

City of Tacoma

Please see the attached file "City of Tacoma S5.C.7_Preliminary language comments".

City of Tacoma
March 2023

Comments on Feb 23, 2023 Phase I Municipal Stormwater Permit Structural Stormwater Controls

Tacoma would like to thank Ecology for the opportunity to comment on this preliminary draft. Tacoma would also like to Ecology for the previous processes for research and discussion regarding this subject. Tacoma appreciates all of the opportunities to dialogue with Ecology as changes to the Permit and the Structural Stormwater Controls section in particular have been developed.

Tacoma is supportive of many of the changes that have been proposed in this preliminary draft. The following comments and concerns have been generated in response to the Feb 23, 2023 draft Phase I documents.

General Comments

1. Ecology staff often mention opportunistic prioritization for Phase I Permittees favorably in meetings and presentations. Several of Tacoma’s retrofit projects would not have been possible without opportunistic prioritization due to partnerships with other entities or availability of funding. Please include language that supports opportunistic prioritization in the discussion within the Fact Sheet and Permit language.
2. Page 6 (Overburdened Communities Section), please change the words “which are in overburdened communities” to “which benefit overburdened communities”. There may be times when a facility installed outside of an actual overburdened community boundary provides benefit to that community, for example a flow control facility installed upstream of an overburdened community that prevents stream flooding within the community. Similar language changes are requested on Page 12 (Other Point factor Section second paragraph), 13 (Comments Section second paragraph) and 19 (footnote 4).

Preliminary Draft “Fact Sheet”

3. Page 4 Incentivizing Structural Retrofit Projects Paragraph 1 states, “To incentivize those project types, we are proposing to double the multipliers in Table 3: SSC Program Point Multipliers for projects that achieve flow control, runoff treatment (including those in known problem areas), meet Water Quality Standards for a target pollutant, or provide LID performance.” Please clarify that this was a policy decision made by Ecology and that the June 2021, “Structural Stormwater Controls – Science Review and Synthesis Project” did not provide science-based reasons to support this change. Please document why Ecology made this policy decision.
4. Page 4 Incentivizing Structural Retrofit Projects Paragraph 2 states , “Along with this doubling of multipliers, we are proposing a minimum number of SSC Program Points for these Project Types: 150 points.” Please clarify if the 150 points are for design-stage points, complete or maintenance-stage points or a combination of the two and if a combination, is there a requirement for specific numbers of points for either of the stages. Please also note why Ecology has added this subcategory and if this was based on science or policy.
5. Page 4 Incentivizing Structural Retrofit Projects Paragraph 3.
 - a. Please define “arterials” and “high density developed land use”.
 - b. This paragraph defines the term “high pollutant generating areas (HPGA)”. A portion of the proposed definition states, “areas that drain to Superfund designated receiving water”. The

receiving water that an area drains to does not make a given area more polluting than another area. While permittees are interested in incentivizing projects in areas that discharge to impaired waters including Superfund designated receiving waters where the project would be expected to address the issue causing the designation; however, including areas that drain to Superfund designated receiving waters in the definition of “high pollutant generating areas” solely on the basis of the discharge location may not be an appropriate way to approach this issue. It may be more appropriate to include projects discharging to Superfund designated receiving waters in footnote 3 of Table 3. Language similar to “Projects discharging to Superfund designated receiving waters that are expected to address problems within the receiving water.” could be added to this footnote.

