

Clark County Comments on the Draft 2019 Phase I Municipal Stormwater Permit (Clean Copy Version)		
NPDES Municipal Permit Requirement	Description or Language	Comments
General	Formatting	Do not add S5.C. components in a way that changes the existing component numbering system. Either add the new requirements to existing components as appropriate or add the new component after S5.C.10. The reason for this is that permittees have built their programs around the components of the 2007 permit. This includes the SWMP report and cost tracking under S5.C.5.A.
S4.F.1.	"Known or likely" violation of water quality standards	Remove any reference to "likely" water quality violation. Only water quality testing can verify a water quality violation.
S5.B. Scope of SWMP plan vs. Permit requirements	Missing language: state that meeting the permit's performance measures should be recognized as MEP and AKART.	The Permit should state that completing the SWMP and S4.F. and S7 requirements constitutes AKART and MEP. The fact sheet states that SWMP be designed to meet AKART and federal MEP. Presumably, the minimum performance measures represent AKART and performing a SWMP that meets the minimum measures is AKART. It is not up to the permittee to decide what AKART is, that is in the permit. Not including a provision allowing "backsliding" from the SWMP plan level will create a disincentive for permittees to do more than is required by the permit. The permit should clearly state that if a permittee includes an action in the SWMP plan that exceeds the performance measures, those measures are performed as activities that go beyond permit MEP and AKART and are not required actions under the permit.
S5.C.2.a.iv. Mapping geographic area of MS4 not draining to surface water.	This is a broadly worded requirement to map parts of the MS4 that do not drain to surface water bodies.	This requirement serves little to no useful purpose for Clark County. This requirement would include mapping small areas within hundreds of outfall catchments that drain to localized UIC regulated facilities, retention basins or closed depressions that are not wetlands. In rural areas, it could require extensive review of topographical maps and the county drainage system to map catchments draining to roadside ditches, then define areas within those catchments that do not drain to roadside ditches. As a practical matter, areas draining to groundwater will be mapped as part of watershed planning work when this information is needed and for implementing programs associated with public and private UIC wells. The fact sheet does not state a basis for this requirement. The original phase I permit fact sheet from March 2006, does not state the basis for this requirement. Mapping areas that drain to groundwater through UIC wells is unrelated to managing the MS4 under the NPDES municipal permit. The requirement to map areas draining to outfalls and discharge points recognizes the area covered by the permit. The requirement to map areas draining to ground water goes beyond the scope of the phase I permit to areas where UIC wells are present.
S5.C.2.a.v.	Conveyance mapping	The conveyance mapping limit to 24 inch nominal diameter outfalls does not agree with Ecology's expectation for mapping in the fact sheet that calls for more expansive permittee mapping. The March 2006 fact sheet for the 2007 permit states that reducing the diameter of outfalls that require conveyance mapping was an incremental step toward mapping conveyance systems.
	24 inch nominal ditches	Roadside ditches are often about 24 inches in width, or nominal diameter. This could lead to situations where short lengths of roadside ditches that are 24 inches or greater in width are required to be mapped and fall under the requirements for further mapping of these conveyance systems, which provides no added value and is unduly burdensome.
	Measuring ditch width	Another problem with the 24 inch ditch width threshold is that it would require measuring ditches to assess whether they are actually 24 inches or more in width. This would be an unproductive use of limited resources, where there is little need for stormwater management.
S5.C.2.a.vi. MS4 connection mapping	Public entity	The term "public entity" is vague. Perhaps this requirement should be limited to municipal storm sewers regulated by the Clean Water Act or having a municipal stormwater permit.
S5.C.2.b.i. Outfall material and size mapping	Outfall size and material for all outfalls.	Reword this to state that it addresses outfalls added to the inventory during the permit term, not to include those mapped during previous permit terms. This information does not help permittees, especially in rural areas where earthen ditches are outfalls.
S5.C.2.b.ii. Connections to private systems	Requires permittees to map connections to private systems.	This is not a requirement that will provide useful information if Ecology expects permittees to map points rather than infer connections from existing asset inventories. For example, in Clark County asset management, all stormwater objects have an owner whether it be county, private or some other governmental body. In addition, this requirement could force a lengthy review of hundreds of recorded subdivision plats to identify drainage easement owners.
