> <p>For example, in Section 6.0 (“Explanation of Permit Revisions”) Ecology states its “expectations” to comply with the S5.C.2 mapping requirement – standards not stated in the Permit: “Although the requirements are not explicit, Ecology expects that Permittees will also map structures such as catch basins and inlets to support their IDDE activities when they map tributary conveyances. This information would be particularly important for purposes of tracing illicit discharges and preventing harm from spills. Ecology also expects Permittees to map the MS4 in greater detail in areas with land uses that involve storage, transfer, or use of materials where the risk of harm is greater because of factors such as the frequency of transfer or use, the potentially severe or irreversible environmental impacts associated with the illicit discharge or release of such materials, or the nature of the downstream resources at risk. Ecology intends for Permittees to apply local knowledge of land uses to map the MS4 more completely in these areas to meet the intent of the illicit discharge program.” <i>Compare to S5.C.2, which provides no indication a Permittee must do as quoted to comply.</i></p> <p>In other places, Ecology’s description of what it requires in the Permit is not consistent with the Permit language. For example, Ecology states in the Fact Sheet at p. 47 that it added language to the Public Education and Outreach section to clarify how many audiences and BMPs must be targeted. The County does not see that clarifying language.</p> <p>It is inappropriate for Ecology to use the Fact Sheet to attempt to modify or expand the Permit requirements or to inaccurately describe Permit language.</p>	<p>RECOMMENDATION: Delete the quoted language provided, as well as all other references in the Fact Sheet to Ecology’s expectations for Permit compliance or explanations of Permit requirements that depart from the actual Permit language.</p>
2	Fact Sheet	Section 6.5.12, p.39	<p>“We learned from the “Watershed-scale Stormwater Plans” that the calibrated model for each of the selected basins showed that current and future conditions in these watersheds do not meet water quality standards, and that actions beyond site and subdivision scale of stormwater management will be needed to prevent degradation of the receiving waters.”</p>	<p>This statement is not true and is vague. As stated in the Little Bear Creek plan, “Simulations of future conditions with no additional mitigation (Table 49) and future conditions with additional mitigation (Table 50) indicate no exceedances will occur for fecal coliforms and the metals except for model domain BEA310.”</p> <p>The phrase “actions beyond site and subdivision scale of stormwater management” is vague: it could be read either to include or exclude retrofit projects that use BMPs central to “site and subdivision scale stormwater management.” The Little Bear Creek plan showed that, with the exception of stream temperature, the environmental standards used as indicators in the plan were met by standard MS4 retrofitting. Stream temperature problems, largely or wholly caused by solar heating of the stream, were proposed to be addressed by planting trees for shading.</p> <p>Ecology must revise the statement to be both true and unambiguous.</p>	<p>REVISE as follows:</p> <p>“We learned from the ‘Watershed-scale Stormwater Plans’ that the calibrated model for each of the selected basins showed that current and/or future conditions in these watersheds do not meet all of the water quality standards studied in the plans. Further, while many of the future problems identified were shown to be solvable by a combination of existing standards in new development/redevelopment plus MS4 retrofitting projects, some actions beyond those typically related to site and subdivision scale of stormwater management may be needed to prevent degradation of the receiving waters.”</p>

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3	Guidance documents, in general			<p>Use of a guidance document to attempt to clarify confusing or incomplete Permit language is inappropriate, unreasonable, and unduly burdensome on Permittees. Ecology must draft clear Permit language that provides Permittees and others with unambiguous requirements and understandable compliance pathways.</p> <p>During this public comment period, Ecology identified two guidance documents for comment, the Stormwater Management Action Planning Guidance document (“SMAP Guidance”) and the Phase I Municipal Stormwater Permit Guidance for Structural Stormwater Control Program (“SSC Guidance”). The County comments on each of those documents below.</p> <p>In addition, the County recently learned Ecology intends to “release” a third guidance document at the time of Permit issuance in 2019 – a Draft Mapping Guidance, which may or may not be in the form presented by Ecology at the end of 2017. The County commented on that document on January 19, 2018, observing a number of inconsistencies between the Draft Mapping Guidance and the Permit language.</p>	<p>RECOMMENDATION: Abandon the use of guidance documents and focus on crafting clear, unambiguous Permit language.</p>
4	SMAP Guidance		Entire document	<p>Relying on a non-binding guidance document, tailored to a significant extent to requirements not even applicable to Phase I Permittees, to fill in gaps in the S5.C.6 Permit language is a significant problem for all stakeholders. This creates confusion, undermines compliance, and will result in litigation.</p> <p>While Ecology states in the SMAP Guidance that it is not meant “to specify or restrict the approach that will be taken by every jurisdiction covered by the Permit” Ecology has to appreciate that the existence of the SMAP Guidance will do exactly that. Especially when Ecology references the SMAP Guidance in the Fact Sheet in an authoritative manner. <i>See</i> Fact Sheet at p.44. And Ecology’s use of mandatory language in the SMAP Guidance undermines Ecology’s statement that it is not attempting to dictate how a Permittee must comply.</p> <p>The following is an incomplete list of statements in the SMAP Guidance that depart from or are inconsistent with the Permit language in S5.C.6.c:</p> <ol style="list-style-type: none"> a. One or more permittees may work together on a SMAP. This is not stated in the Permit b. The scale of the SMAP is “expected” to be the catchment size area (400-600 acres). This is not stated in the Permit c. Ecology “expects” “SMAP investments” to address certain listed things. The Permit does not identify anything called a “SMAP investment”. d. Ecology “expects” Permittees to address protection of hydrologic function and include some combination of zoning/land use designations, conservation easements, and land acquisition. The Permit does not identify these restrictions on the final SMAP product. e. The SMAP “will” include retrofits intended to provide flow control or treatment benefits that match “your water quality goals” for the receiving water. The Permit does not identify a retrofit requirement, nor does it indicate Permittees must establish their own “water quality goals,” which is a vague standard. 	<p>RECOMMENDATION: Abandon use of the SMAP Guidance, which has its own significant clarity and applicability problems. The Permit is the place to state and describe Permit requirements. Do not incorporate by reference the SMAP Guidance into the Permit and, if Ecology retains the SMAP Guidance, make clear in the SMAP Guidance itself, in the Fact Sheet, and in the Permit that the SMAP Guidance does not state Permit requirements, but only Ecology’s non-binding suggestions.</p>

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				<p>f. “Ecology has not yet established a minimum level of effort for SMAP implementation. ... The effort for this Permit cycle should identify a realistic schedule and budget that accomplishes some level of effort in each of the short-term and long-term planning efforts.” These statements imply a SMAP implementation requirement, which is inconsistent with the Permit language.</p> <p>g. Section titled “Process to adaptively manage the plan.” S5.C.6.c. does not contain an adaptive management requirement; the Phase II Permit does. Yet Ecology references Phase I counties in this section, making it unclear whether Ecology thinks Phase I permittees are subject to Ecology’s “expectations” set forth in this section.</p> <p>h. Section titled “Process to adaptively manage the plan.” Of concern, this section appears to suggest Permittees must implement their SMAPs during this Permit term, something S5.C.6.c does not require.</p> <p>There are many other examples in the SMAP Guidance.</p> <p>In addition, numerous sentences within the SMAP Guidance are, by themselves, vague and ambiguous. Because the County is unclear the extent to which Ecology views the SMAP Guidance as binding regulation, it is difficult to know the level of detail with which to comment on the SMAP Guidance. Snohomish County objects to any attempt by Ecology to incorporate the SMAP Guidance document into the final 2019 Permit. Ecology should clearly state the S5.C.6.c Permit requirements in the Permit itself. If Ecology retains the SMAP Guidance, Ecology must make clear the SMAP Guidance does not state Permit requirements, but only Ecology’s non-binding suggestions.</p>	
5	SMAP Guidance Ph I Permit	p.1 S5.C.6.c	<p>“To thoroughly understand Ecology’s expectations for meeting the Permit language, Permittees should be familiar with the following references...”</p> <p>“Many of the steps below are explained in detail in BCitR.”</p>	<p>What does this mean? Ecology may or may not have incorporated by reference into the SMAP Guidance (a document that is not itself incorporated by reference into the Phase I Permit) reference to sections of the Fact Sheet and the 50+ page “Building Cities in the Rain” document (“BCitR”). Are those Fact Sheet sections and the BCitR now part of the SMAP Guidance?</p> <p>S5.C.6.c has general language requiring “Stormwater Management Action Planning”. The SMAP Guidance has more detailed language, the regulatory importance of which is unclear, as Permittees are left to guess which statements in the SMAP Guidance are non-binding suggestions versus mandatory elements. And then the SMAP Guidance directs the reader to additional documents so Permittees can “thoroughly understand Ecology’s expectations” for meeting the S5.C.6.c Permit requirement. Is Ecology telling Permittees they must comply with all aspects of the BCitR document? Only some aspects of that document? Which ones? This ambiguous reference is unclear.</p> <p>Ecology’s SMAP Guidance approach is unreasonable, impracticable, and unlawfully vague and burdensome. Ecology should clearly state the S5.C.6.c Permit requirements in the Permit itself.</p>	
6	SMAP Guidance	p.9, para.3	<p>“For these priority basins, Ecology expects the SMAP investments to address protection of hydrologic function and</p>	<p>This statement is not appropriate. Some basins may be able to achieve goals through mechanisms other than “zoning/land use designations, conservation easements and land</p>	

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	Ph I Permit	S5.C.6.c	include some combination of zoning/land use designations, conservation easements, and land acquisition.”	<p>acquisition”. Ecology should not require specific action types. The legal and scientific basis for Ecology to do so is unclear.</p> <p>Ecology’s suggestion in the SMAP Guidance that it expects more control over local zoning and land use planning is concerning. Zoning and land use changes are properly addressed through the community and regional planning processes provided in the Growth Management Act (GMA). Zoning code and land use changes have the 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 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>	
7	SMAP Guidance	p.10, para.3	“Pursuant to your receiving water assessment and prioritization, or Phase I County scenario modeling, your SMAP will include retrofits intended to provide flow control and or treatment benefits that match your water quality goals for the receiving water. Due to varying levels of capacity and expertise, the necessary magnitude and most beneficial placement of these facilities within the catchment area will be determined to a different level of precision and certainty for each jurisdiction. Ecology expects your level of effort on this step to match your capacity and expertise”	<p>What type of discretion do Permittees have to set their “water quality goals”? Does this mean Permittees can set a goal of a receiving water only being out of compliance with standards 50% of the time rather than 100% of the time or that a Permittee could say it wants a receiving water to meet the recreational but not aquatic life beneficial use? The meaning of the phrase “your water quality goals” is unclear. These “water quality goals” should be specific to a Permittee’s MS4 discharges, the subject matter of this Permit, and not to the receiving water generally.</p> <p>How can a Permittee ever know if its effort meets Ecology “expectation” given capacity and expertise? How is Ecology going to evaluate each Permittee’s capacity and expertise given that both of those can change throughout a Permit term?</p>	
8	SMAP Guidance	p.10, para.5	<p>“You should develop the SMAP in a way that (1) you fully expect the investments to meet your stated goals for the receiving water, and (2) you can reasonably foresee the plan being implemented over the course of the next two to three Permit cycles.”</p> <p>“Ecology has not yet established a minimum level of effort for SMAP</p>	<p>The amount of investment that may be required to meet the goal for the receiving water may outstrip the Permittee’s funding. On the other hand, Permittees could set very attainable goals that do not ensure beneficial uses are restored or that water quality standards are met.</p> <p>The unintended consequences of Ecology’s framing of this SMAP requirement will be to focus on areas that won’t take the most funding – which are likely not the areas that need the most improvement or protection. There will also be the longer term consequence of this language, whereby Ecology will be forcing Permittees to spend a significant portion, if not all of their available funding in one specific area. This ignores true prioritization of worst impacts and other factors that Permittees consider when doing projects. This requirement could also be at</p>	

