

Appendix E: Response to Comments for the 2016
Modification to the

Phase I Municipal Stormwater Permit

National Pollutant Discharge Elimination System and State Waste Discharge General Permit
for discharges from Large and Medium Municipal Separate Storm Sewer Systems

Phase I Municipal Stormwater General Permit

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
OLYMPIA, WASHINGTON 98504-7600**

July 20, 2016

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Summary of Permit Development

Ecology issued a third cycle of Municipal Stormwater Permits on August 1, 2012 that became effective on August 1, 2013. The Phase I Municipal Stormwater Permit that went into effect on August 1, 2013 was first modified in 2015 to address resolutions of appeals under settlement agreements and as remanded by the Pollution Control Hearings Board (PCHB) in accordance with WAC 173-220-190(1). The first modification went into effect on January 16, 2015.

This response to comments addresses the second proposed modification to the Phase I Municipal Stormwater Permit that went into effect on August 1, 2013. The Washington Department of Ecology (Ecology) issues this Response to Comments (RTC) as Appendix E to the November 9, 2011 Fact Sheet that accompanied the October 20, 2011 formal drafts of the Phase I Municipal Stormwater Permit and the Western Washington Phase II Municipal Stormwater Permit, both effective August 1, 2013.

This RTC responds to comments that Ecology received on the modified draft permit that Ecology released for public comment from May 18, 2016 until Jun 30, 2016. Ecology held two hearings on the modified draft permit: one in Seattle on June 23, 2016 and one in Lacey on June 29, 2016. The hearings provided the opportunity for people to give formal oral testimony and comment on the modified draft permit.

A timeline of the history of the Municipal Stormwater General Permits and additional information is available on Ecology's website:

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/PermitsPermittees.html>.

Summary of Changes

Ecology made the following changes to the final permit (note the permit references below refer to the final permit unless noted otherwise):

Permit Revisions:

Appendix 10

- Ecology has added the specific permit citations of S5.C.5.a.i and S5.C.5.a.ii into the language at Part 2.
- The citations for several of the listed documents have been updated or corrected based on comments from those permittees.

Appendix 13

- Ecology has corrected typographic errors and outfall-related facts in Tables 1 and 2.
- Ecology adjusted references to the due date for submitting draft QAPPs.

Organization of the Response to Comments (RTC)

The table of contents lists the issues for which Ecology received comments and lists the section in which the summary of and response to comments for each group of issues is located. The page numbers are provided and issues in the table of contents are hyperlinked to the specific section in this document's electronic file.

In the next section is an index that lists the name of each commenter and page numbers where their comments can be found. Where appropriate, an acronym, shortened name, or representative organization is provided to identify the commenter in this document.

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Comments and Ecology's Response

1.0 General Comments

1.1 EPA's Comments on Process

Commenters: EPA

Summary of Comments:

- EPA also applauds the formal public process employed by Department of Ecology to ensure adequate opportunity for public comment and hearing on the proposed NPDES modification to add revised text to Appendix 10 and the new Appendix 13 into the Phase I Municipal Stormwater Permit. As you know, in January 2016 EPA proposed to clarify such procedural public notice and comment requirements for all state NPDES permitting authorities that issue MS4 General Permits. (See: <https://www.epa.gov/npdes/npdes-stormwater-proposed-ms4-general-permit-remand-rule>). The Department of Ecology's process for this modification is an example for other state NPDES permitting authorities

of how to provide comprehensive opportunity for public engagement on the watershed-specific details associated with urban stormwater management.

Response:

- Ecology appreciates the support for the formal public process associated with this permit modification.

2.0 Appendix 10

2.1 Clark County

Commenters: Clark County

Summary of Comments:

- In part 2: E.3., Clark County requests that the permit simply reference the Clark County Stormwater Manual as effective January 8, 2016 and omit language referring to Ecology's October 15, 2016 letter. We request the language removal because the issues listed in the October 15 letter were addressed in the manual adopted on November 24, 2015, removing them as issues after manual adoption. Regarding the effective date, the code and manual became effective at midnight January 7, 2016, making the manual apply to development applications submitted after January 7.
- In Part 2: E.3.3.a., The entire section discussing the Clark County-specific calibration of the WWHM is not needed because the Clark County Stormwater Manual does not reference any local model, only the approved continuous flow model which includes the Ecology-maintained WWHM as modified in 2015 to include the Clark County-specific calibrated model parameters.