6. Page 5 – Sweeping: Tacoma does not support the proposed decrease in multiplier for sweeping. Please document that the decrease in the multipliers for sweeping is not based on science showing that sweeping is less protective than previously thought. Please document why the change was made.
7. Page 6 paragraph 1 states “...planned and implemented by more than one Permittee” and Page 17 Item (12) Watershed Collaboration, end of the first sentence states “implemented by more than one Permittee”. Some Permittees are adjacent to non-Permittees and watershed collaboration as described in this document could be beneficial to Permittee MS4 and downstream receiving waters. Could watershed collaboration of this type be accomplished by one Permittee and a non-Permittee where the Permittee could be credited to their portion as described in this document page 5 and 6. Possible non-Permittees could be Tribes, non-permitted municipalities, entities with large campuses, or large planned developments controlled by one entity.
8. Page 6 Watershed Collaboration states “Specific stages of project implementation must be completed: interlocal agreement, funding, and implementation.” Interlocal agreement has a specific legal meaning, and Ecology should not specify this particular type of agreement be used. Jurisdictions involved in watershed collaboration should be able to determine the most appropriate type of agreement to be used. Please remove the term “interlocal” and other descriptive words when referring to watershed collaboration agreements throughout the “Fact Sheet”, Permit Section and Appendix 12. This comment also applies to page 22 in the “How to Calculate Area and SSC Points for Watershed Collaboration” Section.
9. Page 6 under “Overburdened Communities” header it states , “we are proposing to double the SSC Point Factor Multiplier for completed capital projects which are in overburdened communities.” However, Table 3 footnote 4 page 19 indicates that the overburdened communities multiplier will now be 1.5. The previous multiplier was 1.1, doubling 1.1 does not equate with 1.5. Proposed to change “double” to “increase” in the quoted language. Please clarify and make consistent throughout the document.
10. Page 6 Tribal Communities – the Ecology Phase I Permit has a specific exclusion for Tribal Waters (Phase I Permit Section S.2.E). Permittees are concerned about water quality of all receiving waters, however, discharges to Tribal waters are governed by the EPA.

Attachment A: Proposed Phase I Permit Language: S5.C.7

11. Page 7 Proposed Section S5.C.7.a.ii.(e), Please separate sweeping and line cleaning into 2 separate subsections.

12. Page 8 Proposed Section S5.C.7.b.ii.(g) Ecology staff often mention opportunistic prioritization favorably in meetings and presentations, please include opportunistic prioritization in the discussion of the section and within the permit language.
13. Page 8 Proposed Section S5.C.7.d, add “Starting January 1, 2023, and” to the beginning of the subsection. This is consistent with statements by Ecology staff and Page 9 Appendix 12 Paragraph 2.
14. Page 8 Proposed Section S5.C.7.d.iii. Please clarify if these points are design-stage or maintenance and complete-stage or a combination.

Attachment B: Proposed Phase I Permit Appendix 12 Language

15. Page 9 Paragraph 2, the last sentence of this paragraph states, “Projects that were completed prior December 31, 2022 to July 1, 2019, may not be included.” This statement appears to imply that projects completed (design or maintenance/design) as of Jan 1, 2023 and going forward could be counted for the 2024 permit cycle. That implication was confirmed by Ecology permit staff. Please state the timeframe directly within Appendix 12 and the 2024 Permit language (S5.C.7.d). Suggested language, “Projects completed as of Jan 2023 and forward can be included in 2024 Permit reporting and point calculation.”
16. Page 10 Paragraph 2 “Status” please define “on-line facility construction”. This appears to be the only location that this term is used. Typical construction milestones language used by municipalities are “substantial completion” or “full completion.” “Completed capital projects” is used in other areas of this document and may also be an appropriate language choice.
17. Page 12 “Other Point Factor”
 - a. Based on the proposed language it is unclear where a permittee would enter the point factor for “Other Project Area” types. In the 2013 App 12 Table 1 the “Other Point Factor” column was used to enter the point factor for “Other Project Area” types and there was no column to enter additional factors for footnotes 3 and 4. In the App 12 proposed Table 1 column “Other Point Factor”, it appears that the additional factors for footnotes 3 and 4 should be entered into the “Other Point Factor”. It appears that an additional column is needed in Table 1 so that the “Other Point Factor” for “Other Point Area” types can be entered in one column and the point factor for footnotes 3 and 4 can be entered in another column.
 - b. In addition, please clarify if it is possible to receive additional point factors for both footnote 3 and 4 for a single project type if it meets criteria from both footnote 3 and 4. For example a project that addresses a TMDL concern in an overburdened area, can the SSC points be multiplied by (1.5 for TMDL and 1.5 for overburdened area = total multiplier of 3). Or are permittees required to choose either footnote 3 or 4.
18. Page 12 Total SSC Program Points Section – last sentence of the second paragraph, The end of the sentence states, “and Flow Control points based on the amount that does not overflow” It may be appropriate to rewrite the language to state “and Flow Control points based on the Flow Control (MR #7) Benefit Ratio and Equivalent Area Process.” This example is a bioretention facility. Should this state a bioretention facility that does not have a liner or underdrain? As written, this example could have an underdrain that discharges in a way that would not necessarily provide flow control even though flow would not enter the overflow.