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			implementation. Your SMAP budget should identify likely and potential funding sources. The effort for this Permit cycle should identify a realistic schedule and budget that accomplishes some level of effort in each of the short-term and long-term planning efforts.”	cross-purposes with concerns about social/environmental justice. The County believes resources should be spread more equitably throughout the County. The suggestion that Permittees are expected to implement “some level of effort” during this Permit term is inconsistent with the Permit language, which requires no such thing. Finally, the Permit requirements should focus on discharges from the MS4, the physical system regulated by this Permit, and not receiving waters generally.	
9	SMAP Guidance	p.11, para.1	Short term actions section	It should be recognized that capital improvements will likely not be included in short term actions as it can take years to construct a project due to determining the appropriate design and getting the project through permitting.	
10	SMAP Guidance	p.11, para.2	Long term actions section	The guidance states that long term actions should be strategic rather than opportunistic. Opportunistic improvements should always be considered as new things emerge that could change the Permittee’s priority or the subbasin needs.	
11	SMAP Guidance	p.11, para.4	“The types of data Ecology expects you to include in this process include: receiving water data, project/activity implementation data, and landscape scale indicator data. If baseline data do not already exist for your priority receiving water, your SMAP should plan to collect data to assess the current condition of appropriate indicators.”	Is this discussion even applicable to Phase I Permittees? The SMAP Guidance is unclear, although it would appear the answer is “no” because the Phase I Permit SMAP language does not include a requirement to develop a process to adaptively manage the SMAP, while the Phase II Permit does. If Ecology believes this statement to be applicable to Phase I Permittees, the County objects to it as vague, utilizing undefined and unclear phrases, and inconsistent with S5.C.6.c of the Phase I Permit. On what basis is Ecology requiring Permittee collection of receiving water data in this MS4 Permit?	
12	SSC Guidance		Entire document	Relying on a guidance document to fill in obvious gaps in the S5.C.7 Permit language is a significant problem for all stakeholders. This creates confusion, undermines compliance, and will result in litigation. Snohomish County objects to any attempt by Ecology to incorporate the SSC guidance document into the final 2019 Permit. Ecology should clearly state the S5.C.7 Permit requirements in the Permit itself or in Appendix 12. If Ecology retains the SSC Guidance, Ecology must make clear the SSC Guidance does not state Permit requirements, but only Ecology’s non-binding suggestions.	RECOMMENDATION: Abandon the use of the SSC Guidance. Do not incorporate by reference the SSC Guidance into the Permit and, if Ecology retains the SSC Guidance, make clear in the SSC Guidance itself, in the Fact Sheet, and in the Permit that the SSC Guidance does not state Permit requirements, but only Ecology’s non-binding suggestions.
13	SSC Guidance	p.5	Street Sweeping Program	Snohomish County supports the inclusion of street sweeping as an option for the structural stormwater controls program. Removing pollution at its source in the roadways is much more effective than treating it afterwards. Ecology appears to require two rounds of sweeping per year over a particular route to count toward SSC incentive points. Must both rounds be with a high-efficiency sweeper or is it sufficient that the second round only utilizes a high-efficiency	

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				sweeper? The County prefers that only the second round require the use of a high-efficiency sweeper so the County can more effectively deploy its sweeping resources.	
14	Ph I Permit		Entire document	This is an MS4 permit, yet some Permit requirements directly or indirectly require Permittees to assess the receiving waters as a measure of compliance or to determine the adequacy of the Permittee's programs. As Ecology previously noted, "Ecology recognizes that many receiving water impairments are tied to a broader set of pressures/sources than just stormwater." Requiring Permittees to plan to solve or to solve all receiving water problems through an MS4 Permit is not appropriate or within Ecology's authority. The Permit requirements should focus on discharges from the MS4, which is the physical system regulated by the Permit.	
15	Ph I Permit SWMMW W		General Comment	The draft Permit and SWMMWW contain statements suggesting the Permit or SWMMWW conditions may or will be changed by Ecology, and in one case by a third party, after the issuance date of the Permit. The language used suggests these changes will be made without following the permit modification procedures set forth in chapter 173-226 WAC. This appears inconsistent with the WAC and with prior Pollution Control Hearings Board decisions. Of particular note, Volume II, Section II-2.2, p. 449 of the SWMMWW indicates modifications to the WWHM hydrologic model may be made by the software developer after the effective date of the Permit. The WWHM hydrologic model is in essence a set of design procedures and criteria. Allowing a software developer to modify those standards, and then to direct readers of the SWMMWW to "periodically check Ecology's WWHM web site for the latest releases of WWHM..." is inappropriate. See Volume III, SWMMWW at p. 550. In addition, Appendix 2 notes in a number of places Ecology's review and approval of revised QAPPs.	
16	Ph I Permit		General Comment	It would be helpful to have cross-referencing between relevant elements of the SWMP and TMDL sections that tie to those SWMP elements.	
17	Ph I Permit	S5.C.2.b, p.15 (redline)	"New Mapping: Each Permittee shall complete the following mapping. i. No later than January 1, 2020, begin mapping size and material for all known MS4 outfalls." ii. No later than August 1, 2021, complete mapping of all known connections from the MS4 to a privately-owned stormwater system. iii. No later than December 31, 2019, Counties shall start mapping tributary conveyances, as described in S5.C.2.a.v	It appears Ecology is implying a deadline ("shall complete") without actually stating a completion deadline, which is confusing. Two of the three mapping tasks to "complete" actually state begin by deadlines, not completion dates. Is Ecology requiring that a Permittee "shall complete" the starting of two of the three mapping tasks? Or does the phrase "shall complete" imply a July 31, 2024, deadline, which is inconsistent with the S5.C.2.b.ii deadline? Imposing both starting and ending deadlines on a single task is unreasonable and unnecessary. Here, Ecology should make these new mapping requirements consistent by providing a single "begin by" date for all three. The County's mapping processes are integrated; the County does not dispatch a different mapping team for different attributes but will endeavor to gather all relevant mapping data in an area on a single outing. Different start dates make little sense. In addition, completion dates are unreasonable and impracticable where, as here, these attributes will continue to be added to the County system, or become known to the County, throughout the Permit term, not just the first few years. Any completion date would be arbitrary.	REVISE as follows: <ul style="list-style-type: none"> • "New Mapping: Each Permittee shall complete the following mapping." • Then state a "begin by" deadline for each of the three listed tasks for consistency. • If a completion deadline is used instead, make that date July 31, 2024.

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			for 50% of areas outside the urban/higher density rural sub-basins”	If Ecology decides to use completion dates, it should use only those and not also dictate when a Permittee must start. That is overly prescriptive of the County’s work processes and unnecessary to the goals of the Permit. The County is in the best position to determine when to start a task to finish by a deadline. If employing a completion date, Ecology should give Permittees enough time to complete the tasks and capture these attributes over the full Permit term for a more complete mapping dataset. The County recommends a July 31, 2024, deadline.	
18	Ph I Permit	S5.C.2.b.ii, p.15 (redline)	“No later than August 1, 2021, complete mapping of all known connections from the MS4 to a privately-owned stormwater system.”	This requirement implies the Permittee must identify privately-owned “stormwater systems” and distinguish them from things that aren’t “systems.” The use of the phrase “stormwater systems” is imprecise and will lead to disputes over what constitutes a “system” as opposed to something else. That is not, according to the Fact Sheet discussion, Ecology’s focus. Rather, as stated in the Fact Sheet, p. 51, the purpose of this requirement is to understand “where MS4 discharges are leaving the public system.” Snohomish County suggests revision as noted.	REVISE as follows: Change “privately –owned stormwater system” to “a stormwater treatment and flow control BMP/facility not owned or operated by the Permittee.”
19	Ph I Permit	S5.C.3 S5.C.3.b, p.16 (redline)	Existing 2 nd paragraph in S5.C.3 and the first sentence in new S5.C.3.b	These provisions appear identical except for: (1) the addition of “when needed;” and (2) the use of “a watershed” instead of “adjoining or shared areas.” Are these two separate, but slightly different requirements or is this a typographical error in duplicating a requirement? How does Ecology define an “adjoining or shared area”? Area of what?	RECOMMENDATION: Ecology should delete one of these provisions and redraft the other. In the alternative, Ecology should retain the 2013 version of S5.C.3.
20	Ph I Permit	S5.C.3.b, p. 16 (redline)	“The SWMP shall include, when needed, coordination mechanisms among entities....”	How will a Permittee know when the “when needed” standard is triggered? Unclear standards are problematic to Permittees and expose them to increased liability risks. What a Permittee views as “when needed” may be different than Ecology.	
21	Ph I Permit	S5.C.3.c, p. 17 (redline)	Ecology’s deletion of: “Failure to effectively coordinate is not a permit violation provided other entities, whose actions the Permittee has no or limited control over refuse to cooperate.”	Why is Ecology deleting this statement? That is inconsistent with the statement on p. 37, Section 6.5.6, of the Fact Sheet that “Failure to effectively coordinate is not a permit violation provided the other entities, whose actions the Permittee has no or limited control over, refuses to cooperate.” Given this Fact Sheet statement, it appears Ecology made this deletion in error. A Permittee cannot be responsible (or liable) for the action or inaction of another entity.	RECOMMENDATION: Reinsert this sentence into the Permit.
22	Ph I Permit	S5.C.5, pp. 18; 20 (redline)	Deletion of: “started construction” footnote (so that phrase is no longer defined)	Did Ecology intend to delete its definition of a phrase it continues to use in this 2019 Permit? Should Permittees take that deletion to mean Ecology intends a different meaning for the phrase “started construction” than currently in the 2013 Permit?	
23	Ph I Permit	S5.C.5.a & S5.C.5.b, pp. 17-19 (redline) Fact Sheet, pp. 54-58	Applicability of former, existing, and updated regulations.	There are gaps in applicability information in S5.C.5.a and S5.C.5.b. Ecology must provide clear guidance on the applicability and timing standards it is imposing. Proposed S5.C.5.a states a Permittee shall continue to implement its existing program, as approved under the 2013 Permit, until the new program required under the 2019 Permit applies. Proposed S5.C.5.a then states this existing program (Snohomish County’s January 11, 2016, regulations) will apply to applications submitted to Snohomish County prior to January 11, 2016, which have not started construction by January 11, 2021. This would appear to preserve and carry over current/2013 S5.C.5.a.iii, that a project applied for prior to January 11, 2016, that starts construction prior to January 11, 2021, may use the drainage regulations in existence	RECOMMENDATION: Revise for clarity.

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				<p>a. <u>S5.C.5.b.i.</u> The MRs, thresholds, and definitions in Appendix 1, or equivalent, “shall be” included in enforceable documents adopted by the local government. Modified Appendix 1 includes new definitions, for example, that Ecology is not requiring Permittees to include in enforceable documents. <i>See</i> Appendix 10, Part 2.</p> <p>b. <u>S5.C.5.b.ii.</u> Local requirements shall include listed requirements, limitations, and criteria that will be used to implement the MRs in Appendix 1. Not all modifications to the MRs in Appendix 1 are required under Appendix 10, Part 2.</p> <p>c. <u>S5.C.5.b.iv.</u> Ecology review and approval of local manual and ordinances is required. This could be read to require a broader review and approval than described in Appendix 10, Part 2.</p> <p>d. <u>S5.C.5.b.iv.</u> The Permittee must provide a detailed written justification of any of the requirements that differ from those in Appendix 1. Appendix 1 includes modified language Ecology is not requiring a Permittee to adopt, and yet this statement suggests a Permittee must justify why it is not adopting those modifications.</p> <p>e. <u>SWMMWW, Vol I.</u> The Executive Summary, which lists changes that “will be required to be implemented” by Permittees includes in that list discussion of MRs 2, 5, and 7, which are discussed in Volume I of the SWMMWW. But the changes Permittees are required to implement related to MRs 2, 5, and 7 are those set out in Appendix 1, not Volume I of the SWMMWW. <i>See</i> Appendix 10, Part 2. This creates ambiguity as to what a Permittee must do.</p> <p>f. <u>SWMMWW, Vol. III, Sect. III-1.1, p. 476.</u> This states BMPs identified as mandatory in Vol. IV “must be” included in local programs to be equivalent. Language in Vol. IV was modified, but Appendix 10, Part 2, does not require Permittees to adopt those changes. The SWMMWW language appears inconsistent with Appendix 10, Part 2.</p> <p>Ecology needs to review all relevant documents and eliminate any ambiguous or inconsistent language to make the approach stated in S5.C.5.b.iii and Appendix 10, Part 2 work.</p>	
25	Ph I Permit	<p>S5.C.5.b.iii(a), p.19 (redline)</p> <p>S5.C.5.b.iv, p.20 (redline)</p> <p>App. 10, Part 2</p> <p>App. 10, Part 3</p> <p>Fact Sheet, pp. 55-56; 92-93</p>	<p>“Ecology will limit its review to those sections of the program listed [in] Appendix 10, Part 2. The Permittee shall provide the section of the 2019 SWMMWW or Appendix 1 and the corresponding section of the proposed program they are seeking equivalency to (in the format described in Appendix 10).”</p> <p>“... Manuals and ordinances approved under this section are listed in Appendix 10, Part 3. ...”</p>	<p>These statements raise questions about the nature of the equivalency determination Ecology will make under Appendix 10, Part 3. It is critical that Ecology’s Appendix 10, Part 3 declare as equivalent a Permittee’s Manual and codes, rules and regulations as modified consistent with Appendix 10, Part 2, not just discrete sentences here and there. A broadly stated equivalency determination will reaffirm the continued validity of those portions of a Permittee’s existing local program, identified in Appendix 10, Part 1, as modified by the revisions made under Appendix 10, Part 2. We believe that is Ecology’s intention and would like Ecology to confirm it will make a similarly scoped-equivalency determination in Appendix 10, Part 3.</p>	

