

**Snohomish County Comments on Ecology’s Preliminary Draft 2024 MS4 Permit Requirements for Structural Stormwater Controls (Special Condition S5.C.7 and Appendix 12)
March, 2023**

	Document	Section, Page and/or Paragraph #	Ecology Proposed or Modified Language	Comment	Snohomish County Proposed Language, if any
1.	Draft Fact Sheet	Pg. 2	“The SSC Program includes a list of 11 eligible project types which can receive SSC Program Points, ...”	The proposed revisions to S5.C.7 and Appendix 12 list 12 project types, not 11.	
2.	Draft Fact Sheet	Pg. 5	“The Point Multiplier for sweeping is proposed to decrease from 0.25 to 0.1. This is to bring sweeping points more proportional with other project types.”	The last sentence would be more factual if it said “Ecology is changing the multiplier as a policy decision based on input from some members of the PAC.” As written, it implies that there is a technical basis for relatively decreasing the value of sweeping relative to other treatment methods, which contradicts Ecology’s <u>Structural Stormwater Controls Technical Advisory Committee Final Report</u> . See also Comment #18	
3.	Attachment A - Draft S5.C.7	S5.C.7.a.ii.(e), Pg. 7	“(e) Sweeping and line cleaning.”	We recommend either changing this to “sweeping and/or line cleaning” or creating two separate categories. As written the phrase suggests that both actions must be performed to get SSC points, which is not Ecology’s intention. Creating two separate categories would be most clear, but would require significant text revision. Writing “sweeping and/or line cleaning” adequately clarifies that the two actions are not conjoined.	(e) Sweeping and/or line cleaning”
4.	Attachment A - Draft S5.C.7	S5.C.7.d, pg. 8	“iii. A minimum 150 SSC Program Points for Project Types listed above at S5.C.7.a.i(a)-(d), and (f).”	Please make clear that the minimum of 150 points for project types (a) – (d) and (f) can be any combination of design- or complete-stage points.	“iii. A minimum 150 SSC Program Points for Project Types listed above at S5.C.7.a.i(a)-(d), and (f). <u>These points may be accrued by any combination of design-stage projects or complete/maintenance-stage projects.</u> ”
5.	Attachment A - Draft S5.C.7	S5.C.7.d, first paragraph, p. 8	d. No later than December 31, 2027, each permittee shall achieve 500 SSC Program Points, calculated per Appendix 12, as follows...	Permittees should have an entire 5-year period to accrue points for a 5-year permit cycle. We propose one of two options. Snohomish County’s preferred approach is to write the 2024 permit so that permittees can accrue SSC points during the entire permit cycle, and further that work done between January 1, 2023 and the end of the 2019 permit term should be eligible for SSC points. Alternatively, if Ecology wants the SSC program point 5-year accrual cycle to be out of phase with the 5-year permit cycle, Ecology should write the 2024 permit to allow permittees to count points accrued from January 1, 2023 to July 31, 2024, with corresponding language in subsequent permits.	Option 1 – Snohomish County preferred option - point accrual period in phase with permit cycle “No later than July 31, 2029, each permittee shall achieve 500 SSC Program Points, calculated per Appendix 12, as follows... Option 2 – point accrual period out of phase with permit cycle “No later than December 31, 2027, each permittee shall achieve 500 SSC Program Points, calculated per Appendix 12, as follows... NEW SECTION d.iv to be added to either option: “Points accrued by a permittee between January 1, 2023 and July 31, 2024