Response:

- The date and clarifying language suggested in the comment are accepted.
- The draft language was intended to make clear which version of the Clark County-specific calibration of WWHM was approved and to provide transparency in Ecology's review and approval process. As such, no change will be made.

2.2 Puget Soundkeeper

Commenters: Puget Soundkeeper

Summary of Comments:

- We are concerned by the lack of specificity in the proposed modifications to Appendix 10 of the Phase I Municipal Stormwater Permit. The proposed Part 2 lists each Phase I jurisdiction and states that the jurisdiction "is meeting relevant permit requirements." The proposed language is unnecessarily vague and should instead state that each jurisdiction "is meeting the requirements of Special Conditions S5.C.5.a.i and S5.C.5.a.ii."

- Precise language is necessary to ensure compliance with discharge permits and to protect water quality. Many permittees misunderstand the differences between their obligations under S5.C.5.a and S5.C.5.b of the Phase I permit. To avoid further misunderstandings, Appendix 10 should specify that the programs the municipalities have adopted are equivalent to Ecology's 2012 Stormwater Management Manual for Western Washington and satisfy only their obligations under S5.C.5.a.i and S5.C.5.a.ii. Soundkeeper urges Ecology to revise the proposed language in Appendix 10 to improve compliance with permit obligations and to protect water quality.

Response:

- Ecology has added the specific permit citations of S5.C.5.a.i and S5.C.5.a.ii into the language at Part 2. This change is to clarify that the review and determination of equivalency did not include a review of local code changes associated with permit requirement S5.C.5.b. Ecology's review did include review of additional components that support the stormwater program, such as BMP maintenance standards.

2.3 City of Tacoma

Commenters: Tacoma

Summary of Comments:

- Under Section C. City of Tacoma revise the effective date from November 24, 2105 to November 25, 2015. (Page 4)
- Under Section C. City of Tacoma revise "Tacoma Stormwater Manual" to City of Tacoma Stormwater Management Manual 2016 Edition" (Page 4)

Response:

- The date is corrected.
- Revised from "Tacoma Stormwater Manual" to "City of Tacoma Stormwater Management Manual 2016 Edition."

2.4 King County and City of Kirkland

Commenters: King County; Kirkland

Note: *The City of Kirkland's comments were submitted after the close of the public comment period.*

Summary of Comments:

- We have reviewed Appendix 10, which contains the permit modifications listing the stormwater programs that Phase I municipalities have adopted to provide equal or similar protection of receiving waters and pollutant control as compared to Appendix 1 of the permit. We have found this list to be complete and accurate and have no further comments.

- The City of Kirkland is comfortable with Appendix 10, as revised to incorporate Phase I programs deemed equivalent with Appendix 1 of the Municipal Stormwater Permit (effective January 15, 2015). No additional comments.

Response:

- Comments noted.

2.5 Snohomish County

Commenters: Snohomish County

Summary of Comments:

- Ecology states that the 2014 HRM meets “the BMP selection, design, infeasibility criteria and limitations for public road projects” equivalent to the Ecology Stormwater Manuals. This phrasing is different than that used in Appendix 10, Part 1, Section F, which notes that the 2011 HRM met “minimum design requirements and best management practices for public road projects....” That suggests that there is a different meaning intended for those two phrases but then Ecology uses the Appendix 10, Part 1, Section F phrasing in the Appendix D: Fact Sheet for the 2016 Modification (May 18, 2016) to describe the 2014 HRM equivalency determination. That suggests that the two phrases have the same meaning to Ecology. See Appendix D: Fact Sheet at 11 (“Ecology has determined the HRM to be equivalent to both of Ecology’s Western and Eastern Stormwater Management Manuals for minimum design requirements and best management practices for public projects”). This leads to unnecessary confusion. Snohomish County discussed the issue of HRM equivalency with Ecology during the equivalent code review process and the phrasing “minimum design requirements and best management practices for public road projects” was agreed upon and inserted in Snohomish County’s Engineering Design and Development Standards (EDDS), which Ecology approves as equivalent. Snohomish County recommends the use of this phrasing, consistent with past practice and discussions with the County, to avoid confusion.
 - Revise as follows: “The Department of Ecology completed its review of the *2014 Washington State Department of Transportation Highway Runoff Manual* (The 2014 HRM) and found that it meets the minimum design requirements and best management practices for public road projects equivalent to Ecology’s *2012 Stormwater Management Manual for Western Washington as Amended in December 2014* and *2004 Stormwater Management Manual for Eastern Washington*.”
- The use of the word “primarily” creates ambiguity. It is not clear whether that means that there are other sections of the 2014 HRM outside of Chapters 5 or 6 that may also be utilized or that there are some portions of Chapters 5 or 6 that may not be utilized. There are elements of other chapters, such as Appendix 4D, that have been utilized in the past