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26	Ph I Permit	S5.C.5.b.iii, p.19 (redline)	“The Permittee shall submit draft enforceable requirements, technical standards and manual that correspond to updates identified in Appendix 10, Part 2 to Ecology no later than July 1, 2020. Ecology will review and provide written response to the Permittee. If Ecology takes longer than 90 days to provide a written response, the required deadline for adoption and effective date will be automatically extended by the number of calendar days that Ecology exceeds a 90-day period for written response.”	The language is ambiguous as to the date by which Ecology must respond to avoid a deadline extension for the final regulations; it could be read to mean 90 days past the date the regulations were submitted, or 90 days past July 1, 2020. Ecology should clarify which date is intended.	REVISE as follows: “Ecology will review and provide a written response to the Permittee within 90 days of Permittee submittal.”
27	Ph I Permit	S5.C.6, p.28 (redline)	“Each Permittee shall implement a comprehensive stormwater planning program ...”	Does this “program” consist of the components identified as a, b, and c in S5.C.6? If so, Ecology should clarify that the “program” it is referencing in this introductory statement are those specific components and not some additional and undefined other obligation. How will Ecology determine if the Permittee’s “program” is adequate and manage the expectations of other stakeholders, who may have different ideas of adequacy with this new requirement that Ecology does not clearly explain? The County strongly urges Ecology to use clear regulatory language so every stakeholder shares an understanding of what Ecology is requiring. To fail to meet this standard invites confusion and litigation.	
28	Ph I Permit	S5.C.6, p.28 (redline) Fact Sheet, p. 42	“Each Permittee shall convene an interdisciplinary team to inform and assist in the development, progress, and influence of this program.”	This sentence is unclear. What does “the development, progress, and influence of the comprehensive stormwater planning program” mean? (Appendix 3, pg. 3 Q27). What does compliance look like for this requirement? What does satisfaction of the requirement to “influence [] this program” look like? Ecology appears to assume a Permittee would use the same team for each of the three requirements under S5.C.6. That is not a good assumption and is certainly not something that should be directed in the Permit. Permittees are capable of putting together the teams necessary to meet all Permit requirements. Ecology’s attempt, in the Fact Sheet, to direct the composition of any such team is inappropriate and unreasonable micro-managing.	RECOMMENDATION: Delete this sentence. Delete Section 6.5.15 of the Fact Sheet.
29	Ph I Permit	S5.C.6.a, p.28 (redline) Fact Sheet, pp. 41-42	Entire subsection	If Snohomish County understands this requirement for “coordination with long-range plan updates,” Permittees are not required to do anything in particular, but they are required to report on anything that they did or may do related to stormwater or water quality. Is that accurate? If so, can Ecology confirm a Permittee will be in compliance by responding “none” or “N/A” to these reporting requirements? Ecology has stated as much in meetings with Permittees and needs to clearly state that in the Permit so there is no confusion about the compliance metric. In addition, Fact Sheet Section 6.5.16, p. 42, is vague, confusing and implies a substantive requirement for compliance when that is not the case: “As described above, stormwater	RECOMMENDATION: State in the Permit this is a reporting requirement, the purpose of which is to educate Ecology on local planning; it does not require a particular substantive outcome. RECOMMENDATION: Delete the Fact Sheet Section 6.5.16, p. 42, sentence.

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				management needs must be taken into consideration early in the planning process, including while determining land capacity for accommodating growth.” That statement should be deleted.	
30	Ph I Permit	S5.C.6.a, p.28 (redline) Fact Sheet, p.42	Entire subsection	<p>There is significant confusion as to what this section S5.C.6.a requires.</p> <p>One way to read it is that this is three distinct requirements: (1) yearly (in the annual report) descriptions of certain things; (2) by March 31, 2020, a description of certain things (in this annual reporting year does a Permittee not need to describe the things in “(1)”; and (3) March 31, 2022, a description of certain things (in this annual reporting year does a Permittee not need to describe the things in “(1)”).</p> <p>Another way to read this is that there are only two distinct requirements – the reporting by March 31, 2020, of certain things and the reporting by March 31, 2022, of certain other things – and that the language in S5.C.6.a is not a separate requirement but is intended to describe the two specific reporting requirements.</p> <p>The current organization, as well as the Fact Sheet discussion, makes it difficult to understand what is expected. Clarification is needed.</p> <p>In addition to the confusion over the type or types of reporting required, the descriptive language used in S5.C.6.a.i is confusing and the purpose of it is unclear. What “planning update processes,” “policies,” and “implementation strategies” is the first sentence of S5.C.6.a.i referring to? It is unclear what is required by this statement and what compliance would look like to Ecology. Particularly confusing is what “implementation strategies” Ecology is referring to here? There is no requirement to implement anything in S5.C.6.a. And Permittees cannot describe how stormwater management needs are informing <i>something</i> if they don’t know what that <i>something</i> is?</p> <p>What if a Permittee does not engage in any relevant “planning update processes,” “policies,” or “implementation strategies” in the relevant time frame? Ecology needs to make clear that a Permittee is in compliance if its reporting consists of a “none” or “N/A” response.</p> <p>Is the second sentence of S5.C.6.a.i referring to “policies, strategies, codes and other measures” that may already be in existence or is Ecology requiring Permittees to report on any new “policies, strategies, codes, or other measures” adopted for that particular reporting period?</p> <p>The two sentences in S5.C.6.a.i are confusing and it is unclear why they are there. Further, those sentences appear to imply Permittees have an obligation to report on or plan for the “protection and improvement” of receiving waters generally, as distinct from receiving water health related to MS4 discharges, which is the subject matter of this MS4 Permit. The County recommends deleting those sentences and revising S5.C.6.a as noted.</p>	<p>REVISE S5.C.6.a as follows:</p> <ul style="list-style-type: none"> a. Coordination with long-range plan updates <ul style="list-style-type: none"> i. On or before March 31, 2020, the Permittee shall describe how water quality and watershed protection related to MS4 discharges were addressed, if at all, during the 2013-2018 permit cycle in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated long-range land use plans that are used to accommodate growth, or transportation. The purpose of this requirement is to educate Ecology regarding local planning, and does not require any particular substantive legislative, policy, or reporting outcome. ii. On or before March 31, 2022, the Permittee shall describe how water quality and watershed protection related to MS4 discharges are being addressed during this permit cycle, if at all, in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated long-range land use plans that are used to accommodate growth, or transportation. The purpose of this requirement is to educate Ecology regarding local planning, and does not require

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					any particular substantive legislative, policy, or reporting outcome.
31	Ph I Permit Fact Sheet	S5.C.6.a.i(b), p.28 (redline)	"...how water quality and watershed protection are being addressed during this permit cycle in updates to the Comprehensive Plan..."	How will a Permittee's reporting under S5.C.6.a.i(b) be evaluated by Ecology in light of the totality of a jurisdiction's GMA obligations? 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 potential to impact urban development and population capacity and, as such, cannot be done based on stormwater considerations alone.	
32	Ph I Permit	S5.C.6.b, pp. 28-29 (redline)	Entire Section	There needs to be a statement that not updating or revising development-related codes, rules, standards, or other enforceable documents in any given year is not a Permit violation. Ecology has stated as much in meetings and needs to make this clear in the Permit language itself.	ADD the following: "Not updating or revising development-related codes, rules, standards, or other enforceable documents is not a Permit violation."
33	Ph I Permit	S5.C.6.b.i, pp.28-29 (redline) Fact Sheet, p. 42-44	"Permittees shall continue to update and revise development-related codes, rules, standards, or other enforceable documents as needed to incorporate and require LID principles and LID BMPs. The intent of the review and revisions shall be to make LID the preferred and commonly-used approach to site development."	These statements do not accurately describe this Permit requirement as Ecology characterizes it in the Fact Sheet. This inconsistency is problematic. Further, the language used here, which is a slightly modified carry-over of the S5.C.5.b 2013 Permit requirement, is vague and subject to multiple interpretations. Ecology itself acknowledges that this requirement in the 2013 Permit "was a point of confusion." That resulted in at least one enforcement action and a CWA citizen suit related to this 2013 requirement. Vague requirements to update codes "as needed" or to make revisions consistent with an amorphous, imprecise standard will expose Permittees to increased liability risks and will not result in Permit compliance, a goal all stakeholders share. Ecology needs to clear up this confusion, not perpetuate it in this next Permit cycle.	REVISE as follows: "Permittees shall, as part of the update of development-related codes, rules, standards, or other enforceable documents that occur in the ordinary course of business, review and, if determined by the Permittee to be appropriate, revise those portions of the development-related codes, rules, standards or other enforceable documents that the Permittee is proposing to amend to incorporate LID principles and LID BMPs. Permittees should consider ways to minimize impervious surfaces, native vegetation loss, and stormwater runoff. Not updating or revising development-related codes, rules, standards, or other enforceable documents is not a Permit violation."
34	Ph I Permit	S5.C.6.b.i, pp. 28-29 (redline) Fact Sheet, pp. 42-44	"The local development-related codes, rules, standards, or other enforceable documents shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations."	This sentence, which announces a broad new requirement Ecology likely did not intend appears to be the result of imprecise editing of a sentence from the 2013 S5.C.5.b requirement. Ecology took a sentence from the 2013 – 2018 Permit that read " <i>The revisions</i> shall be designed to minimize impervious surfaces..." (emphasis added) and modified that sentence to its current form, which is a stand-alone statement that <i>the local development-related codes, rules, standards, or other enforceable documents</i> "shall be" designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff. That is inconsistent with Ecology's description of S5.C.5.b as not requiring a wholesale review of every development-related code,	RECOMMENDATION: Delete this sentence. The County's recommended language above captures the focus on minimizing impervious surfaces, native vegetation loss, and stormwater runoff.

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				rule, standard or other enforceable document, but an “as the opportunity presents itself” approach only. This imprecise editing results in a new, onerous requirement without standards for how to achieve compliance, without benchmarks or a due date, and without any guidance to Permittees for how to communicate compliance.	
35	Ph I Permit	S5.C.6.b.i.a, p.29 (redline)	“Annually, each permittee shall assess and report any newly identified administrative or regulatory barriers to implementation of LID Principles or LID BMPs and measures to address the barriers since local codes were updated in accordance with the 2013 – 2019 Permit cycle.”	What does it mean for a Permittee to annually “assess” any newly identified administrative or regulatory barriers to implementation of LID? That direction is unclear. The phrase “assess and” should be deleted. Is this a reporting requirement to be accomplished in each annual report? The reference to “since...the 2013 – 2019 Permit cycle” will have Permittees duplicating their reporting every year, which is a waste of time. Revise as indicated.	REVISE as follows: “Annually, as part of its annual reporting to Ecology, each Permittee must report any newly identified administrative or regulatory barriers to implementation of LID Principles or LID BMPs that were addressed during that calendar year. A Permittee’s reporting that it did not identify and/or address any such barriers is not a Permit violation.”
36	Ph I Permit SMAP Guidance	S5.C.6.c, p.29 (redline)	Entire section	<p>Snohomish County has significant concerns with Ecology’s proposed S5.C.6.c. Permittees need clear regulatory language in the Permit that explains what is required. S5.C.6.c turns compliance into a guessing game. As noted in other comments, housing Permit requirements in a guidance document that also contains many other statements of unclear regulatory importance puts Permittees in an unnecessarily difficult position.</p> <p><u>Scope of S5.C.6.c is unclear.</u> Is S5.C.6.c one or two requirements? Is S5.C.6.c.i a distinct requirement from S5.C.6.c.ii? If S5.C.6.c.i is a distinct requirement, it lacks important detail. In which SWMP must a Permittee describe the information in S5.C.6.c.i and at what level of detail? Does Ecology intend this requirement to apply for every SWMP produced during this Permit term? If so, it doesn’t state that. What if a Permittee determines that S5.C.7 project prioritization should be driven, in whole or in part, by other considerations than its watershed-scale plan? Is a Permittee in compliance in that situation by simply noting that? If S5.C.6.c.i and S5.C.6.c.ii form a single requirement, it is unclear how to comply. Is the description required in the SWMP the SMAP, or is the SMAP intended to be a separate document? Ecology does not provide in S5.C.6.c a standard for what this document should look like or how a Permittee will know if it has achieved compliance.</p> <p><u>Scope of S5.C.6.c.i is unclear.</u> S5.C.6.c.i states that each county Permittee shall describe how the watershed scale stormwater plans are being used to inform S5.C.7 prioritization and selection. Use of the plural “plans” is confusing and creates ambiguity. We assume Ecology meant that each county Permittee shall describe how the plan <i>developed by that Permittee</i> is being used by that Permittee. Clarifying this is particularly important to Snohomish County because it was the only Phase I Permittee required to participate in <i>two</i> watershed-scale stormwater plans – the Little Bear Creek effort led by the County and the Bear Creek effort led by King County. Requiring Snohomish County to do twice the work of any other Phase I county under S5.C.6.c is unreasonable, impracticable, and unduly burdensome.</p>	