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				<p>Finally, we recommend that the total SSC points required for the 2024 permit remain at the 500 point value proposed by Ecology in this preliminary draft.</p> <p><u>Justification</u></p> <p>Special Condition S5.C.7 in both the 2019 Permit and draft 2024 Permit only allows point accrual during 41 months out of the 60-month permit cycle, or 68% of the permit cycle. Points cannot be accrued for projects done in the remaining 19 months (32%) of the permit cycle.</p> <p>This has two distinct problems. First, it imposes a severe constraint on capital projects, which for many reasons may encounter delays that prevent completion within the point accrual period. Second, and no less important, it creates an inherent disincentive to perform or complete <u>any</u> SSC work in the last 19 months of the permit cycle, and instead delay that work until the subsequent permit is issued. These outcomes negatively would affect the environment and the public, and the biggest effect would probably be on capital projects, which Ecology is intending to incentivize, not disincentivize.</p>	under the 2019 Phase 1 Permit may be applied to the point requirements of this permit.”
6.	Attachment A - Draft S5.C.7	S5.C.7.d.i-iii, and last paragraph, pg. 8	<p>“i. 300 design-stage SSC Program Points, and</p> <p>ii 200 complete or maintenance stage SSC Program Points.</p> <p>iii A minimum 150 SSC Program Points for Project Types listed above at S5.C.7.a.i.(a)-(d), and (f).</p> <p>A minimum of 200 SSC Program Points is required for complete or maintenance stage projects, additional SSC Program Points for complete or maintenance stage projects may substitute for design-stage SSC Program Points.”</p>	<p>First, we recommend revising the proposed text for general clarity.</p> <p>Second, this section should specifically state that the minimum 150 program points related to capital construction can be satisfied by design-stage, complete, or maintenance stage projects. This revision clarifies the intent to give Permittees maximum flexibility to meet this requirement.</p>	<p>“i. A minimum of 200 complete or maintenance-stage SSC Program Points.</p> <p>ii. 300 design-stage SSC Program Points, except that SSC Program Points for complete- or maintenance-stage projects may substitute for design-stage SSC Program Points.</p> <p>iii. Of the 500 SSC Program Points, at least 150 must be from project types S5.C.7.a.i.(a) – (d) or (f) in the complete- or maintenance-stage or design-stage categories.”</p>
7.	Attachment A - Draft S5.C.7	S5.C.7.d.i-iii, and last	Proposed new section S5.C.7.e	Ecology should add a new subsection S5.C.7.e stating that development or redevelopment projects that provide flow control or stormwater treatment beyond the requirements of Special Condition S5.C.5 can qualify for SSC points, to be	New S5.C.7.e: “Development or redevelopment projects that provide flow control or stormwater treatment beyond the requirements of Condition S5.C.5 can qualify for SSC points. The points shall be calculated on the basis of the additional area

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		paragraph, pg. 8		calculated on the basis of the additional area served by the stormwater facilities, and the scoring process set forth in Appendix 12. Ecology agreed to this position in a public meeting on the preliminary draft SSC requirements.	served by the stormwater facility/facilities and the scoring process set forth in Appendix 12.”
8.	Attachment B – Draft Appendix 12	Table 2, pg. 9	Category titled “Other point factor”	As currently written, this category is to be used for three separate things that affect project points: (1) use of an Ecology-approved plan, (2) a project related to an overburdened community, and (3) watershed collaboration. The points for use of plans and projects related to overburdened communities are derived from multipliers applied to other project attributes except watershed collaboration. The points for watershed collaboration are derived independently, and added to the net result derived from the other categories. We recommend revising Table 2 to have a separate column for each of these categories.	Replace “Other point factor” with “Use of Ecology-approved plan,” and add two other categories: “Project related to overburdened community,” and “Watershed collaboration.”
9.	Attachment B – Draft Appendix 12	Various pages	“How to Calculate Area and SSC Points for Watershed Planning” (Pg. 10) Vs. “How to Calculate Area and Points for Watershed Collaboration” (Pg. 12) Vs. “How to Calculate Area and SSC Points for Watershed Collaboration” (Pg. 22)	We recommend using the term “Watershed Collaboration” throughout.	
10	Attachment B – Draft Appendix 12	Pg. 10	“Ecology assigned each project type a number as described in Table 2 and this document. The project type numbers reflect the order in which they are listed in S5.C.7.a”	Since Ecology has included “watershed collaboration” as a separate project type #12, we recommend appending the sentence shown to the existing text to clarify that projects involving watershed collaboration would have two project type numbers entered in Table 2: a number from 1 to 11, plus 12 for collaboration.	“For projects involving watershed collaboration, permittees should enter both the project type number from 1 to 11, plus 12 to note watershed collaboration.”
11	Attachment B – Draft Appendix 12	Pg. 10	“If the project is implementing a watershed collaboration....”	We recommend revising this sentence as noted for clarity.	“If the project is implementing a <u>involves</u> watershed collaboration....”

