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DEPARTMENT OF ECOLOGY
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POLLUTION CONTROL HEARINGS BOARD

FOR THE STATE OF WASHINGTON

PUGET SOUNDKEEPER ALLIANCE, Appellant, v. DEPARTMENT OF ECOLOGY, Respondents.	PCHB NO. NOTICE OF APPEAL Phase II Municipal Stormwater Permit

Appeals Processing Desk
Cc: ☐ Rev/ Rec - Cost Recovery
☒ B. Maiden K. Slavish V. McGowan J. Killelea J. Maroncelli WQ/HQ
Orig: ☐ ATG Docket Clerk
☐ H. Bartlett WQ/HQ
Initial: LB 8/2

1. Identity of Appealing Parties and Representatives

The appealing party is:

Puget Soundkeeper Alliance
130 Nickerson St #107
Seattle, WA 98109
(206) 297-7002

The representatives of the appealing party are:

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2. Identification of Other Parties

The respondent in this appeal is the Washington State Department of Ecology.

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3. Decision Under Appeal

This is an appeal of the Western Washington Phase II Municipal Stormwater Permit, a National Pollutant Discharge Elimination Systems and State Waste Discharge Permit, issued on July 1, 2019. A copy of the permit is attached.

4. Short and Plain Statement Showing Grounds for Appeal

The Western Washington Phase II Municipal Stormwater Permit ("2019 Phase II Permit") is contrary to law because it is inconsistent with the requirements and intent of the federal Clean Water Act and its governing regulations promulgated by the U.S. Environmental Protection Agency and the Washington State Water Pollution Control Act and its governing regulations promulgated by the Washington State Department of Ecology ("Ecology").

5. Statement of Facts and Preliminary Identification of Issues

As recognized by Ecology, stormwater runoff is "a leading pollution threat to lakes, rivers, streams and marine water bodies in urbanized areas of Washington State." [1] Monitoring of streams and storm outfalls "have shown elevated concentrations of metals, nutrients, pesticides and organic compounds in relation to urban development."[2]

Specifically, based on stormwater monitoring in Western Washington from 2009 to 2013, Ecology found that "[a]cross all land uses, copper, zinc, and lead were found more often than not to exceed (not meet) water quality criteria" and "[m]ercury and total PCBs exceeded criteria in 17% and 41% of the samples, respectively." [3]

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[1] Dep't of Ecology, Fact Sheet For the Phase I, Western Washington Phase II, and Eastern Washington Phase II Municipal Stormwater Permits at 13 (Aug. 15, 2018) (Factsheet).

[2] Id.

[3] Dep't of Ecology, Western Washington NPDES Phase 1 Stormwater Permit: Final S8.D Data Characterization 2009-2013 at 7 (Feb. 2015). The monitoring was conducted pursuant to previous stormwater permit conditions.

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Perhaps most disturbingly, stormwater has been linked to die offs of coho salmon in which mortality rates for adult females range as high as 60 to 100%.[4] The phenomenon, sometimes referred to as "Urban Runoff Mortality Syndrome," is "widespread throughout urban streams in Puget Sound."[5]

Beyond the direct addition of pollutants, stormwater is also the source of hydrologic impacts, including "scoured streambed channels, excessive sediment transport, loss of habitat, and increased flooding."[6]

Under the Clean Water Act, stormwater general permits are issued every 5 years. Permittees are divided into two classes: Phase I and Phase II. Phase I permittees include discharges from large and medium municipal separate storm sewer systems (MS4s). For Washington, Phase I includes King, Pierce, Snohomish, and Clark Counties, along with the cities of Seattle and Tacoma. Phase II includes MS4s from smaller jurisdictions, and Ecology issues two Phase II permits, one for Western Washington and one for Eastern Washington.

In 2008, in response to an appeal brought by appellant, this Board found multiple aspects of the 2007 Phase I permit violated applicable law. Four issues discussed by the Board are relevant here.

First, for new development and re-development, the Board determined that the Phase I permit failed to require Low Impact Development (LID) techniques.[7] Second, for existing development, the Board held that the structural stormwater control program allowed for

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[4] Factsheet at 15.
[5] Id.
[6] Id. at 13.
[7] Puget Soundkeeper Alliance v. Ecology, PCHB No. 07-021, 07-026-030, 07-037, Findings of Fact, Conclusions of Law, and Order, Phase I at CoL para. 16 (Aug. 8, 2008).

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"impermissible self-regulation."[8] Third, although the Board did not immediately require jurisdictions to apply LID at the basin scale, it found that city and county permittees "should identify such areas where potential basin planning would assist in reducing the harmful impacts of stormwater discharges upon aquatic resources."[9] Finally, in a separate decision, the Board ruled that the adaptive management provisions of the permit failed to adequately address violations of water quality standards.[10]

The 2019 Phase II Permit requires the application of LID to development and redevelopment projects based on variables such as a project's size, location, and amount of land disturbance. In general, after applying these factors, a project may comply by applying one of three lists, each of which enumerates Best Management Practices ("BMPs") for three specific types of surfaces: (1) lawn and landscaped areas; (2) roofs; and (3) other hard surfaces.

For each surface within a list, a project need only use the first BMP found to be "feasible." Appendix 1 to the 2019 Phase II Permit states clearly that "no other BMP from the list is necessary for that surface."

As a result, a development project need only undertake a single BMP for each surface because the first BMP found to be feasible when reviewing the fixed list of options in sequence ends the inquiry. There is no assessment of whether a combination of BMPs would better mitigate a project's stormwater impacts. The BMP list approach in the permit creates a kind of all or nothing, lowest common (or feasible) BMP approach to managing stormwater.

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[8] Id. at CoL para 29.

[9] Id. at CoL para. 17.

[10] Puget Soundkeeper Alliance v. Ecology, PCHB No. 07-021-023, 07-026-030, 07-037, Findings of Fact, Conclusions of Law, and Order, Phase I & Phase II, Condition S4 (Aug. 8, 2008). The decision was also applicable to the 2007 Western Washington Phase II permit.

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Further, language in Appendix 1 to the 2019 Phase II Permit can be read to exempt a project from all of the requirements in the On-Site Stormwater Management section of Appendix 1 – BMPs and the alternative flow control standard alike – if each of the BMPs are documented to be infeasible. According to Appendix 1, that documentation "will demonstrate compliance" with the On-Site Stormwater Management portion of the 2019 Phase II Permit.

The approach taken by the 2019 Phase II Permit is overly mechanical and unnecessarily restrictive, allows a complete off-ramp from controls if BMPs on a list are infeasible, and therefore does not reduce the discharge of stormwater to the maximum extent practicable. It fails to maximize the use of BMPs despite the Board's earlier recognition of the need to "aggressively employ" LID practices.[11] Alternatively, a site-planning approach would require the use of a full suite or mix of *all* suitable BMPs in order to comprehensively address stormwater pollution and would not provide the off-ramp arguably present in the language from Appendix 1.

The approach of the current 2019 Phase II Permit to LID does not require the use of all known, available, and reasonable methods to control stormwater to the maximum extent practicable, nor does it protect water quality and beneficial uses.

Ecology has recognized that addressing new development and redevelopment projects will not adequately address "legacy impacts from previous development patterns and practices[.]"[12]

To address the "impermissible self-regulation" that the Board found in the 2008 permit, the 2019 Phase I permit requires jurisdictions to develop structural controls that would result in

[11] Puget Soundkeeper Alliance v. Ecology, PCHB No. 07-021, 07-026-030, 07-037, Findings of Fact, Conclusions of Law, and Order, Phase I at CoL para. 16 (Aug. 8, 2008).

[12] Fact Sheet at 39.

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300 "points" based on a set of calculations developed by Ecology. The Phase II jurisdictions, however, are exempt from this requirement.

Although the Phase I and Phase II distinction has governed Ecology's permitting to date, it is no longer tenable for this artificial divide, based on population figures from the 1990 census, to dictate every outcome for every jurisdiction, regardless of existing size or capacity.

For example, the current populations of Vancouver and Bellevue well exceed the original 100,000-resident threshold for designating a medium municipal system. The City of Kirkland, adjacent to Seattle, has experienced explosive growth, and as a result watersheds like Juanita Creek have suffered from the effects of widespread development and the corresponding increase in impervious surfaces.

Ignoring these jurisdictions' size, growth, and importance to reducing the harms from stormwater discharges has compromised the effectiveness of the 2019 Phase II Permit, is arbitrary and capricious, contrary to plain evidence and fails to comply with applicable legal requirements.

The failure of the 2019 Phase II Permit to apply structural control requirements beyond Phase I jurisdictions to jurisdictions with larger populations and impervious areas does not reduce stormwater to the maximum extent practicable or require all known, available, and reasonable methods of reducing stormwater discharges and its impacts.

In response to the Board's 2008 decision, the 2013 Phase I permit required the four Phase I counties to prepare watershed plans. The plans were to include "stormwater management strategies" to address any projected failures to meet water quality standards in the future. The counties submitted their plans in 2017, but were not required by the 2013 permit to do anything further to actually address the failures identified.

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In this permit cycle, Ecology has done no more than recommence another round of planning. The 2019 Phase II Permit requires the creation of Stormwater Management Action Plans without any requirement for implementation.

The 2019 Phase II Permit needlessly delays the implementation of basin-wide plans. To continue to postpone the benefits of basin-wide planning by failing to require implementation of what the plans provide indefensibly fails to ensure that pollution from stormwater is controlled to the maximum extent practicable using all known, available, and reasonable methods.

Recognizing that violations of water quality standards due to stormwater discharges are occurring and will continue to occur, Ecology has again included adaptive management provisions in Condition S4 of the 2019 Phase II Permit. In 2008, the Board found Condition S4 was flawed in a number of respects, including under what circumstances permittees must notify Ecology of water quality violations and the extent of later monitoring and assessments.

Condition S4 in the 2019 Phase II Permit remains fundamentally flawed. The requirement, as written, has failed to capture and definitely failed to address the universe of relevant water quality violations. The plainest evidence of this failing is the recurrence of coho mortality linked to stormwater pollution that has been documented in numerous Puget Sound watersheds.

Further evidence is the number of Puget Sound area streams, for example Longfellow Creek, that are on the Clean Water Act's Section 303(d) impaired waters list for pollutants that are present in stormwater. Yet there is no evidence that Ecology and the permittee have taken the requisite steps under Condition S4, as written, to address the impairment.

These events are strongly indicative of water quality violations that result from stormwater discharges and demonstrate that Condition S4 allows violations of the Clean Water

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Act and does not ensure that pollution from stormwater is controlled to the maximum extent practicable using all known, available, and reasonable methods.

The systematic failure of Condition S4 exposes its fundamental lack of adequate standards. Without stronger measures to ensure the viability of the adaptive management program, coho die offs and other water quality violations due to stormwater will continue.

The 2019 Phase II Permit authorizes the discharge of stormwater that harms water quality in numerous respects and violates water quality standards. It does not require control of stormwater discharges to the maximum extent practicable or require the use of all known, available, and reasonable methods to control pollution. The 2019 Phase II Permit will authorize actions that contribute to the ecological decline of Puget Sound and other Western Washington water bodies and to the decline of fish and wildlife species such as orca whales and salmon.

6. Relief Requested

Appellant requests that the Board order the Department of Ecology to modify the 2019 Phase II Permit to comply with applicable legal requirements and correct any defects. The permit should otherwise remain in force and in effect during this remand period.

7. Service.

Copies of this Notice were sent to the respondents by email on July 31st, 2019.

Respectfully submitted this 31st day of July, 2019.

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Attachment 1

Issuance Date:	July 1, 2019
Effective Date:	August 1, 2019
Expiration Date:	July 31, 2024

Western Washington Phase II Municipal Stormwater Permit

National Pollutant Discharge Elimination System and
State Waste Discharge General Permit for discharges from
Small Municipal Separate Storm Sewers
In Western Washington

State of Washington
Department of Ecology
Olympia, WA 98504-7600

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 *et seq.*

Until this Permit expires, is modified, or revoked, Permittees that have properly obtained coverage under this Permit are authorized to discharge to waters of the State in accordance with the special and general conditions which follow.

Heather R. Bartlett
Water Quality Program Manager
Department of Ecology

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SPECIAL CONDITIONS

S1. PERMIT COVERAGE AREA AND PERMITTEES

A. Geographic Area of Permit Coverage

This Permit is applicable to owners or operators of regulated small Municipal Separate Storm Sewer Systems (MS4s) located west of the eastern boundaries of the following counties: Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania.

1. For all cities required to obtain coverage under this Permit, the geographic area of coverage is the entire incorporated area of the city.