S5.C.2.b.iii. Rural ditch mapping	Rural conveyance mapping (ditches)	This is a vague requirement to begin mapping rural area before the permit has completed mapping of the urban MS4. Conveyance mapping should be limited to the UGA and rural areas where drainage mapping is needed for watershed planning.
S5.C.2.c. Required format	Required format example	This requirement should be reworded to simply require mapping in an electronic format. Drop the sentence describing the example because phase I permittees already have systems in place.
S5.C.5.b.i. Appendix 1	Ecology approval of basin plans	There are no approval criteria for basin plans in this section or in Appendix 1. If a basin plan changes the permit language, should there be clear approval criteria that at least includes the required elements of basin plan?
S5.C.5.b.iii. Submittal deadline	One year submittal timeline	While the code and manual changes are relatively simple compared to the last permit, it seems reasonable to give the permittees more time to complete the manual update because the minimum requirements are unchanged. If Ecology is concerned about extending vesting under the 2013 permit manual, that should not be an issue because the requirements do not change in any significant way from the 2013 permit.
S5.C.5.b.iii.(a) i)	Technical Memo for other changes	Permittees may use the permit-mandated manual update to make other changes to their manual as clarifications or technical improvements on existing content. A simple explanation of the reason for the change should be adequate in these cases, instead of a technical memo.
S5.C.5.b.vii. NOI forms	Process to make industrial and construction NOIs available	The NOI forms are available at the Ecology website. Does this need to be in the permit?

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S5.C.6. Stormwater Planning	New Component	Avoid adding a new component here. The reporting requirements in a and b could be part of S9. The LID requirement in b could be part of S5.C.5.b. The planning element in c could be moved into the structural controls component. Alternatively, add this component after the education and outreach component so that existing component numbering system does not change.
	Comprehensive stormwater planning program	The term "comprehensive stormwater planning program" sounds like the SWMP plan required by S5.A. Permittees already have a comprehensive plan to meet the stormwater permit requirements as the SWMP.
		Adding a component implies there was an entire MS4 set of actions missing from the 2007 and 2013 permits, which seems unlikely. Ecology is adding a land use planning component to a permit regulating discharges to receiving waters from the MS4. State law regulating land use is separate from the requirements to regulate pollutant discharges to waters of the state. If the state wishes to include stormwater in comprehensive plans for counties, the state Growth Management Act should be revised.
	Area outside the MS4	It is inappropriate to require permittees to perform activities outside the area draining to the MS4. The Clark County permit is for the MS4, not the entirety of unincorporated Clark County, much of which does not drain to the permitted MS4.
	Interdisciplinary team	The term interdisciplinary team is not defined in the permit.
S5.C.6.a.(a)	Description of previous permit actions	Clark County questions whether it is legal to require a description of past permit actions in a current permit.
S5.C.6.a.i.	The term "planning update process"	This term is unclear. Is it referring to the GMA Comprehensive Plan?
S5.C.6.a.(b)	Or other "long-range planning documents used to accommodate growth or transportation"	This is an unclear requirement and suggests Ecology is casting a broad net beyond the scope of the permit and perhaps even county plans to regional plans which may not include a stormwater element. Please remove it or limit it to long-range plans mandated to include a stormwater element.
	Comprehensive plan schedule	Under RCW 36.70A.130(b), Clark County is scheduled to complete its next comprehensive plan in 2024. The requirement to submit information about stormwater planning for the comprehensive plan in 2022 is premature.
S5.C.6.b.	LID	Move this to S5.C.5.a.
S5.C.6.c. SMAP	Stormwater Management Action Planning	Include this section with the capital planning element of structural stormwater controls.
		Ecology should provide the option to focus on areas where the permittee currently deems need is greatest. Clark County selected Whipple Creek to meet the criteria of the 2013 permit for a planning watershed. It is not the focus of our current planning effort. Current planning is focused on improving water quality for basins discharging to a locally-significant salmon-bearing stream that is listed as core salmon habitat in Chapter 173-201A WAC. Whipple Creek is not even included in the Lower Columbia Fish Recovery Board salmon recovery planning effort.