without issue. Further, Chapter 6 of the 2014 HRM has been largely, although not completely, removed and relocated to the Temporary Erosion and Sediment Control Manual (TESCM). It is unclear whether the TESCM is incorporated by reference into the 2014 HRM and thus included in the equivalency determination for the 2014 HRM in Part 2, Section F of Appendix 10.

Snohomish County recommends deletion of these sentences in their entirety for clarity, consistent with the approach in Appendix 10, Part 1, Section F, and further recommends that Ecology clarify that the equivalency determination includes use of the TESCM.

Revise as follows:

- “This equivalency determination includes use of the Temporary Erosion and Sediment Control Manual (TESCM), which was Chapter 6 of the 2014 HRM but became its own manual as described in Chapter 6 of the 2014 HRM.”
- Snohomish County Ordinance Nos. 15-102 and 15-103 did not adopt chapters 30.63A and 30.63B of the Snohomish County Code, they amended them. It is more accurate to state, as noted in the County’s proposed language, that those ordinances amended those chapters.

Revise as follows:

- “1. Snohomish County Code Chapter 30.63A as amended by Ordinance No. 15-102 on January 11, 2016
- 2. Snohomish County Code Chapter 30.63B as amended by Ordinance No. 15-103 on January 11, 2016”

Response:

- Ecology clarified the language to limit the use of the HRM by municipalities for design requirements and BMPs for public road projects. The purpose is to emphasize, as Snohomish County did, that the Minimum Requirements from Appendix 1 of the Permit is not superseded by the HRM. In an attempt to clarify this language, Ecology removed “minimum” from the County’s proposed wording.
- Ecology removed the references to Chapters 5 and 6 of the HRM. Ecology agrees that including this information within the language of the permit is confusing.
- Ecology modified the language referencing the amendment to Snohomish County code.

3.0 Appendix 13

3.1 Support for Appendix 13

Commenters: EPA; Futurewise; James Rasmussen; King County; Kirkland; Seattle; Snohomish County; Tacoma

Summary of Comments:

- Seattle appreciates Ecology's efforts include Appendix 13 in this permit modification. Seattle has a long history of collaboration with Ecology on pollution source control for the Lower Duwamish Waterway. Seattle sees Appendix 13 as the next step in the ongoing effort to reduce pollution and protect of the cleanup of the Lower Duwamish Waterway Superfund Site.
- The Environmental Protection Agency Region 10 strongly supports the inclusion of Appendix 13 in the Phase 1 Municipal Stormwater Permit. These additional requirements are specific to the City of Seattle's municipal stormwater discharges into the Lower Duwamish Waterway (LDW), and demonstrate Department of Ecology's continued efforts to work across regulatory programs to achieve greater environmental outcomes that benefit the long-term success of the LDW Superfund Cleanup. This NPDES permit modification provides a relevant example of how the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) program and the national Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Superfund program can collaborate to achieve shared environmental goals, fulfilling the intention of EPA's February 12, 2015, Memorandum entitled "Promoting Water, Superfund and Enforcement Collaboration on Contaminated Sediments." (See: <https://semspub.epa.gov/work/01/568735.pdf>)
- The addition of Appendix 13 into the Phase I Municipal Stormwater Permit incorporates enforceable NPDES permit requirements to control contaminants of concern from discharging through the municipal separate storm sewer system (MS4), and implements specific aspects of the City's Source Control Implementation Plan. Incorporating these adaptive management response actions into the Phase I Municipal Stormwater Permit will help to eliminate sources of sediment pollution in the LDW. Collectively, these actions support the pending LDW Superfund Cleanup by significantly reducing the potential for sediment recontamination.
- Under Section S4.F.3.c., City of Tacoma supports the inclusion of Appendix 13 as a reasonable mechanism for compliance with permit conditions S4.A and S4.B.
- Snohomish County commends Ecology for the approach taken with Appendix 13, which revises source control program conditions for the City of Seattle related to the Lower Duwamish Waterway. This is the first time Ecology has made a programmatic revision of permit conditions pursuant to NPDES Permit Special Condition S4.G. While Appendix 13 does not apply to Snohomish County, the County has an interest in how Ecology uses an administrative process to modify permit conditions at a programmatic

