

**Snohomish County Comments on  
Ecology’s 2024 Permit and SWMMWW Preliminary Drafts  
(Issued October 17, 2022)**

Document	Section, Page and/or Paragraph #	Ecology Proposed or Modified Language	Comment	Snohomish County Proposed Language, if any
Phase I Permit	Tree Retention S5.C.6	“Ecology is proposing the addition of tree canopy retention on a landscape scale as another stormwater management tool to control stormwater discharges to the MEP and improve water quality.”	How is Ecology defining “landscape scale”? What does it mean to propose “the addition of tree canopy retention”?	
Phase I Permit	Tree Retention S5.C.6	“No later than XX/XX/20XX, Permittees shall document existing landscape canopy cover and riparian tree canopy for the permit coverage area, and document canopy change over time. No later than XX/XX/20XX, Permittees shall adopt and implement tree canopy retention/restoration objectives in order to support stormwater management and water quality improvement in receiving waters.”	What is the difference between “landscape canopy cover” and “riparian tree canopy”? It is inappropriate to state that a Permittee “shall document canopy change over time” by a single date, as proposed. That doesn’t make sense. Documenting canopy change over time suggests the reassessment of canopy cover over a period of time at some interval, but Ecology doesn’t describe over what timeframe or at what interval. What are “tree canopy retention/restoration objectives”? Will Permittees get to decide what those objectives are? What criteria will be used to determine if the existing tree canopy is “adequate”? How will the adequate or not adequate assessment of the tree canopy impact permit compliance and facility operation? In this draft provision, Ecology uses three different phrases: (1) landscape canopy cover; (2) riparian tree canopy; and (3) tree canopy. Are these all intended to mean different things? If so, how are each of these defined? Ecology must clarify and define the language it is using before more detailed comments can be provided.	
Phase I Permit	Street Sweeping S5.C.10		By placing a street sweeping requirement in the O&M section of the Permit, is it Ecology’s intention to eliminate street sweeping as an allowed SSC project? What if street sweeping is one of a permittee’s proposed SMAP actions? Can a permittee satisfy the O&M sweeping requirement by implementing its SMAP sweeping program?	
Phase I Permit	Street Sweeping S5.C.10	“No later than July 1, 2027, develop and implement a street sweeping program to target priority areas and times during the year that would reasonably be expected to result in the maximum water quality benefit to receiving waters.”	Replace “priority areas” with “high priority areas” for consistency with the draft fact sheet description and proposed Permit language.	

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Phase I Permit	Street Sweeping S5.C.10	<p>“Apply street sweeping program to MS4 drainage areas that directly discharge to surface receiving waters. Within those areas, sweep the following high priority areas, where applicable:</p> <ul style="list-style-type: none"> <li>• high AADT roads</li> <li>• accessible curb and gutter streets - permittees may need to implement parking restrictions or other effective methods to optimize pollutant removal</li> <li>• Areas identified with significant traffic and turning, e.g. municipal parking lots, roundabouts, high AADT intersections.</li> <li>• Commercial and industrial land use areas.</li> <li>• MS4 basins that discharge to surface receiving waters that support salmonids.”</li> </ul>	<p>Revise the text in this section as shown to clarify that the sweeping obligation applies only to the paved surfaces owned or operated by the Permittee that are set forth in the bullets, and that the “high-priority areas” are specifically those set forth in the bullets. Ecology’s proposed text can be read to mean that a Permittee must sweep privately owned pavement, and ambiguously mixes up specific paved surfaces and “MS4 basins” (an undefined term) that contain those surfaces.</p> <p>The footnote on the term AADT states that Ecology “may” use the definition of “high AADT road” presented in Appendix 1. That term and the term “high AADT intersection” are defined (unofficially) in Minimum Requirement 4.6 Runoff Treatment. These terms have functioned well for years in that respect, and Ecology has proposed revisions in the draft Appendix 1. We strongly recommend that Ecology use these terms however they are or will be defined in Appendix 1, as opposed to creating new and different (and thus conflicting) meanings for the same terms in the context of street sweeping.</p> <p>We believe our proposed changes make Ecology’s third bullet unnecessary.</p> <p>It is not clear how one would identify “Commercial and industrial land use areas” in this context. That phrase lacks connection to a sweepable surface (road or parking area) owned or operated by a Permittee. Does Ecology mean public roads or streets near zoned industrial sites?</p> <p>Finally, the phrase “MS4 basins that discharge to surface receiving waters that support salmonids” is vague in several respects. First, “MS4 basin” is not defined and could be interpreted in various ways. Second, Ecology did not say “discharge directly” but only “discharge,” which could be argued to mean all discharges to either ground or surface water. Third, the term “support” is so broad to possibly include all surface receiving water bodies. We recommend deleting the last bullet to focus any proposed sweeping program on high-priority areas that are clearly defined. Prioritization is a critical part of each MS4 permit program.</p>	<p>“Apply street sweeping program to <u>the following public roads, streets, and paved surfaces owned or operated by the Permittee</u> MS4 drainage areas that directly discharge to surface receiving waters. <del>Within those areas, sweep the following high priority areas, where applicable:</del></p> <ul style="list-style-type: none"> <li>• high AADT roads <u>and intersections as these terms are defined in Appendix 1 Minimum Requirement 4.6</u></li> <li>• accessible curb and gutter streets – permittees may need to implement parking restrictions or other effective methods to optimize pollutant removal</li> <li>• <del>Areas identified with significant traffic and turning, e.g. municipal parking lots, roundabouts, high AADT intersections.</del></li> <li>• <del>Commercial and industrial land use areas.</del></li> <li>• <del>MS4 basins that discharge to surface receiving waters that support salmonids.”</del></li> </ul>
Phase I Permit	Street Sweeping S5.C.10	Permittees must sweep 3x year	<p>What Ecology is proposing for sweeping three times a year is unclear. Every road in a high priority area? Or is it a requirement to sweep the same stretches of road 3 times a year? Or to sweep some combination of the high priority area roads 3 times a year, with no requirement to repeat sweep the same roadway during that year?</p> <p>The draft fact sheet discussion states frequency is “proposed minimum frequency of three times a year, with sweeping conducted at least once before the rainy season starts (Oct. 1) and within July-Sept. months.” The proposed permit language doesn’t say that. It only says, “at least once prior to October 1 each year and two additional times a year as determined by the Permittee to provide additional water quality benefit.”</p>	