		Clark County considers the Whipple Creek watershed report to be an analysis, not a feasible plan to be implemented. However, the lessons learned by completing the Whipple Creek project can inform planning in other areas.
S5.C.6.c.ii.(b)	Long term actions beyond six years	Time scales beyond a permit term are inappropriate. The county has a six year capital plan that is updated yearly, which is a realistic planning window. The plan can be updated in subsequent permit terms as technology and management goals evolve.
S5.C.7.a.iii.	Prohibits in stream projects	In-channel projects should be allowed if they address bank erosion problems caused directly by proximity to stormwater outfalls.
S5.C.7.b. Planning		Include the S5.C.6.c. planning language here.
S5.C.7.d. Retrofit points	Retrofit points need broader input	The Phase I Structural Stormwater Control requirements need further input and development to adequately shape permittees' prioritization of millions of dollars of investments because the structural stormwater controls point system and favorable environmental outcomes are not sufficiently aligned. Because of this lack of alignment, stormwater managers may be forced to prioritize accumulating "points" over directing scarce resources to the highest priority environmental outcomes.
S5.C.8.b.i.	BMP update	Reference the schedule in S5.C.5.b. rather than listing a specific date.
S5.C.8.b.iii.(a)	Mass outreach	Drop this requirement and let S5.C.11 take care of outreach to businesses and let the source control component focus on site visits. It is difficult to provide meaningful information to businesses outside of the routine site visits. Consider whether the current approach is appropriate given the move toward CBSM in S5.C.11.
S5.C.8.b.iv.(d) Referral to Ecology	Conditions for referral to Ecology	Permittees should be allowed to refer violations at NPDES permitted or UIC regulated sites to Ecology under any circumstance. In particular if there is an emergency that requires environmental clean up.
S5.C.9.c.i.(a) percent of MS4 screened	Tracking total percentage of the MS4 screened.	It is unclear how the percentage of the MS4 screened is measured because the conveyance system mapping requirements do not apply to the entire MS4 for counties. Urban area conveyance systems are generally well mapped but rural ditch conveyance systems are not. Counties would have to create an approach such as using land survey sections with county roads. Or, since the mapping only requires mapping of conveyance systems to 24 inch outfalls, only screen those conveyance systems.
	Area screened	Counties should not be required to screen outfalls in rural areas.
		Outfall screening in the urban are is one of the least productive tasks we do. Extending it to the rural area will only decrease our productivity with limited resources.
		The program should use complaints and referrals to respond to potential illicit discharges in rural areas.
		Another concern with requiring screening rural areas is that as the number of rural conveyance systems mapped increases, the performance standard will increase as a percentage of the total number of conveyance systems. If the screening is limited to urban areas the number of newly mapped conveyance systems will be limited to new outfalls in the urban area.
S5.C.9.c.iii. Training	IDDE awareness training for all field staff	This should be limited to employees whose primary job involves working on or near the MS4 and performing site inspections such as health inspectors visiting restaurants. Training beyond this group will provide little or no results because of the low likelihood of encountering an illicit discharge.

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S5.C.10.a. Manual update	July 1, 2021 deadline	Instead of the date, refer to the schedule in S5.C.5.b.
S5.C.10.a.ii. Maintenance deadlines	Deadlines for maintenance	This section needs to include language that notes only maintenance needed to retain or restore facility treatment and flow control functions is required under the permit schedule. Such as "...for an exceedance of a maintenance standard for a treatment or flow control function, maintenance shall be performed"
S5.C.10.a.ii. Maintenance deadlines	Maintenance deadlines	The permit should include performance measures that allow for less than 100 percent of the facilities be defect free. The number could be equal to or higher than the inspection rate, for example, "85 percent of regulated facilities and 97 percent of permittee operated facilities."
S5.C.10.g. SWPPPs	No deadline is provided in the permit	This requirement for specific SWPPP contents and actions does not have an implementation deadline. That would leave the permittee to assume it must be implemented the day the permit becomes effective.