level. The permit revisions and the process that led up to them exemplify what is envisioned in the adaptive management / permit revision process set forth in Special Condition S4.

- King County has no comments on Appendix 13 or on the change found in Section S4.F.3.c.
- Source Control on the Duwamish Superfund Site is and will be the most important determining factor in the long term success of the clean-up. Any half measures will leave a legacy of uncompleted work that the communities around the river have all been burdened with for generations. Where will the leadership come from, if not from the agencies who oversee the source control process? Beyond the Duwamish, the legacy of this will affect any hope of a cleaner Puget Sound.
- It is really terrific that this is happening because this is such a significant step forward for Source Control for the Duwamish. The City of Seattle has very much stepped up to the plate to do very good quality work on Source Control. We wish that this had happened a long time ago, that this modification had happened a long time ago. It is really great that street sweeping is included in the language. Street sweeping is really important.
- Generally the City of Kirkland is comfortable with development and use of Appendix 13 to incorporate requirements established through S4.F.3 “in response to a significant long-term adaptive management effort.” We assume that a similar approach would be taken for adaptive management efforts undertaken in Phase II communities.

Response:

- Ecology appreciates the support for Appendix 13 and the Lower Duwamish Waterway source control requirements for the City of Seattle.

3.2 Futurewise

Commenters: Futurewise

Summary of Comments:

- It would be great if additional items were in the appendix. And hopefully, as pointed out, this is the first step as we get to the next permit cycle, which is actually relatively soon; those enhancements could be included then. I recognize right now that you probably won't put these in given the timeframe and the fact that work is already underway.
- The first thing is a concern about dioxin. Dioxin is a really, really big issue in the Puget Sound and in Seattle. There have been studies that have shown that there is dioxin in a variety of places in Seattle, of course including the Duwamish. It would be really great if the City of Seattle and Ecology could step up stronger on addressing the dioxin that is in soils and is around in the sources. I know that dioxin is very expensive to sample so it wouldn't need to be like comprehensive sampling. But the fact the dioxin was left off the list is troubling for contaminants of concern at this point. Both because we have that in

the Superfund site and because we have a human health concern for the children and pets and humans who are in all the neighborhoods who are being impacted by this.

- Second is that we do feel like there probably needs to be a little bit more quantification of the actual benefits of street sweeping. There is conflicting evidence even from Seattle's own studies on the effectiveness of the street sweeping if you don't have ticketing for cars that are parked. I do think there should be a more comprehensive assessment of the need for actually ticketing; maybe it's only on certain streets, if you are street sweeping and you are actually leaving hunks of materials still in the street because of the cars, which is what one of the earlier studies show, then I think that is really a problem. Why spend all of the money to do street sweeping if you aren't really actually getting the job done?
- Lastly, the language talks about surface roadway improvements / enhancements but what it doesn't say, and what I really think is important would be to actually look at the chemicals and materials actually used in the roadways itself. The paints that are used to mark the roads, the concrete, etc. What we have at this point is somewhat anecdotal and I think we need actual data to say that there are phthalates and other chemicals of concerns, probably PCBs, etc. in the actual materials used to create the roadways in Seattle and Puget Sound. I think that there should have been and should be in the future a requirement to do some testing of those materials to make sure were not just compounding the problem by building and improving our roadways but not actually addressing some the chemicals of concern in those materials themselves.