19. Page 13 Comments section paragraph 2 states, “If your project is in an overburdened community, note the community here.” Please provide examples of what is meant by “community”. Please include in the “Fact Sheet” what Ecology will do with this information and how it will be helpful for Permit compliance or future Permit development. This comment also applies to Page 19 footnote 4.
20. Page 14 Project Types Section, Please separate item 11 into 2 items.
21. Page 15 (3) New LID BMPs Section, the first sentence states “These facilities are consistent with the lists of ...” should this sentence be revised to remove “consistent” and simply say “These facilities are on the lists of...”
22. Page 16 Item 11, Please separate street sweeping and line cleaning into separate items.
23. Page 17 Non-qualifying Projects, first bullet: The first bullet should be removed as it appears to add a limitation that is not in the S5.C.7 Permit language and it may exclude listed restoration and property acquisition project types. Language in S5.C.7 and App 12 should be consistent.
24. Page 18 Table 3, please add a narrative description and detailed sizing information, as applicable, for each Project Achievement Description used in the table.
25. Page 18 Table 3, Please add a footnote to clarify if the runoff treatment multipliers are additive, for instance a runoff treatment device in a known water quality problem area (4th row of Table 3) that achieves enhanced treatment (5th row of Table 3) for the entire contributing basin (6th row of Table 3). Would that device get an effective SSC Program Point Multiplier of $(3+3+5 = 11)$ or would a Permittee be required to choose one multiplier?
26. Page 18 Table 3 row 4, it appears that the footnote is not correct. There is no footnote 5, the correct footnote may be 1.
27. Page 18 Table 3 row 6, please clarify the definition of “meets WQ standards for target Pollutant”.
28. Page 18 row 9 in Table 3 – Items #6 and #11 please separate into three rows in the table.
29. Page 18 row 9 in Table 3 under SSC Program Point Multipliers column second item “0.1 times curb miles/acres swept” Please revise to “0.1 times curb miles or acres swept” this will avoid confusion as the “/” is also a symbol for “divided by”.
30. Page 19 Table 3 footnote 1 – please rewrite for clarity. Suggest placing the definition of “High Pollution Generating Areas” in a definition section or make this footnote into several sentences.
31. Page 19 Table 3 footnote 4 this footnote states, “Multiply SSC point total by 1.5 for completed capital projects...” in section Page 6 under “overburdened Communities” header it indicated that Ecology was proposing to “double” the multiplier for this category. Please make consistent throughout the document.
32. Page 19 Table 3 footnote 3 and 4
 - a. Define “completed capital projects”. Please relate this definition to the project types (for example, 1-4 and 6). Page 10 paragraph 2 uses the term “on-line facility construction projects” – please use consistent and defined language throughout the Permit documents.
 - b. Please clarify why Ecology is limiting these multipliers to “completed capital projects.” It seems that design, and other project types (such as #5, #7, #8, #9, #10) that comply with footnotes 3 and 4 are beneficial and should be similarly incentivized. It may be sufficient to replace the term “completed capital projects” with “project types” in footnotes 3 and 4.
33. Page 19 Table 3 footnote 4 indicates “...in the ‘Comments’ field of Table 1.” The correct Table reference may be Table 2.

34. Page 21 Appendix 12 and the Ecology Stormwater Project Deliverables Guidance Section 4 contain very similar methods to determine project benefits. In some cases, Appendix 12 seems to offer more helpful language and in some cases the SW Project Deliverable Guidance Section 4 offers more helpful language. Is it possible to utilize the same wording and method in both documents? This would ensure that both programs were utilizing the same exact methods and projects from the two programs could be directly compared and total benefits from the programs could be tabulated together.
35. Page 22 How to Calculate area and SSC Points for Watershed Collaboration Section Item the first bullet uses the term “interlocal” and item 2) uses the term “intermunicipal”. Interlocal agreement has a specific legal meaning, and Ecology should not specify this particular type of agreement be used. Jurisdictions involved in watershed collaboration should be able to determine the most appropriate type of agreement to be used. Please remove the term “interlocal” and other descriptive words when referring to watershed collaboration agreements throughout the “Fact Sheet”, Permit Section and Appendix 12. See similar comment for document Page 6.