S5.C.10.h. Record keeping	"Maintain records of inspections and maintenance or repair activities by the permittees"	This section should be worded to apply only to stormwater treatment and flow control facility and catch basin inspection and maintenance to meet requirements of S5.C.10.a-d. For example, repair of conveyance system components is not required by the permit and such repair records should not be required to be retained under the permit.
S5.C.11.	Training for engineering and contracting personnel	Permittees should not be responsible for training engineers who are licensed professionals. The same goes for contractors who have trade associations that can provide training. Ecology should continue to provide training.
S5.C.11.a.i(a)	Typo	Replace form with from.
S5.C.11.a.ii(a)	LID BMPs	This bullet lacks an action for the permittee to take. For example "make LID BMPs the preferred development approach"
S5.C.11.a.ii(a)	Audience-specific source control BMPs	The targeting of the use of audience-specific source control BMPs is part of the implementation of S5.C.8. in the phase I permit and is not needed in this component.
S5.C.11.c.	Community-based social marketing	This is a new term to the permit. How do the permittees know how to perform community-based social marketing? Is there guidance on this new permit requirement? A review of this approach found that it relies on psychological expertise, scientifically identifying barriers to change that can be effectively attacked, and monitoring effectiveness. Most municipal permittees lack the resources to complete these tasks effectively. Perhaps, Ecology, through the pooled effectiveness study program could begin to tackle this very challenging effort.
S8.A.3.a.i.	QAPP Template Table 6 and Figure submittal deadline	It is unlikely that the final site location table and map can be completed by the local permittees in barely two months. Final site selection hinges on variables outside the control of permittees such as access rights and suitability for deploying instrumentation. A preliminary site list is possible in that time frame. The first submittal could be the preliminary site findings followed by the final site selection in the draft QAPP submittal. Site selection is part of a permittee-driven stakeholder process and not a task solely for Clark County.
	QAPP Title	The wording in the permit does not match the draft QAPP title. Clark County prefers the use of the geographic area as "Urban Streams in Clark and Cowlitz Counties in the Lower Columbia River Region." The project is more narrowly focused than the term "Lower Columbia" used in the draft permit. Lower Columbia Region implies a much larger area on a par with the Puget Sound Region.
S8.B.2.c. ii. QAPP	QAPP Approval process	QAPP approval under S8.B.3.c.ii.(b) should be based solely by meeting the requirements listed in S8.C.c.ii.(a). Permit section S8.B.c.ii.(b) should state that approval is based on meeting the requirements of S8.B.3.c.ii.(b). This provides both Ecology and the permittee with an understanding of what the permit requirements are.
S8.B.3. Records submittals	Open ended records request	This requirement is vague and open ended and could be unduly burdensome on permittees. There needs to be some clarity on what records will be requested and what the format will be. In the 2013 permit term, data requests were made without regard to the unbudgeted time and effort needed to meet them. Requests were extensive and difficult to meet. Clark County keeps records but they are not necessarily in a format designed to respond to mass data reporting.
	Legal basis	It is legal and more practical to require permittees to enter data into standardized database if Ecology is going to use the data to improve the permit. It is not legal or practical to place open ended reporting requirements in an NPDES permit. We cannot even comment on specific future reporting requirements. State law has standards in RCW chapter 42.56 for public information requests that are not clearly defined in the permit. At the very least, the standards for the timing of providing documents under state law should be followed. If a permittee is unable to provide records for a legitimate reason, it would be a permit violation. Another problem with this requirement is that it allows Ecology to add a unknown future records submittal requirement under the permit that is not subject to public process including formal appeal.
S9.A. Annual Report	First year annual report	The 2013 permit had explicit language in this section stating the first annual report was for the first complete calendar year under the permit, January 2014 to December 2014. To be consistent with the practice of not requiring an annual report for a year split between permits, the first reporting year should be January 1, 2020 to December 31, 2020.
Definitions	Stormwater definition includes interflow	Interflow should not be included in the definition of stormwater because it is waters of the state, it is underground waters, not stormwater runoff. Interflow would be a groundwater receiving water for stormwater runoff.