Response:

- Ecology will ensure that the Quality Assurance Project Plans required by Appendix 13 will include some analyses for dioxin.
- The effectiveness of street sweeping has been studied and continues to be evaluated.
 - The City of Seattle, under Special Condition S8.C.3.b of the 2013-2018 Phase I Permit, is conducting a monitoring study to evaluate the effectiveness of street sweeping at reducing pollution in urban stormwater runoff. Monitoring for this study began in October 2014 and is expected to be completed by September 2016. The City of Seattle provided interim results and status reports for 2014 and 2015 with their annual reports for those years. Conclusions will be available in the final report in March 2017.
 - In 2009, the City of Seattle performed a pilot study ("Seattle Street Sweeping Pilot Study Monitoring Report", April 22, 2009) evaluating, among other factors, parking compliance on sweeping routes with various levels of parking enforcement (i.e., with outreach, signs, ticketing, and towing). Seattle compared the results of the 2009 study with current levels of pollutant removal with no parking enforcement. They found that the difference between pounds per curb mile of pollutants removed with and without enforcement was not substantial

enough to warrant curb-to-curb parking enforcement and the associated impacts of such parking enforcement. Seattle evaluated the social and economic status of residents along sweeping routes. With guidance from representatives of Seattle Public Utilities' Environmental Justice and Service Equity Division, they found that parking enforcement for curb-to-curb street sweeping is a significant equity issue, having a greater negative impact on elderly and disabled residents and poorer neighborhoods which tend to have less off-street parking.

- Seattle continues to monitor performance of their street sweeping program (i.e., pick-up rates, efficiency and customer feedback). Preliminary data indicates that for the current routes swept, the pickup rate (pounds per broom-mile) is influenced by sweeping velocity, season (wet or dry), and shift (day or night) more than the parking density of cars. When needed to improve effectiveness, Seattle will implement a curb access program.
- Ecology appreciates the concerns expressed regarding chemicals in materials used for municipal transportation infrastructure. Ecology has funded and conducted, and is continuing to conduct, consumer product testing for the presence of toxic chemicals. Refer to the product testing database <https://fortress.wa.gov/ecy/ptdbpublicreporting/> for products tested and associated results. As additional products are tested and substitute products are identified, Ecology expects that local and state purchasing policies and rules will adjust accordingly. For further information, refer to <http://www.ecy.wa.gov/toxics/testing.html>.

3.3 City of Kirkland

Commenters: Kirkland

Note: *These comments were submitted after the close of the public comment period.*

Summary of Comments:

- Significant Long-Term Adaptive Management. City of Kirkland notes that not all S4.F.3 plans are included in Appendix 13 and would appreciate clarification on what constitutes a “significant long-term adaptive management effort” in the context of S4.F.3 adaptive management response planning.
- Please clarify in the permit or formal guidance how S4.F.3 plans are evaluated and selected for inclusion in Appendix 13.
- Geographic Scope of Adaptive Management Response: City of Kirkland is less comfortable with the expanded geographic scope included in the selected S4.F.3 adaptive management effort. Permit language at S4.F.1 states clearly that initial notification is based on “site-specific” (emphasis added) information that links a discharge from the Permittee’s MS4 to a violation of water quality standards in the receiving water. We are unfamiliar with the specific adaptive management response prepared for the Lower Duwamish Waterway and therefore cannot confirm whether the additional geographic

areas included in Appendix 13 correspond with site-specific information that connects the water quality standards violation to the MS4.

- Please clarify in the permit or in formal guidance under what circumstances and based on what information the geographic scope of an adaptive management response covered in Appendix 13 will be expanded. Please clarify if Ecology has the authority to expand the geographic scope of an S4.F.3 adaptive management response unilaterally.
- Pollutants addressed through an S4.F.3 Adaptive Management Response: City of Kirkland is uncomfortable with the inclusion of additional pollutants in an adaptive management response described in Appendix 13. We encourage Ecology to restrict Appendix 13 to those pollutants that are known to cause or contribute to Water Quality Standards violations in receiving waters. We note, for example, that Ecology requires development of an adaptive management response only when the agency determines that a discharge from a Permittee-owned or operated MS4 “is causing or contributing to a violation of Water Quality Standards in a receiving water.” (emphasis added) Furthermore, S4.F.3 requires that the Adaptive Management Response report include a description of actions (operational and/or structural BMPs) that are being implemented and may/will be implemented to “prevent or reduce any pollutants that are causing or contributing to the violation of Water Quality Standards” (emphasis added). According to the accompanying fact sheet (page 12 of 21), however, the proposed Appendix 13 includes additional pollutants that could cause or contribute to a violation of Water Quality Standards.
- If Ecology proposes to expand the list of pollutants included in an Appendix 13 adaptive management response, please clarify in the permit or in formal guidance under what circumstances Appendix 13 can be expanded to address pollutants that could be (but are not known to be) contributing to water quality standards violations.