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				<p><u>SMAP not required for entire watershed.</u> S5.C.6.c.ii, on its face, requires each county Permittee to develop a SMAP for the watershed scale stormwater plans developed under the current Permit. Page 9 of the SMAP Guidance states that each county Permittee must develop a SMAP for an area of 400-600 acres, not the entire watershed. We assume the geographic scope intended by Ecology is as stated in the SMAP Guidance, not as indicated by the Permit language. The Permit language must clearly describe the requirement. Right now, the Permit language and the SMAP Guidance are inconsistent.</p> <p><u>Snohomish County must only prepare one SMAP.</u> S5.C.6.c.ii could be interpreted to require all Permittees to address all 2013 watershed-scale plans or could be interpreted to require Snohomish County to prepare two SMAPs (use of plural “plans”). Snohomish County was the only Phase I Permittee required to participate in two watershed-scale stormwater plans. Requiring Snohomish County to do twice the work of any other Phase I county is unreasonable, impracticable and unduly burdensome.</p> <p><u>SMAP area for Phase I counties should not be restricted to areas with watershed-scale stormwater plans.</u> Phase I counties should be allowed to use existing watershed prioritization processes to select the area for the SMAP. Ecology cited in the Fact Sheet (p. 26) as a “key provision” of the stormwater rules, giving Permittees flexibility to first focus their resources on the highest priority problems. 40 CFR 122.26(d)(2)(iv). Phase II permittees are allowed to select an area they believe is important in which to develop a SMAP. On the other hand, the draft 2019 Phase I Permit restricts Phase I counties to selecting an area within the project boundaries of the watershed-scale basin plan produced in the 2013-2018 permit. This is unduly restrictive: the single watershed selected for a watershed-scale plan was not necessarily of a higher priority than all other watersheds in that county. Phase I counties should be allowed to use existing watershed prioritization processes to select the area for the SMAP. This is in accord with the Phase II permit, which allows each permittee to select a SMAP area on the basis of its prioritization process without Ecology approval, and in accord with the necessary flexibility to prioritize noted in federal regulation.</p> <p><u>The total area subject to SMAP need not be contiguous.</u> It is arbitrary and without scientific basis to restrict a SMAP area to a minimum size of 400 acres; it is entirely possible that two noncontiguous areas, each less than 400 acres, would be high priority areas and would benefit from a SMAP. If a minimum area is to be set, it should be a minimum total area for which a Permittee will prepare one or more SMAPs.</p>	
37	Ph I Permit	S5.C.6.c.ii(a), p. 29 (redline) S5.C.6.c.ii(b), p. 29 (redline)	<p>“Specific short-term actions (i.e. actions or projects to be accomplished within six years)”</p> <p>“Specific long-term actions (i.e. actions or projects to be accomplished within seven to 20 years)”</p>	<p>Actions to do what? Based on the realities of local funding? How will compliance with this requirement be assessed? How many actions? The County already broke down short and long term actions in its Little Bear Creek Plan; is Ecology asking the County to duplicate that work and, if so, why?</p>	

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38	Ph I Permit	S5.C.6.c.ii(c), p. 29 (redline)	“Revised and updated implementation schedule and budget”	Assuming Ecology retains the limitation that a SMAP be for some area within the watershed-scale plan, won’t this requirement just be a re-do of that portion of a Permittee’s existing plan? On what basis is revision and update to occur? If there is no new information what would there be to revise or update? What if a Permittee determines there is no basis or no need to revise or update the implementation schedule and budget? How can a Permittee comply? Will a statement that revision/update is not necessary be sufficient for compliance?	
39	Ph I Permit	S5.C.7 App. 12	Entire section + Appendix 12	<p>Snohomish County proposes Ecology revise S5.C.7 and Appendix 12 to address the concerns listed below. Further, Snohomish County reiterates its opposition to the use of the SSC Guidance document to attempt to clarify confusing or incomplete Permit language.</p> <p><u>The proposed project scoring system provides a strong disincentive for projects in urban areas.</u> This disincentive arises because the biggest single driver for a project’s score is contributing area. Since land is cheaper in less developed areas and there are fewer other constraints, such as existing utilities, a Permittee is incentivized to build a project in a less developed area. While Appendix 12 assigns an incentive factor of “1.5 times Runoff Treatment Equivalent Area” for treatment “in a known water quality problem area,” this is not an adequate distinction in most counties. A better approach would be to add a multiplier of at least 2 for projects within UGAs.</p> <p><u>The proposed project scoring system provides a strong disincentive for LID projects in general.</u> This disincentive arises because the biggest single driver for a project’s score is contributing area, and this factor is especially pronounced with LID projects, because they are by intention small. The disincentive is particularly significant with permeable pavement and permanent removal of impervious surfaces, for which the “contributing area” is equal to the project area. The scoring system should represent the true environmental value of LID, but that likely requires an overhaul of Ecology’s proposed scoring system that it doesn’t appear to want to make in the near term. An interim approach would give LID projects a multiplier of 3 to 4.</p> <p><u>The threshold of 300 incentive points cannot be reasonably achieved without grant funding.</u> This puts control of Permittee compliance out of a Permittee’s hands and into the hands of one or more grantor agencies. It is inappropriate and unreasonable for Ecology to impose a Permit requirement for which a Permittee cannot effectively manage or plan its own compliance. The cooperative effort by Ecology and Permittees in the last several years on these issues showed several key things, among them: (1) the large variation among Permittees for use of grant funding in structural stormwater control projects, and (2) the large discrepancy in grant eligibility among such projects. Ecology does not deny that it calculated the incentive point level by taking into consideration grant funded projects. Grant funding will be crucial to a Permittee’s ability to achieve the target of 300 incentive points, but environmental benefit, not availability of grant funding, should drive project prioritization. This is a fundamental problem with the SSC approach proposed by Ecology. The County recommends Ecology set the compliance threshold at 50 points for the 2019 – 2024 Permit term, which would be appropriate to the number of points it achieved in the current permit term without grant funding under</p>	

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				<p>Ecology's proposed scoring system. Ecology should also consider a factor of up to 4 as a multiplier for retrofit incentive points for non-grant funded projects.</p> <p><u>The December 31, 2022, deadline should be extended to December 31, 2023, with no increase in the retrofit incentive point total or changes in the distribution between design-stage or complete/maintenance stage.</u> S5.C.7.d requires a Permittee to achieve all required incentive points by December 31, 2022, within the first 29 months of the Permit term. For the remainder of the Permit term a Permittee apparently gets no credit for any SSC activities, which seems like a disincentive for a Permittee to devote any resources to those activities. The County assumes Ecology did not intend to incentivize inaction, which makes Ecology's insistence on such an early deadline confusing. Ecology has indicated the reason for the December 31, 2022, deadline is to allow for reporting in an annual report in advance of the Permit expiration date in 2024. The proposed December 31, 2023, deadline will meet Ecology's needs because the 2023 annual report will be submitted in March 2024, prior to the end of the Permit term. In addition, Permittees are highly likely to need more time to achieve the required points. Ecology has proposed untested and, in a number of cases, unclear metrics for determining points per project or activity and Ecology needs to provide reasonable time for Permittees to work out implementation issues as they may arise. Ending the point accrual period in 2022 places an unnecessary, unreasonable, and impracticable constraint and burden on Permittees.</p> <p><u>A stakeholder process to determine proper metrics, evaluation methods, and level of effort is needed.</u> The discussions of the last several years reveal the need for a significant stakeholder process to determine the proper metrics, project evaluation methods, and appropriate level of effort for compliance in the SSC program. We recommend Ecology lead such a process, which would be similar to the process used to determine the infeasibility criteria for Minimum Requirement 5 (On-Site Stormwater Management) set forth in the 2013 Permit. Through the next several permit cycles, the SSC program will likely drive the expenditure of tens if not hundreds of millions of dollars across the state. Ecology has stated its intent to include this requirement in the Phase II permits in 2024. It is critical to have a rigorous and scientifically defensible basis for this program.</p>	
40	Ph I Permit	S5.C.7 S5.C.7.a.iii pp.29-30 (redline) SSC Guidance, p.5	"iii. Permittees may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement."	The intent of Section S5.C.7 is "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." Yet stream restoration to directly address impacts from stormwater discharge is not allowed. Some credit should be allowed for in-stream restoration, much like riparian buffer restoration, which is allowed 0.35 points per acre. Because a receiving water location is outside an MS4, such improvement should not be required. But since in-stream improvement can directly address MS4 related impact, sometimes more cost effectively than upstream stormwater structural controls, credit should be allowable.	RECOMMENDATION: Remove in-channel habitat and stream restoration from non-qualifying projects, and include in-stream restoration with riparian buffer restoration.
41	Ph I Permit	S5.C.7 S5.C.7.c, .d	c. With each annual report, each Permittee shall provide a list of planned, individual projects scheduled for implementation during this permit term. This list shall	The cost per point using stormwater retrofit projects is potentially high, and it would require substantial County capital project resources and operational capacity to achieve the targeted 300 points. The County currently does not have such additional capital project resources or	

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	Fact Sheet	p.31 (redline) p.62	include at a minimum the information and formatting specified in Appendix 12. d. No later than December 31, 2022, each Permittee shall achieve 300 retrofit incentive points, calculated per Appendix 12, as follows: i. 225 design-stage retrofit incentive points, and ii. 75 complete or maintenance stage incentive points.	operational capacity. As noted in earlier discussions with Ecology, Phase I jurisdictions checked funding for structural stormwater control projects and there was high reliance on grant funding. The County may have to reprioritize surface water management programs if it is to achieve the 300 targeted points with capital projects, given current funding levels. Also, Ecology should ensure that grant funding is made available for structural stormwater controls.	
42	Ph I Permit	S5.C.7 S5.C.7.c App. 12 SSC Guidance, pp.4-5	Project types	<p>There is no unit provided for permanent impervious surface removal for project type 10. Snohomish County recommends sufficient retrofit incentive points to make LID worthwhile, particularly smaller but highly visible projects such as rain gardens, etc. Three (3) retrofit incentive points per 1,000 square feet would be a meaningful start. This would provide incentive for smaller LID projects, which typically involve smaller drainage areas. LID is disincentivized with the proposed scoring system as currently written, which emphasizes larger drainage areas served by traditional structural controls (detention, etc.) that work to control the peak portions of the runoff hydrograph (larger storms, prolonged runoff). This inherently works against LID, which works effectively on smaller drainage areas to remove the bottom portion of the runoff hydrograph (small storms, initial runoff). It is a real difference in the way to think about handling stormwater and the scoring system needs to reflect this and encourage LID.</p> <p>It is unclear whether a single project can accrue points as both project types 5 and 10. Project Type 10 - Permanent Removal of Impervious Surfaces – includes the requirement to replace impervious surfaces with BMP T5.13 (“Post-Construction Soil Quality and Depth (“amended soils”)), or trees. The Guidance does not state that a single project cannot qualify for points under multiple project types, and specifically does not state that a purchase of a “likely development site” coupled with actions under Project Type 10 could not qualify for points under both Project Types 5 and 10. Ecology should clarify that Project Types 10 and 5 incentive points may be allowed for the same project: the two project types are consistent with each other, and planting with trees or use of BMP T5.13 do not fall into the category of “stormwater facility.”</p> <p>For project type 11, line cleaning, units are feet (Appendix 12 Table 2) or miles (SSC Guidance, p. 5, paragraph on <i>Line Cleaning Programs</i>). If Ecology will not delete this guidance, which is what the County recommends, the guidance should be corrected and be made consistent with the Permit language.</p>	<p>RECOMMENDATIONS:</p> <ul style="list-style-type: none"> a. Unit for impervious surface removal should be specified for project type 10. Recommend three (3) retrofit incentive points per 1,000 square feet. b. Ecology should clarify that incentive points for Project Type 10 (permanent removal of impervious surfaces) are allowed together with incentive points for Project Type 5 (property acquisition) for the same project. c. For line cleaning, units should be specified as feet, as per Appendix 12 Table 2. The guidance of “miles” (SSC Guidance, p. 5, paragraph on <i>Line Cleaning Programs</i>) should be changed to “feet.”
43	Ph I Permit	S5.C.7.d, p. 31 (redline)	“No later than December 31, 2022, each Permittee shall achieve 300 retrofit incentive points,…”	What is the point in time at which a Permittee “achieves” its points? Since compliance is dependent on “achieving” a certain number of points by a specific date, knowing what constitutes “achievement” of those points is critical. Must Ecology affirmatively approve “achievement” of points? How does a Permittee document “achievement”? Does Ecology	