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Appendix 1. Table 1	LID performance standard for homes on large rural lots greater than 5 acres.	The requirement to get an exception or variance when the performance standard cannot be met is not needed to implement the LID table approach for MR#1- MR#9 projects. If the project can't meet the performance standard, it simply can't. It is unduly burdensome to require an administrative exception when meeting the performance standard is infeasible. An exception/variance requires public notice and written findings of fact for what is a simple engineering decision based on site conditions that make infiltration and/or full dispersion infeasible. Appendix 1 includes the term adjustment for alterations to the minimum requirements without a public notice. Alternately, the applicant should be allowed to use the list when meeting the performance standard is infeasible.
Appendix 9 Monitoring	Table 9-1	Three parameters are still included in Table 9-1 under conventional parameters (Particle Size Distribution, Grain Size, and pH) that have been dropped from required parameters in the Appendix 9 text on page 3. The new lower MRL for Bis(2-ethylhexyl)phthalate of 0.250 is not routinely achievable in commercial labs due to high likelihood of cross contamination, and should remain at 1.0 micrograms/L.
Appendix 9 Monitoring	Table 9-2	For Percent Solids, Method SM2540B cannot be correctly done on centrifuged samples. Hence, Method 160.3M should also be included to address pipetting issues of a mostly solid sediment sample by mass rather than volume for aliquoting. Two parameters are still included in Table 9-2 under conventional parameters (Total Phosphorus, Total Volatile Solids) that have been dropped from required parameters in the Appendix 9 text on page 4. Also BTEX is included in Table 9-2 but not included in Appendix 9 text on page 4 for sediment samples.
Appendix 10	Text paragraph on page 6	Permittees will likely use the manual update window to make updates to manuals for clarity and improved performance. These should not require a technical memo but should include a description of why the change was made and equivalence is retained. The permit should not require justification for adding emerging technology BMPs that are granted a General Use Level Designation by Ecology.
Appendix 12	Start and end year	The appendix should consider defining what start and end years are. This would provide a uniform understanding and comparable project use of these terms across the permittees. Projects start when they are assigned expense coding, usually this is some point in early design. Projects end in a variety of ways. Standard construction may end years before project costs to install and raise vegetation costs end and maintenance begins. Projects may contain elements that are complete, for example detention capacity, while other elements - such as wetland vegetation for treatment are not.
Appendix 14	Required data	Clark County is concerned that permittees are being used to gather data they do not need. Ecology should identify specific management questions to be answered by the required data. Clark County suggests that during the coming years, Ecology use the SWG process to define management questions that could be answered by permittee-submitted data to answer questions that result in improvements to the stormwater permit and improved environmental outcomes for permittees. A stakeholder involvement process would lead to better acceptance of the effort required to collect and submit data that is not needed by permittees. In the mean time, limit the number of fields as much as possible.
	Clark County data gathering system	Clark County developed an Arc GIS online field application for iPads based on the data model included in the informal permit draft language. This data model and field data collection system has been field tested and refined since it was deployed in 2017. The data model is simpler than the Appendix 14 model, having fewer fields and needing fewer pull-down menus, making field work less cumbersome. Several phase I and phase II permittees have requested copies of this system since becoming aware of it. The application can be used by any municipal permittee with access to Arc GIS and associated data management systems. Clark County is willing to work with Ecology to make this system available if that is a desired option.
		Consider making the data scheme part of a guidance document so that a permit modification is not required to make minor changes if upgrades or problems are found with gathering and reporting data without a permit modification. This option could also facilitate adding fields to address management questions identified by stakeholders.
Structural Stormwater Control Guidance	Permit and fact sheet language vs Guidance	Clark County provided Comments on the Structural Controls Guidance in July that essentially stated that it would be possible to place calculation instructions in the permit and background information in the fact sheet. Ecology should consider that option as an alternative to using a guidance document to implement a permit requirement. Please refer to Clark County comments submitted in July.
SMAP Guidance	Guidance as permit language	Clark County believes the NPDES permit requirements should be clear in the permit and not part of a guidance document or fact sheet with Ecology expectations described. In this situation, a permittee could legitimately follow the permit language and still fall short of meeting Ecology expectations as defined in the guidance document.