2. For all counties required to have coverage under this Permit, the geographic area of coverage is the urbanized areas and urban growth areas associated with permitted cities under the jurisdictional control of the county. The geographic area of coverage also includes any urban growth area contiguous to permitted urbanized areas under the jurisdictional control of the county.

3. For Whatcom County, the geographic area of coverage also includes the unincorporated Birch Bay urban growth area.

4. For Secondary Permittees required to obtain coverage under this Permit, the minimum geographic area of coverage is all areas identified under S1.A.1 and S1.A.2. At the time of permit coverage, the Washington State Department of Ecology (Ecology) may establish a geographic area of coverage specific to an individual Secondary Permittee.

5. All regulated small MS4s owned or operated by the Permittees named in S1.D.2.a(i), and (ii), and S1.D.2.b and located in another city or county area requiring coverage under this Permit, or the *Phase I Municipal Stormwater Permit* or the *Eastern Washington Phase II Municipal Stormwater Permit,* are also covered under this Permit.

B. Regulated Small Municipal Separate Storm Sewer Systems (MS4s)

All operators of regulated small MS4s are required to apply for and obtain coverage under this Permit or be permitted under a separate individual permit, unless waived or exempted in accordance with condition S1.C.

1. A regulated small MS4:

   a. Is a "Small MS4" as defined in the *Definitions and Acronyms* section at the end of this Permit; and

   b. Is located within, or partially located within, an urbanized area as defined by the latest decennial census conducted by the U.S. Census Bureau, or designated by Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f); and

   c. Discharges stormwater from the MS4 to a surface water of Washington State; and

   d. Is not eligible for a waiver or exemption under S1.C, below.

2. All other operators of MS4s, including special purpose districts, which meet the criteria for a regulated small MS4 shall obtain coverage under this Permit. Other operators of small MS4s may include, but are not limited to: flood control, or diking and drainage districts; schools, including universities; and correctional facilities that own or operate a small MS4 serving non-agricultural land uses.

3. Any other operators of small MS4s may be required by Ecology to obtain coverage under this Permit or an alternative NPDES permit if Ecology determines the small MS4 is a significant source of pollution to surface waters of the State. Notification of Ecology's determination that permit coverage is required will be through the issuance of an Administrative Order issued in accordance with RCW 90.48.

4. The owner or operator of a regulated small MS4 may obtain coverage under this Permit as a Permittee, Co-Permittee, or Secondary Permittee as defined in S1.D.1, below.

5. Pursuant to 40 CFR 122.26(f), any person or organization may petition Ecology to require that additional small MS4s obtain coverage under this Permit. The process for petitioning Ecology is:

   a. The person or organization shall submit a complete petition in writing to Ecology. A complete petition shall address each of the relevant factors for petitions outlined on Ecology's website.

   b. In making its determination on the petition, Ecology may request additional information from either the petitioner or the entity that is the subject of the petition.

   c. Ecology will make a final determination on a complete petition within 180 days of receipt of the petition and inform both the petitioner and the MS4 of the decision, in writing.

   d. If Ecology's final determination is that the candidate MS4 will be regulated, Ecology will issue an order to the operator of the MS4 requiring them to obtain coverage under this Permit. The order will specify:

      i. The geographic area of permit coverage for the MS4.

      ii. Any modified dates or deadlines for developing and implementing this Permit, as appropriate to the MS4, and for submitting their first annual report.

      iii. A deadline for the operator of the MS4 to submit a complete Notice of Intent (NOI, provided on Ecology's website) to Ecology.

C. Owners and operators of an otherwise regulated small MS4 are ***not*** required to obtain coverage under this Permit if:

1. The small MS4 is operated by:

   a. A federal entity, including any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal government of the United States.

   b. Federally recognized Indian Tribes located within Indian Country, including all trust or restricted lands within the 1873 Survey Area of the Puyallup Tribe of Indians.

   c. The Washington State Department of Transportation.

Or

2. The portions of the small MS4 located within the census defined urbanized area(s) serve a total population of less than 1000 people and a, b, and c, below ***all*** apply:

   a. The small MS4 is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES stormwater program.

   b. The discharge of pollutants from the small MS4 has not been identified as a cause of impairment of any water body to which the MS4 discharges.

   c. In areas where an EPA approved TMDL has been completed, stormwater controls on the MS4 have not been identified as necessary to meet wasteload allocations established in the TMDL that address the pollutant(s) of concern.

   In determining the total population served, both resident and commuter populations shall be included. For example:

   - For publicly operated school complexes including universities and colleges, the total population served would include the sum of the average annual student enrollment plus staff.
   - For flood control, diking, and drainage districts, the total population served would include residential population and any non-residents regularly employed in the areas served by the small MS4.

D. Obtaining coverage under this Permit.

All operators of regulated small MS4s are required to apply for and obtain coverage in accordance with this Section, unless waived or exempted, in accordance with Section S1.C.

1. Unless otherwise noted, the term "Permittee" shall include a city, town, or county Permittee, New Permittee, Co-Permittee, Secondary Permittee, and New Secondary Permittee as defined below:

   a. "Permittee" is a city, town, or county owning or operating a regulated small MS4 applying and receiving a permit as a single entity.

   b. "New Permittee" is a city, town, or county that is subject to the *Western Washington Phase II Municipal Stormwater General Permit* and was not subject to the Permit prior to August 1, 2019.

   c. "Co-Permittee" is any owner or operator of a regulated small MS4 that is applying in a cooperative agreement with at least one other applicant for coverage under this Permit. Co-Permittees own or operate a regulated small MS4 located within or in proximity to another regulated small MS4.

   d. A "Secondary Permittee" is an operator of a regulated small MS4 that is not a city, town, or county. Secondary Permittees include special purpose districts and other MS4s that meet the criteria for a regulated small MS4 in S1.B, above.

   e. "New Secondary Permittee" is a Secondary Permittee that is covered under a Municipal Stormwater General Permit and was not covered by the Permit prior to August 1, 2019.

2. Operators of regulated small MS4s have submitted, or shall submit, to Ecology either a Notice of Intent (NOI) for Coverage under National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater General Permit or a Duty to Reapply - NOI provided on Ecology's website.

   a. The following Permittees and Secondary Permittees submitted a *Duty to Reapply - NOI* to Ecology prior to February 1, 2018:

      i. **Cities and towns:** Aberdeen, Algona, Anacortes, Arlington, Auburn, Bainbridge Island, Battle Ground, Bellevue, Bellingham, Black Diamond, Bonney Lake, Bothell, Bremerton, Brier, Buckley, Burien, Burlington, Camas, Centralia, Clyde Hill, Covington, Des Moines, DuPont, Duvall, Edgewood, Edmonds, Enumclaw, Everett, Federal Way, Ferndale, Fife, Fircrest, Gig Harbor, Granite Falls, Issaquah, Kelso, Kenmore, Kent, Kirkland, Lacey, Lake Forest Park, Lake Stevens, Lakewood, Longview, Lynden, Lynnwood, Maple Valley, Marysville, Medina, Mercer Island, Mill Creek, Milton, Monroe, Mountlake Terrace, Mount Vernon, Mukilteo, Newcastle, Normandy Park, Oak Harbor, Olympia, Orting, Pacific, Port Orchard, Port Angeles, Poulsbo, Puyallup, Redmond, Renton, Sammamish, SeaTac, Sedro-Woolley, Shoreline, Snohomish, Snoqualmie, Steilacoom, Sumner, Tukwila, Tumwater, University Place, Vancouver, Washougal, and Woodinville.

      ii. **Counties:** Cowlitz, Kitsap, Thurston, Skagit, and Whatcom.

      iii. **Secondary Permittees:** Bainbridge Island School District #303, Bellingham School District, Bellingham Technical College, Cascadia College, Central Kitsap School District, Centralia College, Clark College, Consolidated Diking Improvement District #1 of Cowlitz County, Edmonds Community College, Evergreen College, Highline Community College, Kelso School District, Kent School District, Longview School District, Lower Columbia College, Port of Anacortes, Port of Bellingham, Port of Olympia, Port of Skagit County, Port of Vancouver, Skagit County Drainage District #19, Skagit Valley College, University of Washington Bothell, Washington State University Vancouver, Washington State Department of Enterprise Services (Capitol Campus), Washington Department of Corrections, Western Washington University, and Whatcom Community College.

   b. Operators of regulated small MS4s have submitted or shall submit to Ecology a "Notice of Intent (NOI) for Coverage under National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater General Permit" provided on Ecology's website before the effective date of this Permit, with the following exceptions:

      i. Operators of regulated small MS4s located in the City of Shelton, and the Clallam County urban growth area surrounding Port Angeles shall submit a NOI or application to Ecology no later than 30 days after the effective date of this Permit.

      ii. Operators of regulated small MS4s listed in S1.D.2.a do not need to submit a new application to be covered under this Permit.

   c. For operators of regulated small MS4s listed in S1.D.2.a, coverage under this Permit is automatic and begins on the effective date of this Permit, unless the operator chooses to opt out of this General Permit. Any operator of a regulated small MS4 that

is opting out of this Permit shall submit an application for an individual MS4 permit in accordance with 40 CFR 122.33(b)(2)(ii) no later than the effective date of this Permit.

d. Operators of regulated small MS4s which want to be covered under this Permit as Co-Permittees shall each submit a NOI to Ecology.

e. Operators of regulated small MS4s which are relying on another entity to satisfy all of their permit obligations shall submit a NOI to Ecology.

f. Operators of small MS4s designated by Ecology pursuant to S1.B.3 of this Permit shall submit a NOI to Ecology within 120 days of receiving notification from Ecology that permit coverage is required.

3. Application Requirements

a. For NOIs submitted after the issuance date of this Permit, the applicant shall include a certification that the public notification requirements of WAC 173-226-130(5) have been satisfied. Ecology will notify applicants in writing of their status concerning coverage under this Permit within 90 days of Ecology's receipt of a complete NOI.

b. Each Permittee applying as a Co-Permittee shall submit a NOI provided on Ecology's website. The NOI shall clearly identify the areas of the MS4 for which the Co-Permittee is responsible.

c. Permittees relying on another entity or entities to satisfy one or more of their permit obligations shall notify Ecology in writing. The notification shall include a summary of the permit obligations that will be carried out by another entity. The summary shall identify the other entity or entities and shall be signed by the other entity or entities. During the term of the Permit, Permittees may terminate or amend shared responsibility arrangements by notifying Ecology, provided this does not alter implementation deadlines.

d. Secondary Permittees required to obtain coverage under this Permit, and the *Phase I Municipal Stormwater Permit* or the *Eastern Washington Phase II Municipal Stormwater Permit,* may obtain coverage by submitting a single NOI.

S2. AUTHORIZED DISCHARGES

A. This Permit authorizes the discharge of stormwater to surface waters and to groundwaters of the State from MS4s owned or operated by each Permittee covered under this Permit, in the geographic area covered pursuant to S1.A. These discharges are subject to the following limitations:

1. Discharges to groundwaters of the State through facilities regulated under the Underground Injection Control (UIC) program, Chapter 173-218 WAC, are not authorized under this Permit.

2. Discharges to groundwaters not subject to regulation under the federal Clean Water Act are authorized in this Permit only under state authorities, Chapter 90.48 RCW, the Water Pollution Control Act.

B. This Permit authorizes discharges of non-stormwater flows to surface waters and to groundwaters of the State from MS4s owned or operated by each Permittee covered under this Permit, in the geographic area covered pursuant to S1.A, only under one or more of the following conditions:

1. The discharge is authorized by a separate NPDES or State Waste Discharge permit.
2. The discharge is from emergency firefighting activities.
3. The discharge is from another illicit or non-stormwater discharge that is managed by the Permittee as provided in Special Condition S5.C.5 or S6.D.3.

These discharges are also subject to the limitations in S2.A.1 and S2.A.2, above.

C. This Permit does not relieve entities that cause illicit discharges, including spills of oil or hazardous substances, from responsibilities and liabilities under state and federal laws and regulations pertaining to those discharges.

D. Discharges from MS4s constructed after the effective date of this Permit shall receive all applicable state and local permits and use authorizations, including compliance with Chapter 43.21C RCW (the State Environmental Policy Act).

E. This Permit does not authorize discharges of stormwater to waters within Indian Country as defined in 18 U.S.C. §1151, or to waters subject to water quality standards of Indian Tribes, including portions of the Puyallup River and other waters on trust or restricted lands within the 1873 Survey Area of the Puyallup Tribe of Indians Reservation, except where authority has been specifically delegated to Ecology by the U.S. Environmental Protection Agency. The exclusion of such discharges from this Permit does not waive any rights the State may have with respect to the regulation of the discharges.