Response:

- The recent turnover in key Ecology personnel has left us shorthanded we will work to develop additional guidance regarding adaptive management responses in the future.
- Ecology considers the City of Seattle’s Lower Duwamish Waterway adaptive management response plan significant because it supports Superfund-related source control actions in areas affected by environmental justice issues, and involves multiple outfalls, multiple parameters, and long-term programmatic-level implementation and associated adaptive management.
- Ecology summarizes its rationale for triggering an adaptive management response on page 15 of *Appendix D: Fact Sheet for the 2016 Modification to the Phase I Municipal Stormwater Permit*. The “substantial amount of stormwater system data” is both site-specific and credible. The specific adaptive management response Seattle prepared for the Lower Duwamish Waterway is referenced in Appendix 13, “Seattle’s Source Control Plan for the Lower Duwamish Waterway (2015-2020).” Refer to Appendix B and

Appendix C of Seattle’s document for a summary of the credible and site-specific data from Seattle’s MS4.

- The Lower Duwamish Waterway (LDW) is known to be impaired, or not meet applicable Water Quality Standards, for numerous pollutants. The LDW is a highly dynamic estuarine system. The sediment Superfund cleanup is for the entire 5 mile length of the LDW. The phrase from page 12 of the Fact Sheet is intended to address those situations where existing receiving water body data does not show a particular impairment in close proximity to an MS4 outfall, however the MS4 does have data showing the presence of the parameter and the stormwater management actions address that parameter.

3.4 City of Seattle

Commenters: Seattle

Summary of Comments:

- The added text expresses that only within the scope identified in Appendix 13, (1) the affected permittee’s past notification and reporting comply with S4.F, and future additional S4.F notification for different discharge locations and parameter combinations is not required, and (2) the affected permittee’s compliance with Appendix 13 shall constitute compliance with S4.F. See Fact Sheet at 15 of 21.
 - “APPENDIX 13 – Adaptive Management Requirements
Additional permit requirements in this appendix reflect approved adaptive management response plans in accordance with Special Condition S4.F.3. Affected permittees have fully satisfied S4.F.1-S4.F.3.b for the waterbodies, applicable areas and parameters identified. Affected Permittees shall comply with the specific requirements identified.
- Seattle seeks clarification that the date in the 2nd paragraph on page 2 indicates when the revised QAPP must be submitted. Seattle suggests the following change:
 - “... To reflect changes and additions in the sampling plan, the Permittee, no later than June 30, 2017, shall submit a revised draft QAPP to Ecology for review and approval ~~no later than June 30, 2017~~. If Ecology does not request changes within 90 days, the draft QAPP is considered approved. ...”
- On page 2 correct the typo “Practicies” should be “Practices.”
- Seattle seeks clarification that the date in the 2nd paragraph on page 2 indicates when the revised QAPP must be submitted. Seattle suggests the following change:
 - “... results of ongoing pilot testing, the Permittee, no later than June 30, 2017, shall submit a revised draft QAPP to Ecology for review and approval ~~no later than June 30, 2017~~. If Ecology does not request changes within 90 days, the draft QAPP is considered approved. ...”
- On page 3, please reword to clarify program direction.
 - “2. The Permittee shall develop an operations and maintenance program for MS4 infrastructure, including municipal streets, to ~~ensure~~ direct that future MS4

infrastructure operations, maintenance, and capital projects address Duwamish source control needs. ...”