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				expect Permittees to submit requests for Ecology's approval of points? If so, when? What if a Permittee disagrees with Ecology's determination? What process is available to a Permittee to address this? These are critical pieces of information that must be clarified.	
44	Ph I Permit	S5.C.8.b.i, p.32 (redline)	<p>“Permittees shall update and make effective the ordinance(s), or other enforceable documents, as necessary to meet the requirements of this section no later than August 1, 2021.</p> <p>The requirements of this subsection are met by using the source control BMPs in Volume IV of the <i>Stormwater Management Manual for Western Washington</i>, or a functionally equivalent manual approved by Ecology.”</p>	<p>In a separate communication, Ecology clarified that: (1) Ecology's proposed revisions to Volume IV of its SWMMWW are not required for the 2019 Permit or necessary to comply with Source Control; and (2) Permittees can rely on their currently approved equivalent manual identified in Appendix 10 to meet Source Control requirements.</p> <p>Consistent with Ecology's explanation, Ecology should clarify that a Permittee's approved equivalent manual as identified in Appendix 10 satisfies this requirement and that no updates by August 1, 2021, are necessary for a Permittee with an approved equivalent manual as identified in Appendix 10.</p>	<p>REVISE as follows:</p> <p>“The requirements of this subsection are met by using the source control BMPs in Volume IV of the <i>Stormwater Management Manual for Western Washington</i>, or a functionally equivalent manual approved by Ecology, to include a Volume IV approved by Ecology in Appendix 10.”</p>
45	Ph I Permit	S5.C.8.b.iii(b), p.33 (redline)	<p>“The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or properties listed in their source control inventory to assure BMP effectiveness and compliance with source control requirements. The Permittee may count follow up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.”</p>	<p>Special Condition S.5.C.8.b.iii(b) states that “The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period.” The intended meaning is that a Permittee is never required to inspect any specific site. However, the business inspection requirements set forth in various sections of Appendix 2 (TMDLs) do, in fact, require the Permittee to inspect specific businesses in the TMDL areas. It would be useful to Permittees to include a statement to this effect in S5.C.8.b.iii(b).</p>	<p>REVISE as follows:</p> <p>“The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or properties listed in their source control inventory to assure BMP effectiveness and compliance with source control requirements. The Permittee may count follow up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year, except to the extent specific business inspections are required as set forth in Appendix 2, and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.”</p>
46	Ph I Permit	S5.C.9.b, p.34 (redline)	<p>“Permittees shall continue to evaluate, and if necessary update, existing ordinances or other regulatory mechanisms to effectively prohibit non-stormwater, illicit</p>	<p>Is this a requirement that a Permittee must be in a constant state of review and evaluation? That is not reasonable. 2013 Permit language required an update effort, if necessary to accomplish a stated goal, by a particular date. How to achieve compliance was clear. Here, a Permittee will have no way of knowing whether it is doing enough to meet this vague requirement. How does</p>	<p>RECOMMENDATION: Revert to 2013 Permit language with a new due date or delete this requirement entirely.</p>

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			discharges, including spills, into the Permittee's MS4."	a Permittee demonstrate it is continuing to evaluate something? Revert to 2013 Permit language with a new due date or delete this entirely.	
47	Ph I Permit	S5.C.9.c.i.(a), p. 36 (redline)	"Permittees shall track the total percentage of the MS4 screened beginning August 1, 2019 through December 31, 2023."	What this statement requires is unclear. Is it a requirement to make a single report in the 2023 Annual Report of the total percentage of MS4 screened? Appendix 5, Q41 suggests this may be a yearly reporting requirement, which is not evident from this Permit language. Clarification is necessary.	
48	Ph I Permit	S5.C.9.g, p.38 (redline)	"In the Annual Report, each Permittee shall submit data for all of the illicit discharges, including spills and illicit connections that were found by, reported to, or investigated by the Permittee during the previous calendar year. The data shall include the information specified in Appendix 14 and WQWebIDDE for recording this data. Final submittal shall be compatible with and follow the format and data schema described in Appendix 14 and WQWebIDDE."	<p>Move S5.C.9.g to S5.C.9.d.v. Overall, the schema provided is cumbersome and does not work well for Snohomish County. The County provides a suggested schema in the comments to Appendix 14.</p> <p>In the meeting with Permittees on October 24, 2018, Ecology stated that its objectives with the proposed reporting requirement are:</p> <ul style="list-style-type: none"> • Assessment of Permittee compliance with Permit (primary objective) • Assessment of effectiveness of Permit requirements • Provide information that supports Ecology initiatives outside the Permit • Provide information for analysis without a specific preexisting question <p>The scope of information required in the draft reporting proposal goes far beyond the scope of the Permit. Ecology cannot require a Permittee to report information beyond the scope of the Permit. While all of the objectives listed might be laudable, Permittees should only have to provide information for the first objective, and possibly for the second, provided the information is related to actions required by the Permit. Moreover, this reporting is related to the IC/IDDE program of Special Condition S5.C.9. The reporting should only include IC/IDDE investigations related to discharges to the County's MS4. It should not include things not within the scope of the Permit or situations not involving an IC or ID to the County's MS4, such as:</p> <ul style="list-style-type: none"> • reports to the County of any issue not within the unincorporated County • investigations of discharges water quality issues for which there is no related discharge (illicit or otherwise) to or from the MS4 • investigations which find no evidence of an IC or ID to the MS4 <p>These things may be in records kept by the County as part of conducting its business, but they should not be included in required reporting for the S5.C.9 program.</p> <p>All this said, the County recognizes the value of reporting data that are within the scope of the Permit and relevant to the program required by S5.C.9, and have prepared proposed revisions to Appendix 14, guided by the following principles:</p> <ul style="list-style-type: none"> • Ensure clarity of meaning of terms in data reporting • Use a single term for a field 	

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				<ul style="list-style-type: none"> Distinguish between pollutant types (e.g. soap) and pollutant sources (e.g. vehicle/equipment washing) <p>From a Permit construction standpoint, the County propose that this reporting requirement be moved from S5.C.9.g to S5.C.9.d.v. The information most correctly pertains to the program to <u>address</u> ICs and IDs, not the program to <u>detect</u> them. From a business process standpoint, in Snohomish County, we have many other programs (e.g., catch basin inspections under S5.C.10) that feed information into the process of detecting ICs and IDs, and this program of data reporting should not be expanded to include data from all those programs.</p> <p>Two issues remain unresolved, and should be addressed by Ecology. First, in the course of identifying and addressing an IC or ID, the recorded data in the case record may be amended or expanded, after submittal in an annual report of data related to the case. An example of this would be discovery of the source of an ID, after reporting that the source was unknown. Ecology should clarify in the Permit that Permittees are not required to resubmit data that have been amended after reporting. Second, many IC or ID investigations begin in one calendar year and end in the next. It is critical that Ecology recognize the erroneous conclusions that can be drawn from analyzing data from fields such as start dates and end dates, when many data reported in the annual report are an amalgam of multiple unrelated cases.</p> <p>As a final note, Ecology should consider that any future changes to the data reporting scheme beyond those defined as “minor modifications” under 40 C.F.R. § 122.63 will need to be made through a Permit modification per Chapter 173-226 WAC. Thus, it may be prudent to keep the required system to the minimum needed to achieve the objective of assessing Permittee compliance. Ecology can always request information from a Permittee beyond that required to be reported by the Permit.</p>	
49	Ph I Permit	S5.C.10, p.38 (redline) S5.C.10.e, p.42 (redline)	Addition of phrase “...and document...”	<p>What does Ecology mean by inserting the phrase “and document” in these two sentences? Does Ecology mean to direct use of a particular, unspecified document? Or does Ecology mean to document performance of implementation activities? If the latter, how is this different from the general requirement in S9.B to keep all records related to the Permit and the SWMP for at least 5 years? The addition of the phrase “and document” in these two sentences is duplicative, adds ambiguity, and is unhelpful.</p>	RECOMMENDATION: Delete “and document” in both sentences.
50	Ph I Permit	S5.C.10.a, p.39 (redline)	“Maintenance Standards. Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those specified in the <i>Stormwater Management Manual for Western Washington</i> (SWMMWW). For facilities which do not have maintenance standards, the Permittee shall develop a maintenance standard. No later than July 1, 2021 ² each Permittee shall update their	<p>In a separate communication, Ecology clarified that: (1) Ecology’s proposed revisions to Volume V of its SWMMWW are not required for the 2019 Permit or necessary to comply with this Maintenance Standards requirement; and (2) Permittees can rely on their currently approved equivalent manual identified in Appendix 10 to meet this Maintenance Standards requirement.</p> <p>Consistent with Ecology’s explanation, Ecology should clarify that a Permittee’s approved equivalent manual as identified in Appendix 10 satisfies this requirement and that no updates by July 1, 2021, are necessary for a Permittee with an approved equivalent manual as identified in Appendix 10.</p>	<p>REVISE as follows:</p> <p>“Maintenance Standards. Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those specified in the <i>Stormwater Management Manual for Western Washington</i> (SWMMWW). For facilities which do not have maintenance standards, the Permittee shall develop a maintenance standard. The</p>

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			maintenance standards as necessary to meet the requirements in this section.”	Ecology’s use of the footnote and its associated text is confusing. Although it appears unnecessary to impose such a deadline given Ecology’s explanation above, if Ecology chooses to retain a deadline for updates to maintenance standards it would be less confusing to simply state that the deadline to adopt maintenance standards, as required under S5.C.10.a, is the same as the deadline for adopting an updated local program as provided in S5.C.5.b.iii.	requirements of this section are met by using maintenance standards contained in a functionally equivalent manual approved by Ecology in Appendix 10.”
51	Ph I Permit	S5.C.10.f, p.43 (redline)	“The staff training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.”	Including the position of staff trained could require extra time. What is really important is that all staff who are in the field and may encounter stormwater issues are trained, not what their position is called. Different jurisdictions may have different titles for people who conduct the same work, making this information not particularly useful to Ecology. Recommend deleting “positions”	REVISE as follows: “The staff training records to be kept include dates, activities or course descriptions, and names of staff in attendance.”
52	Ph I Permit	S5.C.10.g, pp.43-44 (redline)	Entire section	What data or analysis does Ecology rely on to require SWPPPs for these types of areas, which do not otherwise require other NPDES permit coverage and thus appear to be required to have SWPPPs simply by virtue of ownership/operation by a Phase I Permittee?	
53	Ph I Permit	S5.C.11	Entire section	This section is vague and ambiguous. Unnumbered sections or use of bullets rather than sub-numbering make it difficult to understand how the requirements relate to each other and make it difficult to even have a conversation about, or refer in writing to, specific requirements. Revise this entire section so that appropriate numbering and sub-numbering is used, terminology is defined (e.g. “social marketing” “element” “campaign” “program”), and clear descriptions of the Permit requirements are stated.	
54	Ph I Permit	S5.C.11, first sentence and 3 bullets p.44 (redline)		What is the purpose of these statements, which appear to be incomplete and vague summaries of the requirements in S5.C.11? Incompletely describing requirements that are described in more detail later in S5.C.11 is unnecessary and leads to confusion. Recommend deletion of the first sentence and first 3 bullets and revision as noted.	DELETE: the first sentence and first 3 bullets. REVISE as follows: “The SWMP shall include an education and outreach program designed to satisfy the Minimum Performance measures, as set forth below.”
55	Ph I Permit	S5.C.11, para. beginning “Permittees may choose...” p.44 (redline)	“If a Permittee chooses to adopt one or more elements of a regional program the Permittee shall participate in the regional group and implement each element of the regional program in the local jurisdiction.”	This requirement is vague, unclear, and unnecessarily restrictive. During a conference call on 10/3/2018 between Ecology and Phase I Permittees, Ecology stated its intent that if a Permittee chooses to participate in any regional campaign/program, that the Permittee must implement ALL elements of that specific campaign/program. What is an “element”? How will a Permittee know that it chose an “element” from a regional “program”? What if a Permittee independently comes up with its own “element” that is similar to one pursued by a regional program or what if a regional program adopts an “element” originally created by a Permittee? Why should a Permittee be locked into participation in a regional program or campaign if only one “element” is useful or appropriate for that Permittee?	REVISE as follows: “If a Permittee chooses to adopt one or more elements of a regional campaign, the Permittee shall participate in the regional group involved in that campaign and implement the regional campaign in the local jurisdiction.”