S3. RESPONSIBILITIES OF PERMITTEES

A. Each Permittee covered under this Permit is responsible for compliance with the terms of this Permit for the regulated small MS4s that they own or operate. Compliance with (1) or (2) below is required as applicable to each Permittee, whether the Permittee has applied for coverage as a Permittee, Co-Permittee, or Secondary Permittee.

1. All city, town, and county Permittees are required to comply with all conditions of this Permit, including any appendices referenced therein, except for Special Condition S6 – *Stormwater Management Program for Secondary Permittees*.
2. All Secondary Permittees are required to comply with all conditions of this Permit, including any appendices referenced therein, except for Section S5 – *Stormwater Management Program for Cities, Towns, and Counties* and S8 – *Monitoring and Assessment.*

B. Permittees may rely on another entity to satisfy one or more of the requirements of this Permit. Permittees that are relying on another entity to satisfy one or more of their permit obligations remain responsible for permit compliance if the other entity fails to implement permit conditions. Permittees may rely on another entity provided all the requirements of 40 CFR 122.35(a) are satisfied, including but not limited to:

1. The other entity, in fact, implements the Permit requirements.
2. The other entity agrees to take on responsibility for implementation of the Permit requirement(s) as indicated on the NOI.

S4. COMPLIANCE WITH STANDARDS

A. In accordance with RCW 90.48.520, the discharge of toxicants to waters of the State of Washington which would violate any water quality standard, including toxicant standards, sediment criteria, and dilution zone criteria is prohibited. The required response to such discharges is defined in Section S4.F, below.

B. This Permit does not authorize a discharge which would be a violation of Washington State Surface Water Quality Standards (Chapter 173-201A WAC), Groundwater Quality Standards (Chapter 173-200 WAC), Sediment Management Standards (Chapter 173-204 WAC), or human health-based criteria in the National Toxics Rule (40 CFR 131.45). The required response to such discharges is defined in Section S4.F, below.

C. The Permittee shall reduce the discharge of pollutants to the Maximum Extent Practicable (MEP).

D. The Permittee shall use All Known, Available, and Reasonable methods of prevention, control and Treatment (AKART) to prevent and control pollution of waters of the State of Washington.

E. In order to meet the goals of the Clean Water Act, and comply with S4.A, S4.B, S4.C, and S4.D, each Permittee shall comply with all of the applicable requirements of this Permit as identified in S3 – *Responsibilities of Permittees*.

F. A Permittee remains in compliance with S4 despite any discharges prohibited by S4.A or S4.B, when the Permittee undertakes the following response toward long-term water quality improvement:

1. A Permittee shall notify Ecology in writing within 30 days of becoming aware, based on credible site-specific information that a discharge from the MS4 owned or operated by the Permittee is causing or contributing to a known or likely violation of Water Quality Standards in the receiving water. Written notification provided under this subsection shall, at a minimum, identify the source of the site-specific information, describe the nature and extent of the known or likely violation in the receiving water, and explain the reasons why the MS4 discharge is believed to be causing or contributing to the problem. For ongoing or continuing violations, a single written notification to Ecology will fulfill this requirement.
2. In the event that Ecology determines, based on a notification provided under S4.F.1 or through any other means, that a discharge from an MS4 owned or operated by the Permittee is causing or contributing to a violation of Water Quality Standards in a receiving water, Ecology will notify the Permittee in writing that an adaptive management response, outlined in S4.F.3, below, is required, unless:

a. Ecology also determines that the violation of Water Quality Standards is already being addressed by a Total Maximum Daily Load (TMDL) or other enforceable water quality cleanup plan; or

b. Ecology concludes the MS4 contribution to the violation will be eliminated through implementation of other permit requirements.

3. Adaptive Management Response

a. Within 60 days of receiving a notification under S4.F.2, or by an alternative date established by Ecology, the Permittee shall review its Stormwater Management Program (SWMP) and submit a report to Ecology. The report shall include:

i. A description of the operational and/or structural BMPs that are currently being implemented to prevent or reduce any pollutants that are causing or contributing to the violation of Water Quality Standards, including a qualitative assessment of the effectiveness of each Best Management Practice (BMP).

ii. A description of potential additional operational and/or structural BMPs that will or may be implemented in order to apply AKART on a site-specific basis to prevent or reduce any pollutants that are causing or contributing to the violation of Water Quality Standards.

iii. A description of the potential monitoring or other assessment and evaluation efforts that will or may be implemented to monitor, assess, or evaluate the effectiveness of the additional BMPs.

iv. A schedule for implementing the additional BMPs including, as appropriate: funding, training, purchasing, construction, monitoring, and other assessment and evaluation components of implementation.

b. Ecology will, in writing, acknowledge receipt of the report within a reasonable time and notify the Permittee when it expects to complete its review of the report. Ecology will either approve the additional BMPs and implementation schedule or require the Permittee to modify the report as needed to meet AKART on a site-specific basis. If modifications are required, Ecology will specify a reasonable time frame in which the Permittee shall submit and Ecology will review the revised report.

c. The Permittee shall implement the additional BMPs, pursuant to the schedule approved by Ecology, beginning immediately upon receipt of written notification of approval.

d. The Permittee shall include with each subsequent annual report a summary of the status of implementation and the results of any monitoring, assessment or evaluation efforts conducted during the reporting period. If, based on the information provided under this subsection, Ecology determines that modification of the BMPs or implementation schedule is necessary to meet AKART on a site-specific basis, the Permittee shall make such modifications as Ecology directs. In the event there are ongoing violations of water quality standards despite the implementation of the BMP approach of this Section, the Permittee may be subject to compliance schedules to

eliminate the violation under WAC 173-201A-510(4) and WAC 173-226-180 or other enforcement orders as Ecology deems appropriate during the term of this Permit.

e. A TMDL or other enforceable water quality cleanup plan that has been approved and is being implemented to address the MS4's contribution to the Water Quality Standards violation supersedes and terminates the S4.F.3 implementation plan.

f. Provided the Permittee is implementing the approved adaptive management response under this Section, the Permittee remains in compliance with Special Condition S4, despite any on-going violations of Water Quality Standards identified under S4.A or B, above.

g. The adaptive management process provided under Section S4.F is not intended to create a shield for the Permittee from any liability it may face under 42 U.S.C. 9601 *et seq.* or Chapter 70.105D RCW.

G. Ecology may modify or revoke and reissue this General Permit in accordance with G14 – *General Permit Modification and Revocation*, if Ecology becomes aware of additional control measures, management practices, or other actions beyond what is required in this Permit that are necessary to:

1. Reduce the discharge of pollutants to the MEP,

2. Comply with the state AKART requirements, or

3. Control the discharge of toxicants to waters of the State of Washington.

S5. STORMWATER MANAGEMENT PROGRAM FOR CITIES, TOWNS, AND COUNTIES

A. Each Permittee shall develop and implement a Stormwater Management Program (SWMP). A SWMP is a set of actions and activities comprising the components listed in S5 and any additional actions necessary, to meet the requirements of applicable TMDLs pursuant to S7 – *Compliance with Total Maximum Daily Load Requirements* and S8 – *Monitoring and Assessment*. This Section applies to all cities, towns, and counties covered under this Permit (termed as "Permittee," including cities, towns, and counties that are Co-Permittees).

New Permittees subject to this Permit, as described in S1.D.1.b, shall fully meet the requirements in S5 as modified in footnotes below, or as specified in an alternate schedule as a condition of coverage by Ecology. Permittees obtaining coverage after the issuance date of this Permit shall fully meet the requirements in S5 as specified in an alternate schedule as a condition of coverage by Ecology.

1. At a minimum, the Permittee's SWMP shall be implemented throughout the geographic area subject to this Permit as described in S1.A.[1]

2. Each Permittee shall prepare written documentation of the SWMP, called the SWMP Plan. The SWMP Plan shall be organized according to the program components in S5.C or a

[1] New Permittees shall fully develop and implement the SWMP in accordance with the schedules contained in this Section no later than February 2, 2024.

format approved by Ecology, and shall be updated at least annually for submittal with the Permittee's annual reports to Ecology (see S9 – *Reporting Requirements*). The SWMP Plan shall be written to inform the public of the planned SWMP activities for the upcoming calendar year, and shall include a description of:

a. Planned activities for each of the program components included in S5.C.

b. Any additional planned actions to meet the requirements of applicable TMDLs pursuant to S7– *Compliance with Total Maximum Daily Load Requirements.*

c. Any additional planned actions to meet the requirements of S8 – *Monitoring and Assessment.*

3. The SWMP shall include an ongoing program for gathering, tracking, maintaining, and using information to evaluate SWMP development, implementation, and permit compliance and to set priorities.

a. Each Permittee shall track the cost or estimated cost of development and implementation of each component of the SWMP.[2] This information shall be provided to Ecology upon request.

b. Each Permittee shall track the number of inspections, follow-up actions as a result of inspections, official enforcement actions and types of public education activities as required by the respective program component. This information shall be included in the annual report.

4. Permittees shall continue implementation of existing stormwater management programs until they begin implementation of the updated stormwater management program in accordance with the terms of this Permit, including implementation schedules.

5. Coordination among Permittees

a. Coordination among entities covered under municipal stormwater NPDES permits may be necessary to comply with certain conditions of the SWMP. The SWMP shall include, when needed, coordination mechanisms among entities covered under a municipal stormwater NPDES permit to encourage coordinated stormwater-related policies, programs and projects within adjoining or shared areas, including:

i. Coordination mechanisms clarifying roles and responsibilities for the control of pollutants between physically interconnected MS4s covered by a municipal stormwater permit.

ii. Coordinating stormwater management activities for shared water bodies, or watersheds among Permittees to avoid conflicting plans, policies, and regulations.

b. The SWMP shall include coordination mechanisms among departments within each jurisdiction to eliminate barriers to compliance with the terms of this Permit. Permittees shall include a written description of internal coordination mechanisms in the Annual Report due no later than March 31, 2021.

[2] New Permittees shall begin implementing the requirements of S5.A.3.a, no later than August 1, 2021.

B. The SWMP shall be designed to reduce the discharge of pollutants from regulated small MS4s to the MEP, meet state AKART requirements, and protect water quality.

C. The SWMP shall include the components listed below. To the extent allowable under state or federal law, all components are mandatory for city, town, or county Permittees covered under this Permit.

1. Stormwater planning

Each Permittee shall implement a Stormwater Planning program to inform and assist in the development of policies and strategies as water quality management tools to protect receiving waters.

The minimum performance measures are:

a. By August 1, 2020, each Permittee shall convene an inter-disciplinary team to inform and assist in the development, progress, and influence of this program.

b. Coordination with long-range plan updates.

i. Each Permittee shall describe how stormwater management needs and protection/improvement of receiving water health are (or are not) informing the planning update processes and influencing policies and implementation strategies in their jurisdiction. The report shall describe the water quality and watershed protection policies, strategies, codes, and other measures intended to protect and improve local receiving water health through planning, or taking into account stormwater management needs or limitations.

(a) On or before March 31, 2021, the Permittee shall respond to the series of Stormwater Planning Annual Report questions to describe how anticipated stormwater impacts on water quality were addressed, if at all, during the 2013-2019 permit term in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated, long-range land use plans that are used to accommodate growth or transportation.

(b) On or before January 1, 2023, the Permittee shall submit a report responding to the same questions included in (a), above, to describe how water quality is being addressed, if at all, during this permit term in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated, long-range land use plans that are used to accommodate growth or transportation.

c. Low impact development code-related requirements.

i. Permittees shall continue to require LID Principles and LID BMPs when updating, revising, and developing new local development-related codes, rules, standards, or other enforceable documents, as needed.

The intent shall be to make LID the preferred and commonly-used approach to site development. The local development-related codes, rules, standards, or other enforceable documents shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations, where feasible.

(a) Annually, each Permittee shall assess and document any newly identified administrative or regulatory barriers to implementation of LID Principles or LID BMPs since local codes were updated in accordance with the 2013 Permit, and the measures developed to address the barriers. If applicable, the report shall describe mechanisms adopted to encourage or require implementation of LID principles or LID BMPs.

ii. By December 31, 2023, New Permittees shall review, revise, and make effective their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID BMPs. New Permittees shall conduct a similar review and revision process, and consider the range of issues, outlined in the following document: Integrating LID into Local Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2012).