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Phase I Permit	Street Sweeping S5.C.10	“Permittees may document reasoning for alternative sweeping timing and frequency based on local conditions (e.g. climate) and pollutant loads.”	A permittee could sweep only once a year if it has a climate plus pollutant load reason? There are no standards or parameters governing the use of an alternative approach, except “local conditions” and “pollutant loads”?	
Phase I Permit	Street Sweeping S5.C.10	“Permittees shall annually sweep, on average, 90% of the MS4 drainage area that directly discharges to surface receiving waters.”	This is inconsistent with prior statements. The draft fact sheet language states the sweeping requirement “is intended to be ... specific to high priority areas” but this does not state that. According to the first listed program element, a permittee must sweep only the high priority areas within an MS4 drainage area, not the whole MS4 drainage area. This statement uses the wrong metric. It should be “90% of the high priority areas”, not 90% of the “MS4 drainage area.” How is this 90% calculated in light of the requirement for sweeping 3 times a year? A permittee has to sweep a high priority area 3 times a year, but a permittee is in compliance if it sweeps only 90% of the high priority area 3 times a year? Or the three times a year must, combined, equal 90% of the high priority area?	
Phase I Permit	Street Sweeping S5.C.10	“Street sweeper operators shall be trained to enhance operations for water quality benefit.”	Ecology should remove this requirement or provide specific guidance on what it means to be “trained to enhance operations for water quality benefit.” Ecology’s intended meaning of that statement is unknown.	
Phase I Permit Appendix 1	Section 1, pg. 2	Pavement maintenance exemption	Ecology should include as pavement maintenance projects aviation projects such as runway, taxiway/taxilanes, and aprons so they have the same exemption as pavement maintenance projects on roads.	
Phase I Permit Appendix 1	Section 2 Definitions		Ecology should include definitions for aviation projects that would include runways, taxiway/taxilanes and aprons.	<b>Runway</b> A defined surface on an airport suitable for the landing or takeoff of aircraft <b>Taxiway/Taxilane</b> A defined surface on an airport intended for the movement of aircraft from one part of an airport to another. <b>Apron</b>

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				An airfield surface dedicated to the parking, maintenance, or loading and unloading of aircraft.
Phase I Permit Appendix 1	Redevelopment Thresholds Description of Proposal by Ecology Pg. 2	“Currently, for road projects, all Minimum Requirements apply to the new and replaced hard surfaces if the project adds 5,000 square feet of new hard surfaces AND the new hard surfaces add 50% or more to the existing hard surfaces within the Site. We propose to update this threshold so that, for road projects, all Minimum Requirements apply to the new and replaced hard surfaces if the project adds 5,000 square feet of new <u>plus replaced hard surfaces</u> AND <u>the new plus replaced hard surfaces</u> total 50% or more of the existing hard surfaces on the Site (underline shows the new language).”	Road related projects and aviation projects such as runway, taxiway/taxilanes, and aprons should be treated the same. For all aspects, development, re-development and maintenance.	
Phase I Permit Appendix 1	Section 1, pg. 1	Pavement Maintenance Project revisions to exempt activities	<p>Why are these maintenance activities (pothole repair and square cut patching) exempt when they are performed independent of a pavement maintenance (resurfacing) project? In both situations, no new additional impervious surfaces are being added, only replaced within the existing pavement limits. There are projects where square cuts are made, and potholes repaired prior to a full width overlay of an existing pavement.</p> <p>There is no definition for what is considered pothole repair and square cut patching. Both maintenance tasks could (and often) involve removing and replacing asphalt or concrete pavement to the base course or lower. The repair of severe potholes (where the entire pavement structure has been damaged by a freeze/thaw cycle) would require repairing the pavement base since water intrusion has extended through the entire pavement structure.</p>	
Phase I Permit Appendix 1	Section 1, pg. 2	Underground Utility Projects	If the County understands Ecology’s proposed edits correctly, franchise utility relocations in advance of a County capital project would not meet the new criteria for exemption as they could be considered part of a larger (roadway) redevelopment project. Trench areas for existing franchise utilities that are required to move for a public road project would be considered replaced hard surfaces. This interpretation would present challenges with the project development processes where utilities are provided the final utility conflict determinations at the 90% design level per franchise agreements. That is too late in the project development process for the drainage	We suggest adding an exemption for franchise underground utility work that conflicts with a roadway project.