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58	Ph I Permit Ph II Permit	S5.C.11.a.i(a), p.45 (redline) Definitions, p.87 (redline) Fact Sheet, p. 47 S5.C.2, pp.20-24 (redline)	[Fact Sheet] After considering the comments, existing Permit language, as well as Permit submittals related the (sic) to the education and outreach programs, Ecology finds it important to align the Phase I and Phase II Permit requirements so that partnerships between Phase I and Phase II Permittees can continue to leverage resources, as well as provide consistent programs to the regions. [S5.C.11.a.i(a)] Target Audiences: General Public (including school age children and overburdened communities), and businesses (including home-based and mobile business) [Definition of Overburdened Community]	The language differs between Phase I and Phase II Permits and must be identical if the Permittees hope to be able to participate together on a regional campaign related to overburdened communities. Clarification is needed: From a water quality perspective, does Ecology intend Permittees to identify and prioritize overburdened communities (plural) within their jurisdiction? And, if so, how is one overburdened community to be prioritized over another or is each overburdened community to be identified and targeted within the general public population? The definition is broad and the intent is unclear. What is the tool that Ecology asks Permittees to use to determine what overburdened communities exist within their target audience? Snohomish County Public Works already follows Title VI guidelines to identify the percentage of the targeted population where a language other than English is spoken in the home. However, a recent decision by the Census Bureau resulted in the removal from the federal database of language-based data at a Census Tract and Block level.	
59	Ph I Permit	S5.C.11.a.i.(c), p.45 (redline)	“Permittees shall provide subject area information to the target audience on an ongoing or strategic schedule.”	What does this mean? For the entire term of this Permit? How does a Permittee know if it has adopted what Ecology thinks is a “strategic schedule”? Starting when? How does a Permittee know if it achieved compliance with this S5.C.11.a General Awareness requirement?	
60	Ph I Permit	S5.C.11.a.ii(b) and (c), p.46 (redline)	(b) No later than July 1 2020, 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). (c), [third option] Develop a strategy and schedule for a new target audience and BMP behavior change campaign.	Ecology seems to use the words “program” and “campaign” interchangeably. If Ecology intends a difference, the Permit should clarify that difference. If there is no intended difference, Ecology should use one term.	
61	Ph I Permit	S5.C.11.a.ii (b) – (d), p.46 (redline)	(b) No later than July 1, 2020, each Permittee shall conduct a new evaluation of the effectiveness of the ongoing behavior change program... (c) Based on the evaluation from S5.C.11.b, by February 1, 2021, each Permittee shall follow social marketing practices and methods, similar to	First, the term “conduct” in section (b) is unclear: it could mean the evaluation must be initiated by July 1, 2020, or that the evaluation must be completed by that date. Please clarify. Second, the Permit only allows 9 months to conduct the evaluation, develop a program, and implement the program. Further, it only allows two months between developing the program per (c) and implementing the program in (d). This does not allow Permittees adequate time to develop and adopt budgets for implementing the program. The interval between the deadline for (c) and (d) should be extended by one year to allow for municipal budget development.	REVISE as follows: Reference to “S5.C.11.b” should be to “S5.C.11.a.ii(b)” Move the April 1, 2021, deadline in (d) to April 1, 2022.

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			Community-Based Social Marketing, and develop a program... (d) No later than April 1, 2021, begin to implement the strategy developed in S5.C.11.b...		
62	Ph I Permit	S5.C.11.a.ii(c), p.46 (redline)	“...each Permittee shall follow social marketing practices and methods, similar to Community-Based Social Marketing...”	The footnote is in the wrong place and should not be appended to the phrase “the community”. This language is too restrictive. What if there are aspects of social marketing practices and methods that are not appropriate or doable for a Permittee? This language suggests a Permittee must still use these practices. Permittees need more flexibility within the social marketing practices and methods framework to tailor to local conditions. Ecology should strike reference to “community-based social marketing”, which is proprietary and one of many functional social marketing tools, and refer simply to “social marketing principles and practices.”	
63	Ph I Permit	S5.C.11.a.ii(c), p.46 (redline)	“...and develop a program that is tailored to the community (including the development of a program evaluation plan), or equivalent, to...”	What does Ecology mean by the phrase “tailored to the community”? Do you mean “tailored to local circumstances and priorities”? If so, that is what Ecology should say. Or does Ecology mean “tailored to a target audience”? If so, Ecology should say that. An equivalent for what? The program? The evaluation plan? This phrasing is confusing and ambiguous. Clarify.	REVISE to replace “the community” with “target audience”
64	Ph I Permit	S5.C.11.a.ii(e), p.47 (redline)	“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; describe the strategies and process to achieve the results.”	This sentence is grammatically and substantively unclear. Ecology should revise this requirement, and related Permit section numbering, for clarity	
65	Ph I Permit	S7, p.62 (redline)	“The following requirements apply if an applicable Total Maximum Daily Load (TMDL) is approved for stormwater discharges from MS4s owned or operated by the Permittee.”	The Stillaguamish Multi-parameter, Snohomish River Tributaries, North, Swamp, or Little Bear Creek TMDLs were not directly based upon or approved for stormwater discharges from the MS4. This calls into question whether Permit Condition S7 and specific programmatic actions in Appendix 2 are valid for Snohomish County.	
66	Ph I Permit	S8		The County does not believe receiving water monitoring should be included as part of the Permit, as the Permit regulates MS4 discharges and other, non-MS4 sources are likely to contribute to any receiving water impairment. However, if this requirement is retained, receiving water monitoring pursuant to TMDLs should be included in S8, since the rationale for developing the “pay-in” system applies to TMDL-related monitoring. Further, the money paid by a Permittee under S8.B for SWMP	REVISE the title of S8.B and ADD a new section S8.B.4: “S8.B Stormwater management program (SWMP) effectiveness, source identification, and TMDL-related monitoring studies”

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				effectiveness studies should cover all costs of any TMDL-related monitoring required of that Permittee through Appendix 2.	<p>“S8.B.4 Funds paid by a Permittee under S8.B.3.a or S8.B.3.b shall apply to and be sufficient payment for the cost of any TMDL-related monitoring required of that Permittee through Appendix 2.”</p> <p>DELETE the Surface Water Monitoring sections of the following Appendix 2 TMDLs: Stillaguamish River, Snohomish River, North Creek, Swamp Creek</p>
67	Ph I Permit	S8.A, p. 63-64 (redline)	Entire section	Snohomish County implements a status and trends program collecting local data including monthly water quality data, habitat conditions, temperature, B-IBI, and flow. The data is available to Ecology and other NPDES jurisdictions. Ecology should consider this in-kind services in lieu of the \$57,859 payment required under S8.A and Appendix 11.	
68	Ph I Permit	S8.A.2, p.64 (redline)	“...during the duration of this permit...”	This phrasing is different than the phrasing used in S8.B.2, which provides “...during this permit cycle...” The County assumes Ecology means the same thing with these two different phrases and if so, Ecology should pick a consistent phrase to use in both sections. If Ecology intended different meaning with these different phrases, please explain what is meant in each instance.	
69	Ph I Permit	S8.A.2.a, p.64 (redline) S8.B.2.a, p.65 (redline)	“The payments into the collective fund are due to Ecology annually beginning August 15, 2020...”	The County reads this to require annual payments beginning on August 15, 2020, and ending on August 15, 2023, because the 2019 Permit will have expired by August 15, 2024. Can Ecology confirm this meaning and, if so, revise the language in this section to make that clear?	<p>REVISE as follows:</p> <p>“The payments into the collective fund are due to Ecology annually beginning August 15, 2020, and ending August 15, 2023...”</p>
70	Ph I Permit	S8.B.3, p. 66 (redline)	“All Permittees shall submit records of SWMP activities tracked and/or maintained in accordance with S5 and/or S9 in response to requests from the Stormwater Action Monitoring (SAM) Coordinator for information associated with regional effectiveness and source identification studies that are 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.B.3. In addition, as public agencies, Permittees are already subject to Washington public disclosure laws.</p> <p>Second, this provision is vague. Is the requirement that a Permittee must submit records of SWMP activities tracked and/or maintained in accordance with S5 and/or S9? Or is the requirement that a Permittee must submit the records of SWMP activities tracked and/or maintained in accordance with S5 and/or S9 only to the extent those records are associated with regional effectiveness and source identification studies? What does it mean for “information” to be associated with regional effectiveness and source identification studies? The obligation this proposed provision places on a Permittee is unclear.</p> <p>Third, this provision is impracticable, unreasonable, unduly burdensome, and will expose Permittees to liability. With this proposed provision, Ecology appears to be making it a Permit</p>	<p>RECOMMENDATION: Delete proposed provision.</p>

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				violation for a Permittee to decline to create records related to SWMP activities when requested to do so by the SAM Coordinator. 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. If Ecology opts to retain this provision, it should make clear that proposed S8.B.3 does not obligate a Permittee to create records to respond to such a request from the SAM Coordinator. Ecology does not appear to address this new requirement in the Fact Sheet.	
71	Ph I Permit	S9.A, p. 73 (redline)	"The reporting period for the first annual report will be from January 1, 2019 through December 31, 2019."	What is the structure of the annual report for the first year, which is split between two different Permits? Which annual report Appendix form should a Permittee use? Did Ecology mean to write January 1, 2020 – December 31, 2020, consistent with past permits, to avoid this issue?	REVISE as follows: "The reporting period for the first annual report will be from January 1, 2020, through December 31, 2020."
72	Ph I Permit	G3, p.76 (redline)	B. Notify the Ecology regional Office and other appropriate spill response authorities... D. Immediately report spills or discharges of oils or hazardous substances to the Ecology regional office and to the Washington Emergency Management Division, (800) 258-5990.	Permittees reporting spills or discharges of oils or hazardous substances to the Ecology regional office (spills), Washington Emergency Management Division, and submitting a G3 notification to Ecology via the ERTS system creates redundant reports for responders and regulators alike, and slows the on-scene spill response actions. This reporting process should be streamlined and more clearly defined. To determine the best way to streamline this requirement, Ecology should discuss the best reporting route for oil/hazardous material with spill responders and revise and streamline the Permit text to ensure the best coordination to clean up spills. One alternative way to structure G3 is provided here.	REVISE as follows: <ul style="list-style-type: none"> G3.C and G3.D should be moved under G3.B, because they are subcomponents of reporting to Ecology Remove the following text from G3.C and G3.D because it becomes duplicative: "...to the Ecology Regional Office"
73	Ph I Permit	Definitions, p.87 (redline)	"Outfall"	The phrase "means a point source as defined by 40 CFR 122.2 at the point where a discharge" is stated twice. The duplicated text should be deleted.	
74	Ph I Permit App. 1	Section 1, p.2 (redline)	The following pavement maintenance practices are not categorically exempt...upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete: These are considered new impervious surfaces.	Clarification should be provided regarding when resurfacing by upgrading from BST is considered new impervious surface. In some applications BST is used directly over a base course. In others it is used to provide an overlay or wearing course over existing pavement (asphalt or concrete). Resurfacing of the latter should not be considered new impervious surface as the characteristics of the surface have not been altered.	REVISE as follows: "...upgrading from a bituminous surface treatment ("chip seal") used directly over a base course to asphalt or concrete..."
75	Ph I Permit App. 1	Section 2, p.6 (redline)	Definition of "Maintenance" Replacement of "the maintenance standards of Chapter 4, Volume V of the" SWMMWW with "BMP design guidance in the SWMMWW"	The revised reference to "BMP design guidelines" is unclear and will cause confusion. Removing a specific SWMMWW citation in favor of a vague descriptive phrase will lead to problems because now it is not clear the specific standard with which a Permittee must comply.	REVISE to existing language or appropriate specific chapter and volume SWMMWW citation.
76	Ph I Permit App. 1	Section 2, pp.11-12 (redline)	Definition of "Threshold Discharge Area" and Figure 1-3.1	By the definition given for a TDA in Appendix 1, it is not clear where the shortest flowpath begins. This could result in the delineation of a single TDA that encompasses the area of an entire drainage basin because there is no limit upstream to evaluate combining areas. The example TDA delineations on Figure 1 illustrates the possibility of an entire basin being	REVISE as follows: Definition of Threshold Discharge Area (TDA): "An area within a project site draining to a

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				designated as a single TDA. The guidance outlined by the WSDOT HRM states "Start ¼ mile flowpath analysis for combining areas to form TDAs with the most uphill discharge (elevation-wise) OR most upstream discharge of the project." The definition and Figure 1-3.1 uses the terms "discharge locations" and "discharge points" seemingly interchangeably. However, the term "discharge point" is specifically defined by the permit, and that definition is not appropriate to Ecology's intent with the definition of TDA. The definition of TDA should only use the term "discharge location(s)."	single natural drainage or constructed discharge location or multiple natural or constructed discharge locations that combine within a ¼ mile downstream (as determined by the shortest flowpath). Start ¼ mile flowpath analysis for combining areas to form TDAs with the most uphill discharge (elevation-wise) OR most upstream discharge of the project."
77	Ph I Permit App. 1	Section 3, Figure 1-4.2, p.16 (redline)	Reference to "Figure 1-2.4.2"	This reference appears incorrect. Shouldn't it be to "Figure 1-4.3"?	
78	Ph I Permit App. 1	Section 4.2, Element 4, p.22 (redline)	"Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible."	The statement "provide and maintain natural buffers around surface waters" is ambiguous. The word "provide" implies the buffer is not in existence until the SWPPP element is implemented. But the word "natural" implies the buffer is already in existence. The County assumes Ecology's intent is an extension of the existing requirement in SWPPP Element 1 to mark sensitive areas and their buffers before land disturbing activities. Read in this context, the associated action in SWPPP Element 4 would be to install sediment controls in a manner that protects the sensitive areas and their buffers that are "clearly marked" in accordance with SWPPP Element 1. The County provides recommended revisions. The revisions split SWPPP Element 4e into 4e and 4f, since the last part of 4e as written is a separate topic.	REVISE as follows: "e. Install sediment controls in a manner that protects the sensitive areas and their buffers marked in accordance with SWPPP Element 1. f. Where feasible, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration."
79	Ph I Permit App. 1	Section 4.5, p.29 (redline)	Table 1-10.1 Use of "project"	Ecology replaced the defined terms "new development" and "redevelopment" with the undefined word "project." Ecology should use appropriate defined terms.	
80	Ph I Permit App. 1	Section 4.6, p.36 (redline)	"Phosphorus Treatment BMPs are required for projects (or portions of projects) within watersheds that have been determined by local governments, Ecology, or the USEPA to be sensitive to phosphorus and are being managed to control phosphorus inputs from stormwater."	Is this statement inconsistent with the existing language Ecology retained? It appears to require USEPA opinion on whether treatment is required, while the retained, following sentence states that whether treatment is required is up to the local jurisdiction or Ecology only.	
81	Ph I Permit App. 1	Section 4.6, p.40 (redline)	"Additional Requirements: The (direct or indirect) discharge of untreated stormwater..."	What is Ecology's intended meaning in inserting the parenthetical? How does Ecology define an indirect discharge?	
82	Ph I Permit App. 1	Section 4.7, TDA	Addition of "effective" to hard surfaces	Effective hard surfaces should be defined in Section 2 Definitions alongside effective impervious surfaces.	