New Permittees shall submit a summary of the results of the review and revision process with the annual report due no later than March 31, 2024. This summary shall be in the required format described in Appendix 5 and include, at a minimum, a list of the participants (job title, brief job description, and department represented), the codes, rules, standards, and other enforceable documents reviewed, and the revisions made to those documents which incorporate and require LID principles and LID BMPs. The summary shall include existing requirements for LID principles and LID BMPs in development-related codes. The summary must be organized as follows:

(a) Measures to minimize impervious surfaces.

(b) Measures to minimize loss of native vegetation.

(c) Other measures to minimize stormwater runoff.

d. Stormwater Management Action Planning[3] (SMAP). Permittees shall conduct a similar process and consider the range of issues outlined in the *Stormwater Management Action Planning Guidance* (Ecology, 2019; Publication 19-10-010). Permittees may rely on another jurisdiction to meet all or part of SMAP requirements at a watershed-scale, provided a SMAP is completed for at least one priority catchment located within the Permittee's jurisdiction.

i. *Receiving Water Assessment*. Permittees shall document and assess existing information related to their local receiving waters and contributing area conditions to identify which receiving waters are most likely to benefit from stormwater management planning.

By March 31, 2022, Permittees shall submit a watershed inventory and include a brief description of the relative conditions of the receiving waters and the contributing areas. The watershed inventory shall be submitted as a table with each receiving water name, its total watershed area, the percent of the total watershed area that is in the Permittee's jurisdiction, and the findings of the stormwater management influence assessment for each basin. Indicate which

[3] New Permittees are exempt from S5.C.1.d. for this permit term.

receiving waters will be included in the S5.C.1.d.ii prioritization process. Include a map of the delineated basins with references to the watershed inventory table.

(a) Identify which basins are expected to have a relatively low Stormwater Management Influence for SMAP. See the guidance document for definition and description of this assessment.

Basins having relatively low expected Stormwater Management Influence for SMAP do not need to be included in S5.C.1.d.ii-iii.

ii. *Receiving Water Prioritization*. Informed by the assessment of receiving water conditions in (i), above, and other local and regional information, Permittees shall develop and implement a prioritization method and process to determine which receiving waters will receive the most benefit from implementation of stormwater facility retrofits, tailored implementation of SWMP actions, and other land/development management actions (different than the existing new and redevelopment requirements). The retrofits and actions shall be designed to: 1) conserve, protect, or restore receiving waters through stormwater and land management strategies that act as water quality management tools, 2) reduce pollutant loading, and 3) address hydrologic impacts from existing development as well as planned for and expected future buildout conditions.

No later than June 30, 2022, document the prioritized and ranked list of receiving waters.

(a) The Permittee shall document the priority ranking process used to identify high priority receiving waters. The Permittee may reference existing local watershed management plan(s) as source(s) of information or rationale for the prioritization.

(b) The ranking process shall include the identification of high priority catchment area(s) for focus of the Stormwater Management Action Plan (SMAP) in (iii), below.

iii. Stormwater Management Action Plan (SMAP). No later than March 31, 2023, Permittees shall develop a SMAP for at least one high priority catchment area from (ii), above, that identifies all of the following:

(a) A description of the stormwater facility retrofits needed for the area, including the BMP types and preferred locations.

(b) Land management/development strategies and/or actions identified for water quality management.

(c) Targeted, enhanced, or customized implementation of stormwater management actions related to permit sections within S5, including:

- IDDE field screening,
- Prioritization of Source Control inspections,
- O&M inspections or enhanced maintenance, or
- Public Education and Outreach behavior change programs.

Identified actions shall support other specifically identified stormwater management strategies and actions for the basin overall, or for the catchment area in particular.

(d) If applicable, identification of changes needed to local long-range plans, to address SMAP priorities.

(e) A proposed implementation schedule and budget sources for:

- Short-term actions (*i.e.*, actions to be accomplished within six years), and
- Long-term actions (*i.e.*, actions to be accomplished within seven to 20 years).

(f) A process and schedule to provide future assessment and feedback to improve the planning process and implementation of procedures or projects.

2. Public Education and Outreach

The SWMP shall include an education and outreach program designed to:

- Build general awareness about methods to address and reduce impacts from stormwater runoff.
- Effect behavior change to reduce or eliminate behaviors and practices that cause or contribute to adverse stormwater impacts.
- Create stewardship opportunities that encourages community engagement in addressing the impacts from stormwater runoff.

Permittees may choose to meet these requirements individually or as a member of a regional group. Regional collaboration on general awareness or behavior change programs, or both, includes Permittees developing a consistent message, determining best methods for communicating the message, and when appropriate, creating strategies to effect behavior change. If a Permittee chooses to adopt one or more elements of a regional program, the Permittee should participate in the regional group and shall implement the adopted element(s) of the regional program in the local jurisdiction.

The minimum performance measures are:

a. Each Permittee shall implement an education and outreach program for the area served by the MS4. The program design shall be based on local water quality information and target audience characteristics to identify high priority target audiences, subject areas, and/or BMPs. Based on the target audience's demographic, the Permittee shall consider delivering its selected messages in language(s) other than English, as appropriate to the target audience. [4]

i. ***General awareness***. To build general awareness, Permittees shall annually select at a minimum one target audience and one subject area from either (a) or (b):

(a) *Target audiences:* General public (including overburdened communities, or school age children) or businesses (including home-based, or mobile businesses). Subject areas:

[4] New Permittees shall begin implementing the requirements of S5.C.2 no later than August 1, 2021.

- General impacts of stormwater on surface waters, including impacts from impervious surfaces.
- Low impact development (LID) principles and LID BMPs.

(b) *Target audiences:* Engineers, contractors, developers, or land use planners. Subject areas:

- Technical standards for stormwater site and erosion control plans.
- LID principles and LID BMPs.
- Stormwater treatment and flow control BMPs/facilities

(c) Permittees shall provide subject area information to the target audience on an ongoing or strategic schedule.

ii. ***Behavior change***. To affect behavior change, Permittees shall select, at a minimum, one target audience and one BMP.

(a) *Target Audiences:* Residents, landscapers, property managers/owners, developers, school age children, or businesses (including home-based or mobile businesses).

BMPs:

- Use and storage of: pesticides, fertilizers, and/or other household chemicals.
- Use and storage of: automotive chemicals, hazardous cleaning supplies, carwash soaps, and/or other hazardous materials.
- Prevention of illicit discharges.
- Yard care techniques protective of water quality.
- Carpet cleaning.
- Repair and maintenance BMPs for: vehicles, equipment, and/or home/buildings.
- Pet waste management and disposal.
- LID Principles and LID BMPs.
- Stormwater facility maintenance, including LID facilities.
- Dumpster and trash compactor maintenance.
- Litter and debris prevention.
- Sediment and erosion control.
- (Audience specific) Source control BMPs (refer to S5.C.8).
- (Audience specific) Locally-important, municipal stormwater-related subject area.

(b) No later than July 1, 2020, each Permittee shall conduct a new evaluation of the effectiveness of an ongoing behavior change campaign (required under S5.C.1.a.ii and S5.C.1.c of the 2013 Permit). Permittees shall document lessons learned and recommendations for which option to select from S5.C.2.a.ii.(c).

Permittees that select option S5.C.2.a.ii.(c)3, below, may forgo this evaluation if it will not add value to the overall behavior change program.

(c) Based on the recommendation from S5.C.2.a.ii.(b), by February 1, 2021, each Permittee shall follow social marketing practices and methods, similar to community-based social marketing, and develop a campaign that is tailored to the community, including development of a program evaluation plan. Each Permittee shall: [5]

1. Develop a strategy and schedule to more effectively implement the existing campaign; or
2. Develop a strategy and schedule to expand the existing campaign to a new target audience or BMPs; or
3. Develop a strategy and schedule for a new target audience and BMP behavior change campaign.

(d) No later than April 1, 2021, begin to implement the strategy developed in S5.C.2.a.ii.(c).[6]

(e) No later than March 31, 2024, evaluate and report on:

1. The changes in understanding and adoption of targeted behaviors resulting from the implementation of the strategy; and
2. Any planned or recommended changes to the campaign in order to be more effective; describe the strategies and process to achieve the results.

(f) Permittees shall use results of the evaluation to continue to direct effective methods and implementation of the ongoing behavior change program.

iii. Stewardship. Each Permittee shall provide and advertise stewardship opportunities and/or partner with existing organizations (including non-permittees) to encourage residents to participate in activities or events planned and organized within the community, such as: stream teams, storm drain marking, volunteer monitoring, riparian plantings, and education activities.

3. Public Involvement and Participation

Permittees shall provide ongoing opportunities for public involvement and participation through advisory councils, public hearings, watershed committees, participation in developing rate-structures or other similar activities. Each Permittee shall comply with applicable state and local public notice requirements when developing elements of the SWMP and SMAP.

The minimum performance measures are:

a. Permittees shall create opportunities for the public, including overburdened communities, to participate in the decision-making processes involving the development, implementation and update of the Permittee's SMAP and SWMP.[7]

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[5] No later than August 1, 2021, new Permittees shall follow social marketing practices and methods, similar to Community-Based Social Marketing, to develop a behavior change program that is tailored to the community.

[6] No later than October 1, 2021, New Permittees shall begin to implement the strategy developed in S5.C.2.a.ii.(c).

[7] New Permittees shall develop and begin to implement requirements according to S5.C.3.a no later than August 1, 2020. New Permittees are exempt from SMAP this permit term.

b. Each Permittee shall post on their website their SWMP Plan and the annual report, required under S9.A, no later than May 31 each year. All other submittals shall be available to the public upon request. To comply with the posting requirement, a Permittee that does not maintain a website may submit the updated SWMP in electronic format to Ecology for posting on Ecology's website.

4. **MS4 Mapping and Documentation**
The SWMP shall include an ongoing program for mapping and documenting the MS4.[8]

The minimum performance measures are:

a. *Ongoing Mapping*: Each Permittee shall maintain mapping data for the features listed below:

i. Known MS4 outfalls and known MS4 discharge points.

ii. Receiving waters, other than groundwater.

iii. Stormwater treatment and flow control BMPs/facilities owned or operated by the Permittee.

iv. Geographic areas served by the Permittee's MS4 that do not discharge stormwater to surface waters.

v. Tributary conveyances to all known outfalls and discharge points with a 24 inch nominal diameter or larger, or an equivalent cross-sectional area for non-pipe systems. The following features or attributes (or both) shall be mapped:

(a) Tributary conveyance type, material, and size where known.

(b) Associated drainage areas.

(c) Land use.

vi. Connections between the MS4 owned or operated by the Permittee and other municipalities or public entities.

vii. All connections to the MS4 authorized or allowed by the Permittee after February 16, 2007. [9,10]

b. *New Mapping*: Each Permittee shall:

i. No later than January 1, 2020, begin to collect size and material for all known MS4 outfalls during normal course of business (e.g. during field screening, inspection, or maintenance) and update records.

ii. No later than August 1, 2023, complete mapping of all known connections from the MS4 to a privately owned stormwater system.

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[8] New Permittees shall meet the requirements to map the MS4 according to S5.C.4. no later than February 2, 2024, except where otherwise noted in this Section.

[9] New Permittees shall meet the requirements of S5.C.4.a.vii after August 1, 2019, for all connections to the MS4 authorized after August 1, 2019.

[10] Permittees do not need to map the following residential connections: individual driveways, sump pumps, or roof downspouts.

c. No later than August 1, 2021, the required format for mapping is electronic (e.g. Geographic Information System, CAD drawings, or other software that can map and store points, lines, polygons, and associated attributes), with fully described mapping standards.

d. To the extent consistent with national security laws and directives, each Permittee shall make available to Ecology, upon request, available maps depicting the information required in S5.C.4.a through c, above.

e. Upon request, and to the extent appropriate, Permittees shall provide mapping information to federally recognized Indian Tribes, municipalities, and other Permittees. This Permit does not preclude Permittees from recovering reasonable costs associated with fulfilling mapping information requests by federally recognized Indian Tribes, municipalities, and other Permittees.

5. Illicit Discharge Detection and Elimination

The SWMP shall include an ongoing program designed to prevent, detect, characterize, trace, and eliminate illicit connections and illicit discharges into the MS4.[11]

The minimum performance measures are:

a. The program shall include procedures for reporting and correcting or removing illicit connections, spills and other illicit discharges when they are suspected or identified. The program shall also include procedures for addressing pollutants entering the MS4 from an interconnected, adjoining MS4.