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			design to incorporate additional areas for complying with MRs 1-9. Additionally, the underground utility work replaces the ground surface with in-kind material.	
Phase I Permit Appendix 1	Section 2, pg. 5 Definitions	Modified definition of “land disturbing activity”	We recommend that Ecology specifically exclude the following activities from the definition of Land Disturbing Activity: (1) removal of sediment, soil, earth or similar materials from paved surfaces conducted as part of a maintenance activity, e.g. sweeping; and (2) movement of organic or inorganic material, including but not limited to earth, soil, dirt, rock, mulch, bark, or similar material, that is added to or removed from temporary stockpiles located on paved or gravel surfaces. Such clarification would be consistent with Ecology statements in the past, when Snohomish County raised these concerns. The existing definition can be interpreted to capture activities Ecology has stated it has no intention of regulating through this definition.	Any activity that results in <u>movement of earth or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography</u> . Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. <u>The following activities are excluded from the definition of Land Disturbing Activity:</u>  Vegetation maintenance practices, including landscape maintenance and gardening, <del>are not considered land disturbing activity.</del>  Stormwater facility maintenance <del>is not considered land disturbing activity</del> if conducted according to established standards and procedures.  <u>Removal of sediment, soil, earth or similar materials from paved surfaces conducted as part of a maintenance activity, e.g. sweeping.</u>  <u>Movement of organic or inorganic material, including but not limited to earth, soil, dirt, rock, mulch, bark, or similar material, that is added to or removed from temporary stockpiles located on paved or gravel surfaces.</u>
Phase I Permit Appendix 1	Section 4.9, pg. 45	“The party (or parties) responsible for maintenance and operation shall be identified in the operation and maintenance manual, as well as the long-term funding mechanism that will support proper O&M.”	This additional requirement adds no value and is also unenforceable. First, it adds no permit requirements. Second, Ecology cannot regulate the funding mechanisms used by a municipality to achieve the required outcomes of the permit, nor can Ecology make a permittee in turn regulate how a private property owner achieves those outcomes. And, even if the County wanted to do so, the County does not have the authority to dictate the funding source used by a member of the public to comply with County code.	Do not change the existing sentence.

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SWMMWW	Item 4: PCB Edits – Source Control BMPs	<p>S431 BMPs for Washing and Steam Cleaning Vehicles / Equipment / Building Structures contains the following additional proposed text:</p> <p>“Avoid pressure-washing materials that contain, or are likely to contain, PCBs such as galbestos roofing and siding. Also avoid washing paint, caulk and other joint materials on the exterior of industrial, commercial, government, and multi-story residential structures built or renovated between 1950 and 1980, which is the period in which PCBs were more commonly added to building materials.”</p>	<p>If this was to become a requirement rather than a recommendation, it would be hard to implement and enforce. As written, a municipality would have to determine (and be able to prove) the age of a privately-owned building or a renovation thereto to enforce this in code. Many ‘renovations’ such as re-siding may not require a permit and there would be no documented record of the age of the material. It would also be difficult to prove the alleged pressure washing (or simple washing) had in fact taken place.</p> <p>Also, the proposed revisions to BMP S424 BMPs for Roof / Building Drains at Manufacturing and Commercial Buildings includes this Applicable Structural Source Control BMP:</p> <ul style="list-style-type: none"> <li>• Paint/coat the galvanized surfaces as described in Suggested Practices to Reduce Zinc Concentrations in Industrial Stormwater Discharges (Ecology, 2008)</li> </ul> <p>Not washing the galvanized surfaces that are to be painted would make painting them less effective at encapsulating the PCB-containing material.</p>	<p>If these recommendations are to be retained, clarify that they are to be implemented only as part of the Public Outreach and Education section of the permit.</p>