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12	Attachment B – Draft Appendix 12	Pg. 12	“If your project implements an Ecology-approved plan (refer to Appendix 1, Section 7) or Watershed-Scale Stormwater Plan from the previous <i>Phase I Municipal Stormwater Permit cycles</i> , Special Condition S5.C.5.c, Stormwater Management Action Plan, a TMDL (refer to Appendix 2), or an Ecology-approved adaptive Management Plan (refer to S4F and Appendix 13), note the appropriate point factor here.”	We recommend revising the text as shown, both for general clarity and to include a more specific reference to the point multiplier set forth in the notes for Table 3.	“If your project implements: (1) an Ecology-approved plan (refer to Appendix 1, Section 7); (2) a watershed-scale stormwater plan from the 2013 Phase I Municipal Stormwater Permit; (3) a Stormwater Management Action Plan from the 2019 Phase I Municipal Stormwater Permit; (4) a TMDL (refer to Appendix 2); or (5) an Ecology-approved adaptive management plan (refer to S4.F or Appendix 13), enter the point multiplier listed in the notes for Table 3: SSC Program Point Multipliers.”
13	Attachment B – Draft Appendix 12	Pg. 12	“This reporting section should also be used to identify if a project is in an overburdened community. Note the point factor here.”	We recommend revising this section to allow SSC points for a project that directly benefits an overburdened community, as opposed to saying the project must “occur” in an overburdened community. Some projects that benefit an overburdened communities may not specifically be “located” in the community (if indeed the community can be geographically defined). One example would be a project that improves stormwater quality in a salmon-bearing stream which supports a Native Sovereign Nation’s treaty fishing rights in a geographic area in which few members of the NSN live. See also Comments 8 and 20.	“For SSC projects related to the MS4 which occur in or directly benefit an overburdened community, enter the multiplier indicated in the instructions for Table 3.”
14	Attachment B – Draft Appendix 12	Pg. 16-17, street sweeping	[Section on street sweeping]	We recommend adding the text shown as a new fourth bullet on page 17 to clarify that SSC points may be accrued by sweeping roads that do not have curbs. Snohomish County has many roads without curbs for which sweeping is an important stormwater pollution control method.	“SSC points may be accrued by sweeping roads that do not have curbs.”
15	Attachment B – Draft Appendix 12	p. 17	[section on watershed collaboration]	Snohomish County supports Ecology’s proposal to incentivize watershed collaboration for SSC projects. This is an important step that could increase both economic efficiency environmental benefits projects at the watershed scale.	
16	Attachment B – Draft Appendix 12	Pg. 17, Watershed collaboration	“A point factor can be applied if the project is implementing a local interlocal agreement for a watershed collaboration.”	We recommend revising this text as shown. The proposed collaboration section offers two independent sets of points: those accrued for the collaboration process, and those determined by acreage, specific project attributes, and	“In addition, additional points can be obtained if the project involves watershed collaboration. This is described in detail in Table 3 and the subsequent section titled How to Calculate Area and SSC Points for Watershed Collaboration.”

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				<p>corresponding multipliers. The proposed revision clarifies this distinction.</p> <p>See also Comment 8 on this topic.</p>	
17	Attachment B – Draft Appendix 12	Pg. 17, Watershed collaboration	“Permittees can gain SSC Project Points for planning and funding an eligible project type within a watershed that their MS4 contributes.”	We recommend revising this text as shown for clarity.	“Permittees can gain SSC Project Points for planning and funding an eligible project type within a watershed in which they own or operate an MS4, or to which their MS4 discharges.”
18	Attachment B – Draft Appendix 12	Page 18	“SSC Program Point Multiplier for sweeping = 0.1 * curb miles/acres swept.”	<p>Ecology should leave the SSC Program Point Multiplier for sweeping unchanged at 0.25 * curb miles/acres swept, and should not reduce it to 0.1 * curb miles/acres swept.</p> <p>Ecology’s stated intention in reducing this multiplier was to disincentivize sweeping as an SSC action relative to capital projects. Yet, Ecology has also proposed expanding S5.C.10 Operations & Maintenance to <u>require</u> sweeping in essentially the same areas that would be swept under the SSC Program, and further that the required sweeping under S5.C.10 must be completed before any SSC points can be accrued for additional sweeping.</p> <p>The proposal to reduce the value of sweeping in the SSC program contradicts the logic of the proposal to add sweeping to S5.C.10. We presume Ecology proposes to require sweeping under S5.C.10 for the first time because Ecology believes (correctly) that sweeping is an effective stormwater pollution control method. Yet, reducing the SSC Program Point Multiplier for sweeping from 0.25 to 0.1 indicates Ecology believes (incorrectly) that sweeping itself is <u>less</u> effective than previously believed.</p> <p>Ecology’s proposed imposition of a minimum number of points for capital projects, plus increasing the point multipliers for capital projects, achieves Ecology’s intent to incentivize those projects. Reducing the point multiplier for sweeping is unnecessary and is contrary to Ecology’s proposed adoption of a sweeping requirements in S5.C.10.</p>	“SSC Program Point Multiplier for sweeping = 0.25 * curb miles/acres swept.”