Illicit connections and illicit discharges must be identified through, but not limited to: field screening, inspections, complaints/reports, construction inspections, maintenance inspections, source control inspections, and/or monitoring information, as appropriate.

b. Permittees shall inform public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste.

c. Each Permittee shall implement an ordinance or other regulatory mechanism to effectively prohibit non-stormwater, illicit discharges into the Permittee's MS4 to the maximum extent allowable under state and federal law.

i. Allowable Discharges: The regulatory mechanism does **not** need to prohibit the following categories of non-stormwater discharges:

(a) Diverted stream flows

(b) Rising groundwaters

(c) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(b)(20))

(d) Uncontaminated pumped groundwater

(e) Foundation drains

[11] New Permittees shall meet the requirements of S5.C.5 no later than August 1, 2021 except where otherwise noted in this Section.

(f) Air conditioning condensation

(g) Irrigation water from agricultural sources that is commingled with urban stormwater

(h) Springs

(i) Uncontaminated water from crawl space pumps

(j) Footing drains

(k) Flows from riparian habitats and wetlands

(l) Non-stormwater discharges authorized by another NPDES or state waste discharge permit

(m) Discharges from emergency firefighting activities in accordance with S2 Authorized Discharges

ii. Conditionally Allowable Discharges: The regulatory mechanism may allow the following categories of non-stormwater discharges only if the stated conditions are met:

(a) Discharges from potable water sources, including but not limited to water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4.

(b) Discharges from lawn watering and other irrigation runoff. These discharges shall be minimized through, at a minimum, public education activities and water conservation efforts.

(c) Dechlorinated swimming pool, spa and hot tub discharges. The discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.

(d) Street and sidewalk wash water, water used to control dust, and routine external building washdown that does not use detergents. The Permittee shall reduce these discharges through, at a minimum, public education activities and/or water conservation efforts. To avoid washing pollutants into the MS4, Permittees shall minimize the amount of street wash and dust control water used.

(e) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a pollution prevention plan reviewed by the Permittee, which addresses control of such discharges.

iii. The Permittee shall further address any category of discharges in (i) or (ii), above, if the discharges are identified as significant sources of pollutants to waters of the State.

iv. The ordinance or other regulatory mechanism shall include escalating enforcement procedures and actions.

d. Each Permittee shall implement an ongoing program designed to detect and identify non-stormwater discharges and illicit connections into the Permittee's MS4.[12] The program shall include the following components:

i. Procedures for conducting investigations of the Permittee's MS4, including field screening and methods for identifying potential sources. These procedures may also include source control inspections.

The Permittee shall implement a field screening methodology appropriate to the characteristics of the MS4 and water quality concerns. Screening for illicit connections may be conducted using *Illicit Connection and Illicit Discharge Field Screening and Source Tracing Guidance Manual* (Herrera Environmental Consultants, Inc.; May 2013), or another methodology of comparable or improved effectiveness. The Permittee shall document the field screening methodology in the Annual Report.

(a) All Permittees shall complete field screening for an average of 12% of the MS4 each year.[13] Permittees shall annually track total percentage of the MS4 screened beginning August 1, 2019.

ii. A publicly listed and publicized hotline or other telephone number for public reporting of spills and other illicit discharges.

iii. An ongoing training program for all municipal field staff, who, as part of their normal job responsibilities, might come into contact with or otherwise observe an illicit discharge and/or illicit connection to the MS4, on the identification of an illicit discharge and/or connection, and on the proper procedures for reporting and responding to the illicit discharge and/or connection. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staffing. Permittees shall document and maintain records of the trainings provided and the staff trained.[14]

e. Each Permittee shall implement an ongoing program designed to address illicit discharges, including spills and illicit connections, into the Permittee's MS4.[15] The program shall include:

i. Procedures for characterizing the nature of, and potential public or environmental threat posed by, any illicit discharges found by or reported to the Permittee. Procedures shall address the evaluation of whether the discharge must be immediately contained and steps to be taken for containment of the discharge.

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[12] New Permittees shall fully implement the requirements of S5.C.5.d no later than August 1, 2023.

[13] New Permittees shall complete S5.C.5.d.i requirements for field screening covering at least 12% of the MS4 within the Permittee's coverage area no later than December 31, 2023, and on average 12% each year thereafter.

[14] New Permittees shall develop and begin implementing the ongoing training program described in S5.C.5.d.iii no later than February 2, 2021.

[15] New Permittees shall fully develop and implement the requirements of S5.C.5.e no later than August 1, 2023.

ii. Procedures for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, collecting and analyzing water samples, and/or other detailed inspection procedures.

iii. Procedures for eliminating the discharge, including notification of appropriate authorities (including owners or operators of interconnected MS4s); notification of the property owner; technical assistance; follow-up inspections; and use of the compliance strategy developed pursuant to S5.C.5.c.iv, including escalating enforcement and legal actions if the discharge is not eliminated.

iv. Compliance with the provisions in (i), (ii), and (iii), above, shall be achieved by meeting the following timelines:

(a) Immediately respond to all illicit discharges, including spills, which are determined to constitute a threat to human health, welfare, or the environment, consistent with General Condition G3.

(b) Investigate (or refer to the appropriate agency with the authority to act) within 7 days, on average, any complaints, reports, or monitoring information that indicates a potential illicit discharge.

(c) Initiate an investigation within 21 days of any report or discovery of a suspected illicit connection to determine the source of the connection, the nature and volume of discharge through the connection, and the party responsible for the connection.

(d) Upon confirmation of an illicit connection, use the compliance strategy in a documented effort to eliminate the illicit connection within 6 months. All known illicit connections to the MS4 shall be eliminated.

f. Permittees shall train staff who are responsible for identification, investigation, termination, cleanup, and reporting of illicit discharges, including spills, and illicit connections, to conduct these activities. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements or staffing. Permittees shall document and maintain records of the training provided and the staff trained.[16]

g. Recordkeeping: Each Permittee shall track and maintain records of the activities conducted to meet the requirements of this Section. In the Annual Report, each Permittee shall submit data for the illicit discharges, spills and illicit connections including those that were found by, reported to, or investigated by the Permittee during the previous calendar year. The data shall include the information specified in Appendix 12 and WQWebIDDE. Each Permittee may either use their own system or WQWebIDDE for recording this data. Final submittals shall follow the instructions, timelines, and format as described in Appendix 12.

[16] New Permittees shall meet the requirements of S5.C.5.f no later than February 2, 2021.

6. **Controlling Runoff from New Development, Redevelopment, and Construction Sites**
Each Permittee shall implement and enforce a program to reduce pollutants in stormwater runoff to a regulated small MS4 from new development, redevelopment and construction site activities. The program shall apply to private and public development, including transportation projects.[17]

The minimum performance measures are:

a. Implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects.

Each Permittee shall adopt and make effective a local program, no later than June 30, 2022, that meets the requirements of S5.C.6.b(i) through (iii), below, and shall apply to all applications[18] submitted:

i. On or after July 1, 2022.

ii. Prior to January 1, 2017, that have not started construction[19] by January 1, 2022.[20]

iii. Prior to July 1, 2022, that have not started construction by July 1, 2027.

b. The ordinance or other enforceable mechanism shall include, at a minimum:

i. The Minimum Requirements, thresholds, and definitions in Appendix 1, or the 2013 Appendix 1 amended to include the changes identified in Appendix 10, or Phase I program approved by Ecology and amended to include Appendix 10, for new development, redevelopment, and construction sites. Adjustment and variance criteria equivalent to those in Appendix 1 shall be included. More stringent requirements may be used, and/or certain requirements may be tailored to local circumstances through the use of Ecology-approved basin plans or other similar water quality and quantity planning efforts. Such local requirements and thresholds shall provide equal protection of receiving waters and equal levels of pollutant control to those provided in Appendix 1.

ii. The local requirements shall include the following requirements, limitations, and criteria that, when used to implement the minimum requirements in Appendix 1 (or program approved by Ecology under the 2019 Phase I Permit) will protect

[17] For continuing Permittees, this means continuing to implement existing programs developed under previous permits until updates are made to meet the schedules defined. *New Permittees shall meet the requirements of S5.C.6 no later than December 31, 2022, except where otherwise specified in this Section.*

[18] In this context, "application" means, at a minimum a complete project description, site plan, and, if applicable, SEPA checklist. Permittees may establish additional elements of a completed application.

[19] In this context "started construction" means the site work associated with, and directly related to the approved project has begun. For example: grading the project site to final grade or utility installation. Simply clearing the project site does not constitute the start of construction. Permittees may establish additional requirements related to the start of construction.

[20] For Permittees in **Lewis and Cowlitz counties**: Prior to July 1, 2017, that have not started construction by June 30, 2022. **For Lynden, Snoqualmie**: Prior to January 1, 2018, that have not started construction by January 1, 2023. **For Aberdeen**: Prior to July 1, 2018, that have not started construction by June 30, 2023. **Shelton and Clallam County** shall adopt and make effective a local program that meets the requirements of S5.C.6.b(i) through (iii) no later than December 31, 2022. The local program shall apply to all applications submitted on or after January 1, 2023, and shall apply to applications submitted prior to January 1, 2023, which have not started construction by January 1, 2028.

water quality, reduce the discharge of pollutants to the MEP, and satisfy the State requirement under Chapter 90.48 RCW to apply AKART prior to discharge:

(a) Site planning requirements

(b) BMP selection criteria

(c) BMP design criteria

(d) BMP infeasibility criteria

(e) LID competing needs criteria

(f) BMP limitations

Permittees shall document how the criteria and requirements will protect water quality, reduce the discharge of pollutants to the MEP, and satisfy State AKART requirements.

Permittees who choose to use the requirements, limitations, and criteria, above, in the *Stormwater Management Manual for Western Washington*, or a Phase I program approved by Ecology, may cite this choice as their sole documentation to meet this requirement.

iii. The legal authority, through the approval process for new development and redevelopment, to inspect and enforce maintenance standards for private stormwater facilities approved under the provisions of this Section that discharge to the Permittee's MS4.

c. The program shall include a permitting process with site plan review, inspection and enforcement capability to meet the standards listed in (i) through (iv) below, for both private and public projects, using qualified personnel (as defined in *Definitions and Acronyms*). At a minimum, this program shall be applied to all sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.

i. Review of all stormwater site plans for proposed development activities.

ii. Inspect, prior to clearing and construction, all permitted development sites that have a high potential for sediment transport as determined through plan review based on definitions and requirements in Appendix 7 – *Determining Construction Site Sediment Damage Potential*. As an alternative to evaluating each site according to Appendix 7, Permittees may choose to inspect all construction sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.

iii. Inspect all permitted development sites during construction to verify proper installation and maintenance of required erosion and sediment controls. Enforce as necessary based on the inspection.

iv. Each Permittee shall manage maintenance activities to inspect all stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every six months, until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized), to identify maintenance needs and enforce compliance with maintenance standards as needed.

v. Inspect all permitted development sites upon completion of construction and prior to final approval or occupancy to ensure proper installation of permanent

stormwater facilities. Verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater treatment and flow control BMPs/facilities. Enforce as necessary based on the inspection.

vi. Compliance with the inspection requirements in (ii) through (v), above, shall be determined by the presence and records of an established inspection program designed to inspect all sites. Compliance during this permit term shall be determined by achieving at least 80% of required inspections. The inspections may be combined with other inspections provided they are performed using qualified personnel.

vii. The program shall include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities shall be maintained.

viii. An enforcement strategy shall be implemented to respond to issues of non-compliance.

d. The program shall make available, as applicable, the link to the electronic *Construction Stormwater General Permit* Notice of Intent (NOI) form for construction activity and, as applicable, a link to the electronic *Industrial Stormwater General Permit* NOI form for industrial activity to representatives of proposed new development and redevelopment. Permittees shall continue to enforce local ordinances controlling runoff from sites that are also covered by stormwater permits issued by Ecology.[21]

e. Each Permittee shall ensure that all staff whose primary job duties are implementing the program to control stormwater runoff from new development, redevelopment, and construction sites, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Follow-up training must be provided as needed to address changes in procedures, techniques or staffing. Permittees shall document and maintain records of the training provided and the staff trained.[22]

7. Operations and Maintenance

Each Permittee shall implement and document a program to regulate maintenance activities and to conduct maintenance activities by the Permittee to prevent or reduce stormwater impacts.[23]

The minimum performance measures are:

a. Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those specified in the *Stormwater Management Manual for Western Washington* or a Phase I program approved by Ecology. For facilities which do not have maintenance standards, the Permittee shall

[21] New Permittees shall meet the requirements of S5.C.6.d beginning no later than August 1, 2019.

[22] New Permittees shall meet the requirements of S5.C.6.e no later than December 31, 2022.