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		Thresholds, p.42 (redline)			
83	Ph I Permit App. 1	Section 4.7, Flow Control Performance Standard, p.43 (redline)	"See the SWMMWW for details on how an Alternative Flow Control Performance Standard may be established."	It is difficult to find the location where this is located in the SWMMWW	Specify the volume(s) and chapter(s) where this information is located.
84	Ph I Permit App. 2	p.1	Table of contents	WRIA 5 – Stillaguamish River TMDL starts on page 8 of Appendix 2, not page 5.	Revise accordingly.
85	Ph I Permit App. 2	Stillaguamish River TMDL, p.9 Swamp Creek TMDL, p.15	Typos	There are three typographical errors on page 9: <ol style="list-style-type: none"> 1. Duplicates in the O&M section a sentence from the Business Inspection section. Delete. 2. Duplicates the Public Education and Outreach section. Delete. 3. Duplicates the O&M section. Delete. <p>The typo on page 15 duplicates a sentence from the Business Inspection section (regarding re-inspection) in the IDDE section. Delete.</p>	
86	Ph I Permit App. 2	Stillaguamish River TMDL, p.8 Snohomish River Tribs TMDL, p. 10 North Creek TMDL, p.12 Swamp Creek TMDL, p.14 Little Bear Creek TMDL, p.19	Deletion of: "All qualifying facilities shall be inspected by August 1, 2016."	Ecology proposes to remove a deadline/timeline for inspection of commercial animal handling and composting facilities. What, then, is Ecology's expectation for inspection? Inspect all qualifying facilities? By when? All during this Permit term? The implication of the every three year reinspection requirement is that Ecology does not expect, for example, yearly inspections or even every three year inspections for qualifying facilities without bacteria source control problems. Permittees would rather not have to guess how to comply. Just state the inspection requirement.	
87	Ph I Permit App. 2	Stillaguamish River TMDL Swamp TMDL Little Bear Creek TMDL	Public Education and Outreach	Delete the word "pet" from the requirement. There are other sources of bacterial pollution besides pet waste. These include: municipal sewer systems, onsite septic systems, farm animals.	REVISE as follows: "Public Education and Outreach: Each Permittee shall conduct public education and outreach activities to increase awareness of

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					bacterial pollution problems and promote proper waste management behavior.”
88	Ph I Permit App. 2	TSIE requirement Snohomish River Tribs TMDL, p. 11 North Creek TMDL, p.12 Swamp Creek TMDL, p.15	“By January 1, 2021, each Permittee shall review the fecal coliform data collected per approved QAPPs under the 2013 Permit and any other relevant and available bacteria data. The purpose of this review is to identify a minimum of one new high priority area (such as a tributary or a stream segment) that will be the focus of source identification and elimination efforts during calendar years 2021 through 2023. Each Permittee shall prepare written documentation of this review and the identified high priority area; documentation shall be submitted with the Annual Report for 2020. Permittees shall begin to implement source identification and elimination efforts in the MS4 subbasins discharging to the identified high priority area no later than May 1, 2021.”	Ecology’s limited time to perform this requirements reduces Permittee flexibility. Permittees should be able to manage implementation timing given local factors and information, including budgetary constraints. For example, it may be best for a Permittee like Snohomish County, with multiple TMDLs containing this TSIE requirement, to stagger the work between TMDL areas such that field work is not required to begin in all areas at the same time. The intended meaning of the “new” high priority area is unclear and appears unduly restrictive. Something may have changed in a previously selected high priority area that would make that same area a higher priority than a “new” area. This limitation should be removed. Finally, the phrase “...and any other relevant and available bacteria data” is ambiguous and should be removed. How is a Permittee supposed to know what Ecology or another stakeholder considers “relevant” or “available”? This standard leaves a Permittee guessing at how to achieve compliance, which is inappropriate. The phrase also does not acknowledge the limitations on data use set forth in General Condition G9 of the Permit, the Washington State Credible Data Act, RCW 90.48.570-590, and associated Water Quality Policy 1-11.	REVISE as follows: “Each Permittee shall review the fecal coliform data collected per approved QAPPs under the 2013 Permit and other fecal coliform data collected by the Permittee. The purpose of this review is to identify a minimum of one high priority area that will be the focus of source control identification and elimination efforts during this Permit term. Each Permittee shall prepare written documentation of this review and the identified high priority area; documentation shall be submitted with the applicable Annual Report year in which the review and identification effort occurred. Permittees shall complete their source identification and elimination efforts by July 31, 2024, unless ongoing source identification and elimination efforts are deemed necessary by the Permittee beyond July 31, 2024.”
89	Ph I Permit App. 2	TSIE requirement for Snohomish, North, and Swamp pp. 11, 12, 15	“Stormwater quality sampling for bacteria sources is required as part of this focused source identification and elimination effort.”	The term “stormwater quality sampling” is not adequately defined. It could be read to imply that Permittees are expected to deploy automated stormwater monitoring equipment in the MS4 and/or receiving waters to time the gathering of samples during storm events of a known flow rate or volume. This is not consistent with Ecology’s stated intent, which is that Permittees would sample during or closely following storms. Further, stormwater quality sampling for fecal coliform bacteria using automated equipment may produce samples which violate General Condition G9.D because samples could exceed regulatory hold times and temperatures.	ADD the following: “For the purposes of targeted source identification and elimination efforts, stormwater quality sampling is defined as obtaining grab samples of either stormwater discharging to or from the MS4 or receiving waters during a storm event.”
90	Ph I Permit App. 2	pp. 9, 11, 13, 15	Surface Water Monitoring Requirement for Stillaguamish, Snohomish, North, and Swamp: “Each Permittee shall conduct surface water monitoring for characterization and long term trends evaluation of fecal coliform in accordance with the QAPP approved under the 2013 Permit. ...	The County refers Ecology to its comment on S8, Comment #66. If Ecology does not adopt the County’s recommendation on surface water monitoring the County comments as follows. Does Ecology expect a Permittee to collect 12 samples in at least one location from August 1, 2019 – December 31, 2019? The County does not believe that is the intent but this Permit language is unclear. In addition, unforeseen circumstances can prevent the collection of 12 samples per calendar year. For example, collection may be dependent on Ecology’s approval of a revised QAPP, for which there is no submittal deadline, and streams can dry up, making collection of 12 samples in a calendar year infeasible.	REVISE as follows: “Surface Water Monitoring: Each Permittee shall conduct surface water monitoring to identify whether surface water quality standards are met. Analysis should be described in the QAPP and conducted in accordance with Washington State Water Quality Standards and the Water Quality Policy 1-11.

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			<p>At a minimum, the monitoring program shall:</p> <ul style="list-style-type: none"> • Collect 12 samples in at least one location per calendar year. • Submit available data to the Environmental Information Management (EIM) database by May 31 of each year. • Provide a data summaries and narrative evaluation of the data in each annual report’s TMDL summary. • Be documented in a QAPP which follows <i>Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies</i>, July 2004, Ecology Publication No. 04-03-030.” 	<p>The purpose of sample collection should be to demonstrate effectiveness of programmatic TMDL actions by evaluating whether bacteria concentrations are in compliance with water quality standards, rather than “characterization” and “trends analysis”. Ecology should review water quality data on a timely basis to support either continued resource allocation in impaired areas or reduction of monitoring and other resources if water quality standards are met.</p> <p>If violations do not exist as reported to Ecology in a Permittee’s annual report, Ecology should remove that waterbody segment from the list of impaired waters and build language into the Permit which allows Permittees to discontinue implementation of programmatic actions (business inspections, IDDE, outreach and education, etc.) in the area draining to the de-listed waterbody so Permittees can shift resources to a different area for the remainder of the Permit term.</p>	<ul style="list-style-type: none"> • Collect 12 samples per calendar year, starting January 2020. If unforeseen circumstances make it infeasible to do so, the Permittee will describe unforeseen circumstances in the annual report TMDL summary. • Submit available data to the Environmental Information Management (EIM) by May 31 of each year. • Provide a summary of data analysis and a narrative evaluation of available data in each annual report’s TMDL summary. • If a waterbody segment is found to be in compliance with water quality standards during the biannual water quality assessment, monitoring, and all other actions (business inspections, public outreach, operations and maintenance, etc.) may cease on that waterbody segment and areas draining to it for the remainder of the Permit term. • Should monitoring cease on a waterbody segment due to compliance with water quality standards, the Permittee must select one other waterbody within the same TMDL area on which to continue monitoring. The selection and start of monitoring should begin within 60 calendar days of discontinuing monitoring at the previous location. The data analysis used to select a new monitoring location will be submitted with the annual report.”
91	Ph I Permit App. 8	p.1	Typo	The reference to “S5.C.7.b.ii” is now inaccurate with Ecology’s reorganization. The reference should be to “S5.C.8.b.ii.”	
92	Ph I Permit App. 10	p.1	Title	Ecology has clarified to Permittees that approval of functionally equivalent programs, as set forth in Appendix 10, encompasses not just the new development, redevelopment, and construction site requirements (current S5.C.5.a.i and .ii; proposed S5.C.5.b.i and .ii) but also	REVISE the title of Appendix 10 as follows: “APPENDIX 10 – Equivalent Programs for Appendix 1 and the Required Portions of

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				<p>those references in the Permit to requirements to use the SWMMWW or “functionally equivalent manuals as approved by Ecology.” <i>See</i> proposed S5.C.8.b.i and S5.C.10.a.</p> <p>That is, Appendix 10 also describes the equivalent manuals of Permittees for purposes of those other Permit requirements. The title of Appendix 10 should reflect this scope.</p>	Ecology’s Stormwater Management Manual for Western Washington”
93	Ph I Permit App. 10	Part 1, p. 1	<p>“Ecology determined that the following enforceable documents, including codes, ordinances, director’s rules, public rules and/or manuals, are functionally equivalent to Appendix I in the Phase I Municipal Stormwater Permit (effective August 1, 2013) and the required portions of Ecology’s 2012 <i>Stormwater Management Manual for Western Washington</i> as amended in December 2014.”</p>	<p>In a separate communication, Ecology clarified that: (1) Ecology’s proposed revisions to Volume IV and Volume V of its SWMMWW are not required for the 2019 Permit or necessary to comply with Source Control (S5.C.8.b.i) or Maintenance Standard (S5.C.10.a) requirements; and (2) Permittees can rely on their currently approved equivalent manual identified in Appendix 10 to meet those requirements. In addition, S5.C.5.a requires Permittees to continue to implement the existing programs approved under the 2013 Permit for controlling runoff from new development and redevelopment. Part 1 of Appendix 10 identifies those equivalent programs and manuals but does not clearly indicate their relevance to meeting the S5.C.5.a, S5.C.8.b.i and S5.C.10.a requirements in the 2019 Permit.</p> <p>The importance of Appendix 10, Part 1 in the 2019 Permit is not to identify whether a Permittee complied with requirements in the 2013 Permit, but to make clear that existing approved equivalent programs and manuals meet the 2019 Permit requirements until changes consistent with S5.C.5.b.iii and Appendix 10, Part 2 are required. Ecology should make that clear in the Appendix 10 language itself.</p> <p>This proposed revision, coupled with those proposed in Comments #44, #50, and #92 provide important clarity on this point.</p> <p>In addition, Ecology should also consider revision to the introductory language under each identified Permittee for consistency with this approach.</p>	<p>REVISE as follows:</p> <p>“Ecology determined that the following enforceable documents, including codes, ordinances, director’s rules, public rules and/or manuals, are functionally equivalent to Appendix I in the Phase I Municipal Stormwater Permit (effective August 1, 2013) and the required portions of Ecology’s 2012 <i>Stormwater Management Manual for Western Washington</i> as amended in December 2014. The following enforceable documents, including codes, ordinances, director’s rules, public rules and/or manuals are also functionally equivalent to Appendix I of the Phase I Municipal Stormwater Permit (effective August 1, 2019) and the required portions of Ecology’s 2019 <i>Stormwater Management Manual for Western Washington</i>. These enforceable documents satisfy the requirements for local programs and/or functionally equivalent manuals in S5.C.5, S5.C.8.b, and S5.C.10.a. Ecology will update its determination of equivalent programs and manuals in Appendix 10, Part 3 to reflect Permittee adoption of the required elements of Appendix 1 and the SWMMWW as set forth in Appendix 10, Part 2.”</p>
94	Ph I Permit App. 10	Part 2, p.3	<p>“Ecology determined that the following list shall be used to amend any enforceable documents, including codes, ordinances, director’s rules, public rules and/or manuals, to be functionally equivalent to Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit...”</p>	<p>Reference to the “Western Washington Phase II Permit” in this Phase I Permit Appendix is in error.</p> <p>Correct to reference the Phase I Permit.</p>	