- On page 3, please reword for clarity.
 - “3. The Permittee shall identify and conduct priority capital projects to improve roadway surfaces in the MS4 drainage basins subject to this requirement in order to ~~minimize~~ reduce pollutants in roadway runoff and/or improve the effectiveness of operational BMPs. ...”
- Seattle Requests that the delivery date of the South Park Water Quality Stormwater Treatment Facility report on protocols and results of the treatment technology pilot testing be changed from December 31, 2017 to March 31, 2018. The reason for the change in date is so that the pilot testing report for the South Park Water Quality Treatment Facility will be in alignment with the NPDES Phase I Municipal Permit Annual Report.
- Seattle requests that Ecology clarify the requirement to annually assess priorities for the following year. Seattle understands that once per permit term (rather than annually), Seattle will use analytical results from source tracing sampling and effectiveness monitoring to inform changes in priority for source control actions and program activities contained in Seattle’s adaptive management response. Annually, Seattle will informally review and assess, and if Seattle changes prioritization of program activities or target locations based upon best professional judgment or other factors, Seattle will report this information in the annual report required under S4.F.3.d. Any changes in priority will be informed by Seattle’s experience with source tracing sampling and effectiveness monitoring.
 - “**Annual Prioritization:** In addition to the annual reporting required under S4.F.3.d, the Permittee shall provide, with each annual report, ~~an assessment of~~ any updated priorities (planned actions and target locations) for the following year. The annual update shall be informed by informal review and assessment by the Permittee ~~will~~ based on best professional judgment and other factors to affirm previous priorities or identify and justify changed priorities. Analytical results from source tracing sampling and effectiveness monitoring will be presented to inform the annual prioritization of program activities across the area subject to this adaptive management response.”
- On page 5, the Separated Stormwater Drainage Basin Area (acres) listed for SW Kenny St should be 154 acres rather than the 100 acres that is listed in Table 1.
- Footnote “e” should read: Outfall ownership transferred to Seattle Iron and Metals in 2012.
- The Separated Stormwater Drainage Basin Area (acres) listed for 1st Ave S (west) should be 603 acres rather than the 541 acres that is listed in Table 2.

- The Fact Sheet, page 15, for accuracy, please note the City of Seattle’s additional S4.F correspondence to Ecology, at the end of the first paragraph:
 - “... Ecology required Seattle to develop an adaptive management response plan to address all Seattle MS4 discharges and all LDW sediment contaminants of concern (COCs). In response, Seattle submitted a supplemental letter to Ecology in July 2014 to clarify general notification under S4.F and confirm the path forward for Permit compliance, which Ecology considered.”

Response:

- Ecology does not agree that the Appendix 13 preamble should restate language already expressed in the body of the permit. Refer to Special Condition S4.F.3.f for existing language about the status of compliance when implementing an approved adaptive management response.
- Ecology adjusted references to the due date for submitting draft QAPPs.
- Ecology has corrected typographic errors and outfall-related facts in Tables 1 and 2. Note that footnote “e” was not in error.
- Ecology did not accept the proposed change regarding the use of “ensure” versus “direct that” to remain consistent with permit language. Ecology did accept the proposed change to use “reduce pollutants” rather than “minimize pollutants.”
- Ecology does not agree to adjust the due date for the pilot testing report for the South Park Water Quality Facility and prefers to have this information submitted by the end of 2017 instead of waiting until annual reports are due in March 2018. The pilot testing report is expected to cover all work performed to test treatment technologies considered for this project, not just work performed during calendar year 2017.
- The annual prioritization update is not intended to be the same thorough quantitative evaluation used for the initial establishment of priorities over a 5-year period. Instead the annual prioritization update is a limited quantitative and qualitative assessment based on the calendar year’s data and activities. Ecology revised the Appendix 13 language slightly to emphasize that it is the annual prioritization update as a whole (not a particular assessment) that must affirm or adjust priorities for the coming year.
- Ecology acknowledges the additional letter from Seattle to Ecology dated July 2014. Ecology does not change fact sheets; this RTC is part of the record.

3.5 City of Tacoma

Commenters: Tacoma

Summary of Comments:

- Revise the wording in the table from MS4 Permittee to Affected Permittee since this terminology is used in the introductory statement of this Appendix.
- Include in the Preamble the following sentence. “With the approved adapted management plans, Affected Permittees remain in compliance with permit conditions S4.A and S4.B prohibiting discharges that violate water quality standards.” The addition

of this language will make it clear that the use of the adapted management plan meets permit conditions.

Response:

- Ecology did not accept the proposed change to remain consistent with permit language, see Appendix 2. The MS4 Permittee is clearly the affected permittee.
- Ecology does not agree that the Appendix 13 preamble should restate language already expressed in the body of the permit. Refer to Special Condition S4.F.3.f for existing language about the status of compliance when implementing an approved adaptive management response.