[23] New Permittees shall develop and implement the requirements of S5.C.7 no later than December 31, 2022 except where otherwise noted in this Section.

develop a maintenance standard. No later than June 30, 2022, Permittees shall update their maintenance standards as necessary to meet the requirements of this Section.

i. The purpose of the maintenance standard is to determine if maintenance is required. The maintenance standard is not a measure of the facility's required condition at all times between inspections. Exceeding the maintenance standard between inspections and/or maintenance is not a permit violation.

ii. Unless there are circumstances beyond the Permittee's control, when an inspection identifies an exceedance of the maintenance standard, maintenance shall be performed:

- Within 1 year for typical maintenance of facilities, except catch basins.
- Within 6 months for catch basins.
- Within 2 years for maintenance that requires capital construction of less than $25,000.

Circumstances beyond the Permittee's control include denial or delay of access by property owners, denial or delay of necessary permit approvals, and unexpected reallocations of maintenance staff to perform emergency work. For each exceedance of the required timeframe, the Permittee shall document the circumstances and how they were beyond their control.

b. Maintenance of stormwater facilities regulated by the Permittee

i. The program shall include provisions to verify adequate long-term O&M of stormwater treatment and flow control BMPs/facilities that are permitted and constructed pursuant to S.5.C.6.c and shall be maintained in accordance with S5.C.7.a.

The provisions shall include:

(a) Implementation of an ordinance or other enforceable mechanism that:

- Clearly identifies the party responsible for maintenance in accordance with maintenance standards established under S5.C.7.a.
- Requires inspection of facilities in accordance with the requirements in (b), below.
- Establishes enforcement procedures.

(b) Annual inspections of all stormwater treatment and flow control BMPs/facilities that discharge to the MS4 and were permitted by the Permittee according to S5.C.6.c, including those permitted in accordance with requirements adopted pursuant to the 2007-2019 Ecology municipal stormwater permits, unless there are maintenance records to justify a different frequency.

Permittees may reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and

maintenance experience and shall be certified in accordance with G19 – *Certification and Signature*.

ii. Compliance with the inspection requirements in (b), above, shall be determined by the presence and records of an established inspection program designed to inspect all facilities, and achieving at least 80% of required inspections.

iii. The program shall include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities shall be maintained.

c. Maintenance of stormwater facilities owned or operated by the Permittee.

i. Each Permittee shall implement a program to annually inspect all municipally owned or operated stormwater treatment and flow control BMPs/facilities, and taking appropriate maintenance actions in accordance with the adopted maintenance standards.

Permittees may reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and maintenance experience and shall be certified in accordance with G19 – *Certification and Signature.*

ii. Each Permittee shall spot check potentially damaged stormwater treatment and flow control BMPs/facilities after major storm events (24 hour storm event with a 10 year or greater recurrence interval). If spot checks indicate widespread damage/maintenance needs, inspect all stormwater treatment and flow control BMPs/facilities that may be affected. Conduct repairs or take appropriate maintenance action in accordance with maintenance standards established above, based on the results of the inspections.

iii. Each Permittee shall inspect all catch basins and inlets owned or operated by the Permittee every two years.[24] Clean catch basins if the inspection indicates cleaning is needed to comply with maintenance standards established in the *Stormwater Management Manual for Western Washington*. Decant water shall be disposed of in accordance with Appendix 6 – *Street Waste Disposal.*

The following alternatives to the standard approach of inspecting all catch basins every two years may be applied to all or portions of the system:

(a) The catch basin inspection schedule of every two years may be changed as appropriate to meet the maintenance standards based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records for catch basins, the Permittee may substitute written statements to document a specific, less frequent inspection schedule. Written statements shall be based on actual inspection

[24] New Permittees shall inspect and, if needed, clean all catch basins and inlets owned or operated by the Permittee in accordance with the requirements of S5.C.7.c once during the permit term, to be completed no later than February 2, 2024.

and maintenance experiences and shall be certified in accordance with G19 – *Certification and Signature*.

(b) Inspections every two years may be conducted on a "circuit basis" whereby 25% of catch basins and inlets within each circuit are inspected to identify maintenance needs. Include an inspection of the catch basin immediately upstream of any MS4 outfall, discharge point, or connections to public or private storm systems, if applicable. Clean all catch basins within a given circuit for which the inspection indicates cleaning is needed to comply with maintenance standards established under S5.C.7.a, above.

(c) The Permittee may clean all pipes, ditches, and catch basins and inlets within a circuit once during the permit term. Circuits selected for this alternative must drain to a single point.

iv. Compliance with the inspection requirements in S5.C.7.c.i-iii, above, shall be determined by the presence of an established inspection program achieving at least 95% of required inspections.

d. Implement practices, policies, and procedures to reduce stormwater impacts associated with runoff from all lands owned or maintained by the Permittee, and road maintenance activities under the functional control of the Permittee. No later than December 31, 2022, document the practices, policies, and procedures. Lands owned or maintained by the Permittee include, but are not limited to: streets, parking lots, roads, highways, buildings, parks, open space, road right-of-ways, maintenance yards, and stormwater treatment and flow control BMPs/facilities.

The following activities shall be addressed:

i. Pipe cleaning

ii. Cleaning of culverts that convey stormwater in ditch systems

iii. Ditch maintenance

iv. Street cleaning

v. Road repair and resurfacing, including pavement grinding

vi. Snow and ice control

vii. Utility installation

viii. Pavement striping maintenance

ix. Maintaining roadside areas, including vegetation management

x. Dust control

xi. Application of fertilizers, pesticides, and herbicides according to the instructions for their use, including reducing nutrients and pesticides using alternatives that minimize environmental impacts

xii. Sediment and erosion control

xiii. Landscape maintenance and vegetation disposal

xiv. Trash and pet waste management

xv. Building exterior cleaning and maintenance

e. Implement an ongoing training program for employees of the Permittee whose primary construction, operations, or maintenance job functions may impact stormwater quality. The training program shall address the importance of protecting water quality, operation and maintenance standards, inspection procedures, relevant SWPPPs, selecting appropriate BMPs, ways to perform their job activities to prevent or minimize impacts to water quality, and procedures for reporting water quality concerns. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staffing. Permittees shall document and maintain records of training provided. The staff training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.

f. Implement a Stormwater Pollution Prevention Plan (SWPPP) for all heavy equipment maintenance or storage yards, and material storage facilities owned or operated by the Permittee in areas subject to this Permit that are not required to have coverage under the *Industrial Stormwater General Permit* or another NPDES permit that authorizes stormwater discharges associated with the activity. As necessary, update SWPPPs no later than December 31, 2022, to include the following information. At a minimum, the SWPPP shall include:

   i. A detailed description of the operational and structural BMPs in use at the facility and a schedule for implementation of additional BMPs when needed. BMPs selected must be consistent with the *Stormwater Management Manual for Western Washington*, or a Phase I program approved by Ecology. The SWPPP must be updated as needed to maintain relevancy with the facility.

   ii. At minimum, annual inspections of the facility, including visual observations of discharges, to evaluate the effectiveness of the BMPs, identify maintenance needs, and determine if additional or different BMPs are needed. The results of these inspections must be documented in an inspection report or check list.

   iii. An inventory of the materials and equipment stored on-site, and the activities conducted at the facility which may be exposed to precipitation or runoff and could result in stormwater pollution.

   iv. A site map showing the facility's stormwater drainage, discharge points, and areas of potential pollutant exposure.

   v. A plan for preventing and responding to spills at the facility which could result in an illicit discharge.

g. Maintain records of the activities conducted to meet the requirements of this Section.

8. Source Control Program for Existing Development

a. The Permittee shall implement a program to prevent and reduce pollutants in runoff from areas that discharge to the MS4. The program shall include:

   i. Application of operational source control BMPs, and if necessary, structural source control BMPs or treatment BMPs/facilities, or both, to pollution generating sources associated with existing land uses and activities.

ii. Inspections of pollutant generating sources at publicly and privately owned institutional, commercial and industrial sites to enforce implementation of required BMPs to control pollution discharging into the MS4.

iii. Application and enforcement of local ordinances at sites, identified pursuant to S5.C.8.b.ii, including sites with discharges authorized by a separate NPDES permit. Permittees that are in compliance with the terms of this Permit will not be held liable by Ecology for water quality standard violations or receiving water impacts caused by industries and other Permittees covered, or which should be covered under an NPDES permit issued by Ecology.

iv. Practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizers from the sites identified in the inventory.

b. **Minimum performance measures:**

i. No later than August 1, 2022, Permittees shall adopt and make effective an ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (see Appendix 8 to identify pollutant generating sources).

The requirements of this subsection are met by using the source control BMPs in the SWMMWW, or a Phase I Program approved by Ecology. In cases where the manual(s) lack guidance for a specific source of pollutants, the Permittee shall work with the owner/operator to implement or adapt BMPs based on the best professional judgement of the Permittee.

Applicable operational source control BMPs shall be required for all pollutant generating sources. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. Implementation of source control requirements may be done through education and technical assistance programs, provided that formal enforcement authority is available to the Permittee and is used as determined necessary by the Permittee, in accordance with S5.C.8.b.iv, below.

ii. No later than August 1, 2022, the Permittees shall establish an inventory that identifies publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the MS4. The inventory shall include:

(a) Businesses and/or sites identified based on the presence of activities that are pollutant generating (refer to Appendix 8).

(b) Other pollutant generating sources, based on complaint response, such as: home-based businesses and multi-family sites.

iii. No later than January 1, 2023, Permittees shall implement an inspection program for sites identified pursuant to S5.C.8.b.ii, above.

(a) All identified sites with a business address shall be provided information about activities that may generate pollutants and the source control

requirements applicable to those activities. This information shall be provided by mail, telephone, electronic communications, or in person. This information may be provided all at one time or spread out over the permit term to allow for tailoring and distribution of the information during site inspections.

(b) The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or sites listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements. The Permittee may count follow-up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.

(c) Each Permittee shall inspect 100% of sites identified through credible complaints.

(d) Permittees may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.

iv. No later than January 1, 2023, each Permittee shall implement a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period as specified below:

(a) If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee shall take appropriate follow-up action(s), which may include phone calls, reminder letters, emails, or follow-up inspections.

(b) When a Permittee determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the Permittee shall take enforcement action as established through authority in its municipal codes or ordinances, or through the judicial system.

(c) Each Permittee shall maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. Each Permittee shall also maintain records of sites that are not inspected because the property owner denies entry.

(d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee's enforcement effort shall include documentation of inspections and warning letters or notices of violation.

v. Permittees shall train staff who are responsible for implementing the source control program to conduct these activities. The ongoing training program shall cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement

procedures. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.

S6. STORMWATER MANAGEMENT PROGRAM FOR SECONDARY PERMITTEES

A. This Section applies to all Secondary Permittees and all New Secondary Permittees, whether coverage under this Permit is obtained individually or as a Co-Permittee with a city, town, county, or another Secondary Permittee.

New Secondary Permittees subject to this Permit shall fully meet the requirements of this Section as modified in the footnotes in S6.D below, or as established as a condition of coverage by Ecology.

1. To the extent allowable under state, federal or local law, all components are mandatory for each Secondary Permittee covered under this Permit, whether covered as an individual Permittee or as a Co-Permittee.

2. Each Secondary Permittee shall develop and implement a Stormwater Management Program (SWMP). A SWMP is a set of actions and activities comprising the components listed in S6 and any additional actions necessary to meet the requirements of applicable TMDLs pursuant to S7 – *Compliance with Total Maximum Daily Load Requirements*. The SWMP shall be designed to reduce the discharge of pollutants from regulated small MS4s to the MEP and protect water quality.

3. Unless an alternate implementation schedule is established by Ecology as a condition of permit coverage, the SWMP shall be developed and implemented in accordance with the schedules contained in this Section and shall be fully developed and implemented no later than four and one-half years from the initial permit coverage date. Secondary Permittees that are already implementing some or all of the required SWMP components shall continue implementation of those components.

4. Secondary Permittees may implement parts of their SWMP in accordance with the schedule for cities, towns, and counties in S5, provided they have signed a memorandum of understanding or other agreement to jointly implement the activity or activities with one or more jurisdictions listed in S1.D.2.a or S1.D.2.b, and submitted a copy of the agreement to Ecology.

5. Each Secondary Permittee shall prepare written documentation of the SWMP, called the SWMP Plan. The SWMP Plan shall include a description of program activities for the upcoming calendar year.