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95	Ph I Permit App. 10	Part 2, p.5 5 th line in table; 2 nd column	"Delete appendix, refer to the 2019 SWMMWW Volume III, Section III, Section 2.2"	There is no "Section III." The content of the 2014 SWMMWW appendix to be deleted is found in 2019 SWMMWW Volume III, Section 2.2	REVISE as follows: "Delete appendix, refer to the 2019 SWMMWW volume III, Section 2.2"
96	Ph I Permit App. 10	Part 2, last line, 2 nd column, p.5	Replace the sentence: "For grades greater than 2%, see additional guidance under the WWHM3 section." With: 2014 SWMMWW Volume III-C, Section C.11.3	There are two issues with the proposed text. First, Appendix III-C Section C.11.2 (on page C-9) is titled " <i>Instructions for Roads on Grades above 2%.</i> " Section C.11.3 is titled " <i>Instructions for Roads on a Slope with Internal Dams within the Base Materials that are Below Grade.</i> " It would seem that Ecology meant to refer to section C.11.2. Second, the statement in draft Appendix 10 would replace a sentence with approximately a page of text that Ecology does not propose to change in the draft Permit. We recommend simply referencing the section instead of requiring that it be reprinted.	REVISE as follows: "Permeable Pavements – BMP T5.15" Use new porous pavement element. User specifies pavement thickness & porosity, aggregate base material thickness & porosity, maximum allowed ponding depth & infiltration rate into native soil. For grades greater than 2%, see Section C.11.2 of this Appendix.
97	Ph I Permit App. 10	Part 3, p. 7	"Ecology determined that the following enforceable documents, including codes, ordinances, director's rules, public rules and/or manuals, are functionally equivalent to Appendix I in the Phase I Municipal Stormwater Permit (effective August 1, 2019) and the required portions of Ecology's 2019 <i>Stormwater Management Manual for Western Washington.</i> "	As noted in Comment #93 above, Ecology's stated intention is to use the equivalency determination in Appendix 10 to identify not just compliance with S5.C.5.b requirements, but to identify the functionally equivalent manuals that Ecology deems consistent with other Permit requirements, such as S5.C.8.b.i and S5.C.10.a. The scope of Ecology's statements in Appendix 10 should reflect that. Revise consistent with Comment #93 above.	REVISE as follows: "Ecology determined that the following enforceable documents, including codes, ordinances, director's rules, public rules and/or manuals, are functionally equivalent to Appendix I in the Phase I Municipal Stormwater Permit (effective August 1, 2019) and the required portions of Ecology's 2019 <i>Stormwater Management Manual for Western Washington.</i> These enforceable documents satisfy the requirements for local programs and/or functionally equivalent manuals in S5.C.5, S5.C.8.b, and S5.C.10.a. This section is intentionally left blank. There are no equivalency determinations under Part 3 at this time."
98	Ph I Permit App. 10	Part 3, p.7		There are a number of statements (italicized) here that are unnecessary, potentially confusing, and should be removed. Delete the following: <ul style="list-style-type: none"> • "<i>These Programs must be adopted [sic] made effective no later than July 1, 2021.</i>" <ul style="list-style-type: none"> ○ This statement is unnecessary. Timing requirements are stated in the body of the Permit. ○ Also, that may not be the deadline if Ecology takes longer than 90 days in its review, per S5.C.5.b.iii. If that should happen, this quoted statement will be inconsistent with the S5.C.5.b.iii and will lead to confusion. Delete. 	

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				<ul style="list-style-type: none"> • <i>“If Ecology takes longer than 90 days to provide a written response to material presented by the permittees, the required deadline for adoption and effective date will be extended by the number of calendar days that Ecology exceeds a 90 day period for written response. The longest review period without a written response to a permittee shall be used to calculate the extension for all permittees. If the permit is modified to incorporate these approval, Ecology will update the adoption date within this appendix to reflect this extension].”</i> <ul style="list-style-type: none"> ○ The review period and possible extension of deadline is addressed in Special Condition S5.C.5.b. It is unnecessary to repeat it here. ○ This Appendix 10 language is inconsistent with S5.C.5.b. Appendix 10 states the longest period will be used to calculate the deadline extension for all Permittees. The Permit itself does not state that. Delete this inconsistent language. 	
99	Ph I Permit App. 12 SSC Guidance	p.1	“The annual reporting requirement in S5.C.7.c must follow the format and instructions provided in this appendix and the associated Phase I Municipal Stormwater Permit Guidance for Structural Stormwater Control Program (2018).”	<p>What is Ecology’s intention with this statement vis-à-vis the SSC Guidance? Is it Ecology’s intention to incorporate by reference into the Permit the entire SSC Guidance with this statement? Is it Ecology’s intention to incorporate by reference into the Permit only the “Instructions for Appendix 12 Reporting” set forth on pages 11 – 14 of the SSC Guidance? This sentence is ambiguous on this point and could be read either way.</p> <p>It is impossible for Permittees to assess how to comment on the SSC Guidance without understanding whether or to what extent Ecology intends to make that SSC Guidance a part of the Permit itself through incorporation by reference.</p> <p>The County reiterates its position that Ecology should avoid incorporation by reference of guidance documents. Ecology should state in the Permit itself, in clear and concise regulatory language, the Permit requirements.</p>	
100	Ph I Permit App. 12	p.1	Project Type list	<p>Listing “New LID BMPs” separately at project type #3 is not consistent with the division of these project types as set forth in S5.C.7.a.i, which includes LID BMPs as part of the category “New flow control facilities,” which, in Appendix 12, is given a separate project type number (#1) and as part of the category “New treatment (or treatment and flow control) facilities,” which, in Appendix 12, is given a separate project type number (#2). Appendix 12 and the SSC Guidance are consistent with each other but not with the Permit categorization of project types.</p> <p>The Permit and the Appendix should be consistent regarding project type listing</p>	
101	Ph I Permit App. 14	Entire document		<p>See the County’s Comment #48 regarding S5.C.9.g. The County does not believe the schema provided in Appendix 14 will work well operationally. Additionally, we are concerned that the current schema will result in inconsistent interpretations between municipalities. This will result in a dataset with low quality, complicating analyzes and interpretation. The County’s combined comments and proposed revisions are listed below.</p> <p><u>APPENDIX 14 - IDDE DATA AND FORMAT</u> 1-5: No proposed changes</p>	

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				<p>6. Date to end your response: Snohomish County proposes that this field is only a date field as there is already a field to capture the outcome (final resolution, transferred to another party), #14. This would simplify the work flow for field entry using mobile devices and be easier for data entry and analysis.</p> <p>7. Discharge to MS4 This section should be modified to a Yes / No response. Under a <i>Yes</i> response, retain the pick list library, A <i>No</i> response will no longer include the pick list library. The Permit only requires the County to submit records if the answer to this question is <i>Yes</i>.</p> <p>8. How was the incident discovered or reported to you The following list is the Snohomish County abbreviation and modification of the proposed reporting data format:</p> <ul style="list-style-type: none"> • Pollution Hotline (Includes Phone and/or Web and/or Mobile App) • Direct Report To Staff • Staff Referral • Other Agency Referral • ERTS • Inspection: <ul style="list-style-type: none"> a. <i>business</i> b. <i>construction</i> c. <i>MS4</i> • Other: (<i>explain</i>) <p>10. Incident Location: Snohomish County proposes eliminating this metric from the reporting data format. While the County intends to capture this information a number of different ways, the County would prefer to avoid creating a stigma of the incident location site or adjacent site(s).</p> <p>11. Pollutants Identified Based on comments made during a meeting with Permittees at Ecology offices October 24, 2018, several municipalities stated that streamlining or minimizing this pick list library would be a preferred modification to this data reporting requirement. Snohomish County is in agreement with this proposal. Two scenarios are proposed: either eliminate the primary pollutant families (i.e. solid waste, liquid waste, etc.) and use a refined, remaining list for Pollutants Identified, or remove the subfamily pollutants altogether from the pick field library and use the primary pollutant families. <i>Example, Use either 1 or 2 of the following list.</i></p> <p>(1). <u>Pollutant Types Identified:</u></p> <ul style="list-style-type: none"> • None Found • Unconfirmed unspecified, or not identified • Solid Waste/Trash • Liquid waste • Sewage/septage • Oil • Chemical 	

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				<ul style="list-style-type: none"> • Foam • Other (explain); [or use the following] <p>(2). <u>List of Pollutants Identified:</u></p> <ol style="list-style-type: none"> a. None found b. Trash c. Sediment/soil d. Cement, concrete, lime, or plaster e. Yard waste or other plant or wood waste f. Food waste g. Pet waste/livestock manure h. Sewage/septage i. Roofing materials j. Road tar k. Petroleum Hydrocarbon Products l. Antifreeze or other coolant m. Paint n. Food preparation oil o. Household or industrial chemical (explain) p. Pesticide or herbicide q. Fertilizer r. Soap/detergent/surfactant s. PCBs t. Refrigerant u. Chlorinated water v. Other not listed (explain) <p>12. Source or Cause Snohomish County proposes the following modifications to the reporting data format:</p> <ol style="list-style-type: none"> 1. Eliminate <i>Vehicle related</i> source or cause, these conditions fit under <i>Spill</i> reporting data format. 2. <i>Improper business operation or activity</i>; to be accurate and fully inclusive, this reporting requirement should include consistent language and all BMPs listed in the SWMMWW, Vol. IV- Source Control BMPs. Alternately, eliminate the current subset of improper business operation or activity. The Snohomish County Source Control Inspection program will cite specific deficiencies from Vol. IV when making referrals for ID/IC investigation purposes. 3. Eliminate the <i>Allowable discharge and Conditionally allowed discharge</i> reporting requirement. While these incidents are investigated by Snohomish County they may not be recorded in the ID/IC management database and therefore not a consistent metric for annual reporting purposes. 4. Eliminate <i>Surface runoff</i>. Items under this reporting data format fit under other categories in the Source or Cause reporting requirement, for example a broken or clogged water or 	

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Ecology's Draft 2019 Phase I Permit, Phase II Permit, Fact Sheet, and Guidance Documents (August 2018)

#	Document	Section, Page and/or Paragraph	Ecology Proposed or Modified Language	Comment	Snohomish County Recommendation or Proposed Language, if any
				<p style="text-align: center;">sewer line is an illicit discharge and a spill. Flow from uncontaminated ground water or spring water is not ID/IC incident.</p> <p>13. Source tracing approach used Is it the intention of Ecology that the proposed IDDE Reporting data and format act as a database for the management of field and analytical laboratory data? Snohomish County has adopted the <i>Illicit Connection and Illicit Discharge Field Screening and Source Tracing Guidance Manual, Herrera Environmental Consultants, Inc., May 2013</i>. Snohomish County suggests that this pick list library be revised to reflect the primary field screening indicator observations, and follow-up indicator(s) listed in this document. Field and laboratory testing can include an extensive list of target analytes, this would contribute to lengthy field of selections in a pick list library. Field and office incident entries into this pick list library would present data management challenges particularly when numerous samples are collected over time, and at differing locations. The following presents a simplified list as an example of field and laboratory screening indicators:</p> <ol style="list-style-type: none"> 1. Field indicators: <ul style="list-style-type: none"> • Visual indicators • Physical indicators (e.g., turbidity, pH, specific conductivity) 2. Analytical laboratory Indicators: <ul style="list-style-type: none"> • Organic • Inorganic • Microorganisms <p>14. Correction/elimination methods used Snohomish County suggests that the subsection of data reporting requirements under <i>Enforcement</i> be eliminated and replaced with Yes / No. With regards to enforcement data reporting requirements, specific language such as <i>Correction Notice, Legal Notice, and Written Warning</i> are somewhat arbitrary and will not be universally applied by all Permittees. Additionally, a correction notice may include a fine or penalty. The process of progressive enforcement may include all of the steps detailed in this section. These progressive enforcements steps can occur over a considerable length of time if the ID/IC incident includes other land use code violations.</p>	