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19	Attachment B – Draft Appendix 12	Pg. 19	“Known water quality problem areas can include High Pollution Generating Areas are areas that drain to...”	Revise to fix typographical error.	“Known water quality problem areas can include High Pollution Generating Areas (HPGA). HPGA are areas that drain to ...”
20	Attachment B – Draft Appendix 12	Pg. 19	“Multiply SSC point total by 1.5 for completed capital projects related to the MS4 which occur in overburdened communities. Cite if this factor is used and for which community in the ‘Comments’ field of Table 1.”	<p>We have two recommendations for this section.</p> <p>First, we recommend not limiting the eligibility to “completed capital projects” but rather to all project types. Ecology has already given a significant incentive to all capital projects in the proposed revisions that manifests. Restricting SSC projects that could benefit overburdened communities to completed capital projects directly disincentivizes other types of projects that would benefit those communities. This is in clear opposition to the intent of Ecology and permittees, and the permit requirements themselves, to do <u>more</u> projects of any types that benefit overburdened communities,</p> <p>Second, we recommend revising this section to allow SSC points for a project that directly benefits an overburdened community, as opposed to saying the project must “occur” in an overburdened community. Some overburdened communities may not specifically be “located” at project that benefits the community. One example would be a project that improves stormwater quality in a salmon-bearing stream which supports a Native Sovereign Nation’s treaty fishing rights in a geographic area in which few members of the NSN live.</p> <p>Also, note that the correct reference is to Table 2.</p>	<p>“Multiply SSC point total by 1.5 for SSC projects related to the MS4 which occur in or directly benefit an overburdened community. If this factor used, state in the Comments field of Table 2:</p> <ul style="list-style-type: none"> • the overburdened community or communities that benefit from the project, • the specific benefit(s) for each community, • the basis for concluding that the community / communities receive the benefits(s).”
21	Attachment B – Draft Appendix 12	Page 22	[section on small project point calculation]	Snohomish County supports Ecology’s proposal to make small projects more cost-effective by simplifying the point calculation process.	No changes to Ecology’s proposed language
22	Attachment B – Draft Appendix 12	Pg. 22	“This procedure only applies to projects whose total basin area is less than 1.0 acres.”	Correct typo to “acre.”	
23	Attachment B – Draft Appendix 12	Pg. 22	<p>“Watershed collaboration projects receive points for the first two stages:</p> <ul style="list-style-type: none"> • 25 points for signed interlocal agreement to carry out SSC 	<p>We recommend revising this section as shown for general clarity and to indicate that:</p> <p>(1) permittees can obtain both types of watershed collaboration points (interlocal agreement points and funding commitment</p>	<p>“There are two types of points available for projects involving Watershed Collaboration:</p> <p>(1) points for entering into an interlocal agreement and/or resource commitment, awarded to each permittee independent of</p>

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			<p>project for each participating permittee</p> <ul style="list-style-type: none"> • 50 points for funding commitment for implementation for each participating Permittees <p>When watershed collaboration projects are implemented, each participant will receive points depending on the project type. The area used to calculate points is either:</p> <ol style="list-style-type: none"> 1. The percentage of the area treated in Permittee jurisdiction or 2. A specific percentage identified in intermunicipal agreement. <p>The additional watershed plan multiplier can apply to the appropriate area for each Permittee. The appropriate area is either the same as 1. or 2. above.”</p>	<p>points) for projects in design, completion, or maintenance stage;</p> <p>(2) both types of watershed collaboration points related to project types 1-4 and 6 can be applied to the required 150 points for those project types; and</p> <p>(3) permittees are eligible to receive 50 points for committing resources, not just money (funding). Both permittees should be eligible for these points in the case of one permittee supplying all the money for a project and the other permittee supplying all the labor and materials, paid for in part or fully with the money from the first permittee.</p>	<p>the project points determined in accordance with Table 2 and related instructions, and</p> <p>(2) project points determined in accordance with Table 2 and related instructions, and divided among participating permittees in accordance with the conditions below.</p> <p><u>Interlocal agreement / resource commitment points</u></p> <p>Each permittee that participates in a project involving Watershed Collaboration is eligible for:</p> <ul style="list-style-type: none"> • 25 points for entering into a signed interlocal agreement to carry out an SSC project type 1 - 11; and • 50 points for committing resources to the project. Resources may be in the form of money, labor, materials, equipment, designs, permitting, administrative support, or any commodity needed for the project. <p>Permittees can obtain interlocal agreement points and/or resource commitment points for projects in design, completion, or maintenance stage.</p> <p>Interlocal agreement points and resource commitment points related to project types 1-4 and 6 can be applied to the minimum 150 points for those project types required by Special Condition S5.C.7.d.iii.</p> <p><u>Project points calculated in accordance with Table 2</u></p> <p>Each permittee is eligible to receive project-specific points calculated in accordance with Table 2 (including all multipliers for factors listed in the notes for Table 3), and based on a percentage of the total area treated by the project. The percentage of area used by each permittee shall either be:</p> <ul style="list-style-type: none"> • The percentage of the area treated in the permittee’s jurisdiction, or • A percentage stated in the interlocal agreement for the project.”