B. Coordination

Secondary Permittees shall coordinate stormwater-related policies, programs and projects within a watershed and interconnected MS4s. Where relevant and appropriate, the SWMP shall coordinate among departments of the Secondary Permittee to ensure compliance with the terms of this Permit.

C. Legal Authority

To the extent allowable under state law and federal law, each Secondary Permittee shall be able to demonstrate that they can operate pursuant to legal authority which authorizes or enables the Secondary Permittee to control discharges to and from MS4s owned or operated by the Secondary Permittee.

This legal authority may be a combination of statutes, ordinances, permits, contracts, orders, interagency agreements, or similar instruments.

D. Stormwater Management Program for Secondary Permittees

The SWMP for Secondary Permittees shall include the following components:

1. **Public Education and Outreach**
   Each Secondary Permittee shall implement the following stormwater education strategies:

   a. Storm drain inlets owned or operated by the Secondary Permittee that are located in maintenance yards, in parking lots, along sidewalks, and at pedestrian access points shall be clearly labeled with a message similar to "Dump no waste – Drains to waterbody."[25]

      As identified during visual inspection and regular maintenance of storm drain inlets per the requirements of S6.D.3.d and S6.D.6.a.i below, or as otherwise reported to the Secondary Permittee, any inlet having a label that is no longer clearly visible and/or easily readable shall be re-labeled within 90 days.

   b. Each year beginning no later than three years from the initial date of permit coverage, public ports, colleges, and universities shall distribute educational information to tenants and residents on the impact of stormwater discharges on receiving waters, and steps that can be taken to reduce pollutants in stormwater runoff. Distribution may be by hard copy or electronic means. Appropriate topics may include:

      i. How stormwater runoff affects local water bodies.

      ii. Proper use and application of pesticides and fertilizers.

      iii. Benefits of using well-adapted vegetation.

      iv. Alternative equipment washing practices, including cars and trucks that minimize pollutants in stormwater.

      v. Benefits of proper vehicle maintenance and alternative transportation choices; proper handling and disposal of vehicle wastes, including the location of hazardous waste collection facilities in the area.

      vi. Hazards associated with illicit connections and illicit discharges.

      vii. Benefits of litter control of pet waste.

[25] New Secondary Permittees shall label all inlets as described in S6.D.1.a no later than four years from the initial date of permit coverage.

2. **Public Involvement and Participation**
   Each year, no later than May 31, each Secondary Permittee shall:
   a. Make the annual report available on the Permittee's website.
   b. Make available on the Permittee's website, the latest updated version of the SWMP Plan.
   c. A Secondary Permittee that does not maintain a website may submit the updated SWMP Plan and annual report in electronic format to Ecology for posting on Ecology's website.
3. **Illicit Discharge Detection and Elimination**
   Each Secondary Permittee shall:
   a. From the initial date of permit coverage, comply with all relevant ordinances, rules, and regulations of the local jurisdiction(s) in which the Secondary Permittee is located that govern non-stormwater discharges.
   b. Implement appropriate policies prohibiting illicit discharges,[26] and an enforcement plan to ensure compliance with illicit discharge policies.[27] These policies shall address, at a minimum: illicit connections, non-stormwater discharges, including spills of hazardous materials, and improper disposal of pet waste and litter.
      i. Allowable discharges: The policies do not need to prohibit the following categories of non-stormwater discharges:
         (a) Diverted stream flows
         (b) Rising groundwaters
         (c) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(b)(20))
         (d) Uncontaminated pumped groundwater
         (e) Foundation drains.
         (f) Air conditioning condensation
         (g) Irrigation water from agricultural sources that is commingled with urban stormwater
         (h) Springs
         (i) Uncontaminated water from crawl space pumps
         (j) Footing drains
         (k) Flows from riparian habitats and wetlands
         (l) Discharges from emergency firefighting activities in accordance with S2 – *Authorized Discharges*
         (m) Non-stormwater discharges authorized by another NPDES or state waste discharge permit

[26] New Secondary Permittees shall develop and implement appropriate policies prohibiting illicit discharges, and identify possible enforcement mechanisms as described in S6.D.3.b no later than one year from the initial date of permit coverage.

[27] New Secondary Permittees shall develop and implement an enforcement plan as described in S6.D.3.b no later than 18 months from the initial date of permit coverage.

ii. Conditionally allowable discharges: The policies may allow the following categories of non-stormwater discharges only if the stated conditions are met and such discharges are allowed by local codes:

(a) Discharges from potable water sources, including but not limited to water line flushing, hyperchlorinated water line flushing,

(b) Fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4.

(c) Discharges from lawn watering and other irrigation runoff. These discharges shall be minimized through, at a minimum, public education activities and water conservation efforts conducted by the Secondary Permittee and/or the local jurisdiction.

(d) Dechlorinated swimming pool, spa and hot tub discharges. The discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.

(e) Street and sidewalk wash water, water used to control dust, and routine external building washdown that does not use detergents. The Secondary Permittee shall reduce these discharges through, at a minimum, public education activities and/or water conservation efforts conducted by the Secondary Permittee and/or the local jurisdiction. To avoid washing pollutants into the MS4, the Secondary Permittee shall minimize the amount of street wash and dust control water used.

(f) Other non-stormwater discharges shall be in compliance with the requirements of a pollution prevention plan reviewed by the Permittee which addresses control of such discharges.

iii. The Secondary Permittee shall address any category of discharges in (i) or (ii), above, if the discharge is identified as a significant source of pollutants to waters of the State.

c. Maintain a storm sewer system map showing the locations of all known MS4 outfalls and discharge points, labeling the receiving waters (other than groundwater) and delineating the areas contributing runoff to each outfall and discharge point. Make the map (or completed portions of the map) available on request to Ecology and to the extent appropriate, to other Permittees. The preferred format for mapping is an electronic format with fully described mapping standards. [28]

d. Conduct field inspections and visually inspect for illicit discharges at all known MS4 outfalls and discharge points. Visually inspect at least one third (on average) of all known outfalls and discharge points each year beginning no later than two years from

[28] New Secondary Permittees shall meet the requirements of S6.D.3.c no later than four and one-half years from the initial date of permit coverage.

the initial date of permit coverage. Implement procedures to identify and remove any illicit discharges. Keep records of inspections and follow-up activities.

e. Implement a spill response plan that includes coordination with a qualified spill responder.[29]

f. No later than two years from initial date of permit coverage, provide staff training or coordinate with existing training efforts to educate staff on proper BMPs for preventing illicit discharges, including spills. Train all Secondary Permittee staff who, as part of their normal job responsibilities, have a role in preventing such illicit discharges.

4. Construction Site Stormwater Runoff Control

From the initial date of permit coverage, each Secondary Permittee shall:

a. Comply with all relevant ordinances, rules, and regulations of the local jurisdiction(s) in which the Secondary Permittee is located that govern construction phase stormwater pollution prevention measures.

b. Ensure that all construction projects under the functional control of the Secondary Permittee which require a construction stormwater permit obtain coverage under the *NPDES Construction Stormwater General Permit* or an individual NPDES permit prior to discharging construction related stormwater.

c. Coordinate with the local jurisdiction regarding projects owned or operated by other entities which discharge into the Secondary Permittee's MS4, to assist the local jurisdiction with achieving compliance with all relevant ordinances, rules, and regulations of the local jurisdiction(s).

d. Provide training or coordinate with existing training efforts to educate relevant staff in erosion and sediment control BMPs and requirements, or hire trained contractors to perform the work.

e. Coordinate as requested with Ecology or the local jurisdiction to provide access for inspection of construction sites or other land disturbances which are under the functional control of the Secondary Permittee during land disturbing activities and/or construction period.

5. Post-Construction Stormwater Management for New Development and Redevelopment

From the initial date of permit coverage, each Secondary Permittee shall:

a. Comply with all relevant ordinances, rules and regulations of the local jurisdiction(s) in which the Secondary Permittee is located that govern post-construction stormwater pollution prevention measures.

b. Coordinate with the local jurisdiction regarding projects owned or operated by other entities which discharge into the Secondary Permittee's MS4, to assist the local jurisdiction with achieving compliance with all relevant ordinances, rules and regulations of the local jurisdiction(s).

[29] New Secondary Permittees shall develop and implement a spill response plan as described in S6.D.3.e no later than four and one-half years from the initial date of permit coverage.

6. **Pollution Prevention and Good Housekeeping for Municipal Operations**
Each Secondary Permittee shall:

a. Implement a municipal operation and maintenance (O&M) plan to minimize stormwater pollution from activities conducted by the Secondary Permittee. The O&M Plan shall include appropriate pollution prevention and good housekeeping procedures for all of the following operations, activities, and/or types of facilities that are present within the Secondary Permittee's boundaries and under the functional control of the Secondary Permittee.[30]

i. *Stormwater collection and conveyance systems*, including catch basins, stormwater pipes, open channels, culverts, and stormwater treatment and flow control BMPs/facilities. The O&M Plan shall address, at a minimum: scheduled inspections and maintenance activities, including cleaning and proper disposal of waste removed from the system. Secondary Permittees shall properly maintain stormwater collection and conveyance systems owned or operated by the Secondary Permittee and annually inspect and maintain all stormwater facilities to ensure facility function.

Secondary Permittees shall establish maintenance standards that are as protective or more protective of facility function than those specified in *Stormwater Management Manual for Western Washington*. Secondary Permittees shall review their maintenance standards to ensure they are consistent with the requirements of this Section.

Secondary Permittees shall conduct spot checks of potentially damaged permanent stormwater treatment and flow control BMPs/facilities following major storm events (24-hour storm event with a 10-year or greater recurrence interval).

ii. *Roads, highways, and parking lots*. The O&M Plan shall address, but is not limited to: deicing, anti-icing, and snow removal practices; snow disposal areas; material (e.g., salt, sand, or other chemical) storage areas; all-season BMPs to reduce road and parking lot debris and other pollutants from entering the MS4.

iii. *Vehicle fleets*. The O&M Plan shall address, but is not limited to: storage, washing, and maintenance of Secondary Permittee vehicle fleets; and fueling facilities. Secondary Permittees shall conduct all vehicle and equipment washing and maintenance in a self-contained covered building or in designated wash and/or maintenance areas.

iv. *External building maintenance*. The O&M Plan shall address, building exterior cleaning and maintenance including cleaning, washing, painting; and maintenance and management of dumpsters; and other maintenance activities.

v. *Parks and open space*. The O&M Plan shall address, but is not limited to: proper application of fertilizer, pesticides, and herbicides; sediment and erosion control; BMPs for landscape maintenance and vegetation disposal; and trash and pet waste management.

[30] New Secondary Permittees shall develop and implement the operation and maintenance plan described in S6.D.6.a no later than three years from initial date of permit coverage.

vi. *Material storage facilities and heavy equipment maintenance or storage yards.* Secondary Permittees shall develop and implement a Stormwater Pollution Prevention Plan to protect water quality at each of these facilities owned or operated by the Secondary Permittee and not covered under the *Industrial Stormwater General Permit* or under another NPDES permit that authorizes stormwater discharges associated with the activity.

vii. *Other facilities* that would reasonably be expected to discharge contaminated runoff. The O&M Plan shall address proper stormwater pollution prevention practices for each facility.

b. From the initial date of permit coverage, Secondary Permittees shall also have permit coverage for all facilities operated by the Secondary Permittee that are required to be covered under the *Industrial Stormwater General Permit* or another NPDES permit that authorizes discharges associated with the activity.

c. The O&M Plan shall include sufficient documentation and records as necessary to demonstrate compliance with the O&M Plan requirements in S6.D.6.a(i) through (vii), above.

d. No later than three years from the initial date of permit coverage, Secondary Permittees shall implement a program designed to train all employees whose primary construction, operations, or maintenance job functions may impact stormwater quality. The training shall address:

i. The importance of protecting water quality.

ii. The requirements of this Permit.

iii. Operation and maintenance requirements.

iv. Inspection procedures.

v. Ways to perform their job activities to prevent or minimize impacts to water quality.

vi. Procedures for reporting water quality concerns, including potential illicit discharges (including spills).

S7. COMPLIANCE WITH TOTAL MAXIMUM DAILY LOAD REQUIREMENTS

The following requirements apply if an applicable TMDL is approved for stormwater discharges from MS4s owned or operated by the Permittee. Applicable TMDLs are TMDLs which have been approved by EPA on or before the issuance date of this Permit or prior to the date that Ecology issues coverage under this Permit, whichever is later.

A. For applicable TMDLs listed in Appendix 2, affected Permittees shall comply with the specific requirements identified in Appendix 2. Each Permittee shall keep records of all actions required by this Permit that are relevant to applicable TMDLs within their jurisdiction. The status of the TMDL implementation shall be included as part of the annual report submitted to Ecology. Each annual report shall include a summary of relevant SWMP and Appendix 2 activities conducted in the TMDL area to address the applicable TMDL parameter(s).

B. For applicable TMDLs not listed in Appendix 2, compliance with this Permit shall constitute compliance with those TMDLs.

C. For TMDLs that are approved by EPA after this Permit is issued, Ecology may establish TMDL related permit requirements through future permit modification if Ecology determines implementation of actions, monitoring, or reporting necessary to demonstrate reasonable further progress toward achieving TMDL waste load allocations, and other targets, are not occurring and shall be implemented during the term of this Permit or when this Permit is reissued. Permittees are encouraged to participate in development of TMDLs within their jurisdiction and to begin implementation.

S8. MONITORING AND ASSESSMENT

A. Regional Status and Trends Monitoring

1. All Permittees that chose S8.B Status and Trends Monitoring Option #1 in the *Phase II Western Washington Municipal Stormwater Permit,* August 1, 2013 – July 31, 2018 (extended to July 31, 2019), shall make a one-time payment into the collective fund to implement regional small streams and marine nearshore areas status and trends monitoring in Puget Sound. This payment is due on or before December 1, 2019. Submit payment according to Section S8.D, below.

2. All City and County Permittees covered under the *Phase II Western Washington Municipal Stormwater Permit,* August 1, 2013 – July 31, 2018 (extended to July 31, 2019), except the Cities of Aberdeen and Centralia, shall notify Ecology in writing which of the following two options for regional status and trends monitoring (S8.A.2.a or S8.A.2.b) the Permittee chooses to carry out during this permit term. The written notification with G19 signature is due to Ecology no later than December 1, 2019.

a. Make annual payments into a collective fund to implement regional receiving water status and trends monitoring of either: small streams and marine nearshore areas in Puget Sound; or, urban streams in Clark and Cowlitz Counties in the Lower Columbia River basin, depending on the Permittee's location. The annual payments into the collective fund are due on or before August 15 each year beginning in 2020. Submit payments according to Section S8.D, below.

Or

b. Conduct stormwater discharge monitoring per the requirements in S8.C.

Either option will fully satisfy the Permittee's obligations under this Section (S8.A.2). Each Permittee shall select a single option for this permit term.

B. Stormwater Management Program (SWMP) Effectiveness and Source Identification Studies

1. All Permittees that chose S8.C Effectiveness Studies Option #1 in the *Phase II Western Washington Municipal Stormwater Permit,* August 1, 2013 – July 31, 2018 (extended to July 31, 2019), shall make a one-time payment into the collective fund to implement effectiveness studies and source identification studies. The payment is due on or before December 1, 2019. Submit payment according to Section S8.D, below.

2. All City and County Permittees covered under the *Phase II Western Washington Municipal Stormwater Permit,* August 1, 2013 – July 31, 2018 (extended to July 31, 2019), shall notify Ecology in writing which of the following two options (S8.B.2.a or S8.B.2.b) for effectiveness and source identification studies the Permittee chooses to carry out during this permit term. The written notification with G19 signature is due to Ecology no later than December 1, 2019.

   a. Make annual payments into a collective fund to implement effectiveness and source identification studies. The annual payments into the collective fund are due on or before August 15 each year beginning in 2020. Submit payments according to Section S8.D, below.

   Or

   b. Conduct stormwater discharge monitoring per the requirements in S8.C.

   Either option will fully satisfy the Permittee's obligations under this Section (S8.B.2). Each Permittee shall select a single option for this permit term.

3. All Permittees shall provide information as requested for effectiveness and source identification studies that are under contract with Ecology as active Stormwater Action Monitoring (SAM) projects. These requests will be limited to records of SWMP activities and associated data tracked and/or maintained in accordance with S5 – *Stormwater Management Program for Cities, Towns, and Counties* and/or S9 – *Reporting Requirements.* A maximum of three requests during the permit term from the SAM Coordinator will be transmitted to the Permittee's permit coordinator via Ecology's regional permit manager. The Permittee shall have 90 days to provide the requested information.

C. Stormwater discharge monitoring.

1. This Section applies only to Permittees who choose to conduct stormwater discharge monitoring per S8.A.2.b and/or S8.B.2.b in lieu of participation in the regional status and trends monitoring and/or effectiveness and source identification studies. These Permittees shall conduct monitoring in accordance with Appendix 9 and an Ecology-approved Quality Assurance Project Plan (QAPP) as follows:

   a. Permittees who choose the option to conduct stormwater discharge monitoring for either S8.A.2 or S8.B.2 shall monitor three independent discharge locations.

      Permittees who choose the option to conduct stormwater discharge monitoring for both S8.A.2 and S8.B.2 shall conduct this monitoring at a total of six locations; at least four locations shall be independent (one location may be nested in another basin).

   b. No later than February 1, 2020, each Permittee shall submit to Ecology a draft stormwater discharge monitoring QAPP for review and approval. The QAPP shall be prepared in accordance with the requirements in Appendix 9. The final QAPP shall be submitted to Ecology for approval as soon as possible following finalization, and before August 15, 2020 or within 60 days of receiving Ecology's comments on the draft QAPP (whichever is later).

   c. Flow monitoring shall begin no later than October 1, 2020 or within 30 days of receiving Ecology's approval of the final QAPP (whichever is later). Stormwater discharge monitoring shall be fully implemented no later than October 1, 2021.

d. Data and analyses shall be reported annually in accordance with the Ecology-approved QAPP. Each Permittee shall enter into the Department's Environmental Information Management (EIM) database all water and solids concentration data collected pursuant to Appendix 9.

D. Payments into the collective funds.

1. Each Permittee's S8.A and S8.B payment amounts are listed in Appendix 11 and in the invoices that will be sent to the Permittee approximately three months in advance of each payment due date.
2. Mail payments according to the instructions in the invoice, or via United States Postal Service to:

   Department of Ecology Cashiering Unit
   P.O. Box 47611
   Olympia, WA 98405-7611

S9. REPORTING REQUIREMENTS

A. No later than March 31 of each year beginning in 2020, each Permittee shall submit an annual report. The reporting period for the annual report will be the previous calendar year unless otherwise specified.

Permittees shall submit annual reports electronically using Ecology's Water Quality Permitting Portal (WQWebPortal) available on Ecology's website.

Permittees unable to submit electronically through Ecology's WQWebPortal shall contact Ecology to request a waiver and obtain instructions on how to submit an annual report in an alternative format.

B. Each Permittee is required to keep all records related to this Permit and the SWMP for at least five years.

C. Each Permittee shall make all records related to this Permit and the Permittee's SWMP available to the public at reasonable times during business hours. The Permittee will provide a copy of the most recent annual report to any individual or entity, upon request.

1. A reasonable charge may be assessed by the Permittee for making photocopies of records.
2. The Permittee may require reasonable advance notice of intent to review records related to this Permit.

D. The annual report for cities, towns, and counties

Each annual report shall include the following:

1. A copy of the Permittee's current SWMP Plan, as required by S5.A.2.
2. Submittal of the annual report form as provided by Ecology pursuant to S9.A, describing the status of implementation of the requirements of this Permit during the reporting period.

3. Attachments to the annual report form including summaries, descriptions, reports, and other information as required, or as applicable, to meet the requirements of this Permit during the reporting period, or as a required submittal. Refer to Appendix 3 for annual report questions.[31]
4. If applicable, notice that the MS4 is relying on another governmental entity to satisfy any of the obligations under this Permit.
5. Certification and signature pursuant to G19.D, and notification of any changes to authorization pursuant to G19.C.
6. A notification of any annexations, incorporations or jurisdictional boundary changes resulting in an increase or decrease in the Permittee's geographic area of permit coverage during the reporting period.

E. Annual report for Secondary Permittees

Each annual report shall include the following:

1. Submittal of the annual report form as provided by Ecology pursuant to S9.A, describing the status of implementation of the requirements of this Permit during the reporting period.
2. Attachments to the annual report form including summaries, descriptions, reports, and other information as required, or as applicable, to meet the requirements of this Permit during the reporting period. Refer to Appendix 4 for annual report questions.
3. If applicable, notice that the MS4 is relying on another governmental entity to satisfy any of the obligations under this Permit.
4. Certification and signature pursuant to G19.D, and notification of any changes to authorization pursuant to G19.C.
5. A notification of any jurisdictional boundary changes resulting in an increase or decrease in the Secondary Permittee's geographic area of permit coverage during the reporting period.

[31] New Permittees refer to Appendix 5 for annual report questions.

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this Permit shall be consistent with the terms and conditions of this Permit.

G2. PROPER OPERATION AND MAINTENANCE

The Permittee shall at all times properly operate and maintain all facilities and systems of collection, treatment, and control (and related appurtenances) which are installed or used by the Permittee for pollution control to achieve compliance with the terms and conditions of this Permit.

G3. NOTIFICATION OF DISCHARGE, INCLUDING SPILLS

If a Permittee has knowledge of a discharge, including spills, into or from a MS4 which could constitute a threat to human health, welfare, or the environment, the Permittee shall:

A. Take appropriate action to correct or minimize the threat to human health, welfare and/or the environment.

B. Notify the Ecology regional office and other appropriate spill response authorities immediately but in no case later than within 24 hours of obtaining that knowledge.

C. Immediately report spills or other discharges which might cause bacterial contamination of marine waters, such as discharges resulting from broken sewer lines and failing onsite septic systems, to the Ecology regional office and to the Department of Health, Shellfish Program.

D. Immediately report spills or discharges of oils or hazardous substances to the Ecology regional office and to the Washington Emergency Management Division at 1-800-258-5990.

G4. BYPASS PROHIBITED

The intentional bypass of stormwater from all or any portion of a stormwater treatment BMP whenever the design capacity of the treatment BMP is not exceeded, is prohibited unless the following conditions are met:

A. Bypass is: (1) unavoidable to prevent loss of life, personal injury, or severe property damage; or (2) necessary to perform construction or maintenance-related activities essential to meet the requirements of the Clean Water Act (CWA); and

B. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated stormwater, or maintenance during normal dry periods.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

G5. RIGHT OF ENTRY

The Permittee shall allow an authorized representative of Ecology, upon the presentation of credentials and such other documents as may be required by law at reasonable times:

A. To enter upon the Permittee's premises where a discharge is located or where any records shall be kept under the terms and conditions of this Permit.

B. To have access to, and copy at reasonable cost and at reasonable times, any records that shall be kept under the terms of the Permit.

C. To inspect at reasonable times any monitoring equipment or method of monitoring required in the Permit.

D. To inspect at reasonable times any collection, treatment, pollution management, or discharge facilities.

E. To sample at reasonable times any discharge of pollutants.

G6. DUTY TO MITIGATE

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit which has a reasonable likelihood of adversely affecting human health or the environment.

G7. PROPERTY RIGHTS

This Permit does not convey any property rights of any sort, or any exclusive privilege.

G8. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in the Permit shall be construed as excusing the Permittee from compliance with any other applicable federal, state, or local statutes, ordinances, or regulations.

G9. MONITORING

A. Representative Sampling

Samples and measurements taken to meet the requirements of this Permit shall be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

B. Records Retention

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least five years. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Ecology. On request, monitoring data and analysis shall be provided to Ecology.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place and time of sampling; (2) the individual who

performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Test Procedures

All sampling and analytical methods used to meet the monitoring requirements in this Permit shall conform to the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136, unless otherwise specified in this Permit or approved in writing by Ecology.

E. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations or at a minimum frequency of at least one calibration per year. Calibration records should be maintained for a minimum of three years.

F. Lab Accreditation

All monitoring data, except for flow, temperature, conductivity, pH, total residual chlorine, and other exceptions approved by Ecology, shall be prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 WAC. Soils and hazardous waste data are exempted from this requirement pending accreditation of laboratories for analysis of these media by Ecology. Quick methods of field detection of pollutants including nutrients, surfactants, salinity, and other parameters are exempted from this requirement when the purpose of the sampling is identification and removal of a suspected illicit discharge.

G. Additional Monitoring

Ecology may establish specific monitoring requirements in addition to those contained in this Permit by administrative order or permit modification.

G10. REMOVED SUBSTANCES

With the exception of decant from street waste vehicles, the Permittee shall not allow collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of stormwater to be resuspended or reintroduced to the MS4 or to waters of the State. Decant from street waste vehicles resulting from cleaning stormwater facilities may be reintroduced only when other practical means are not available and only in accordance with the Street Waste Disposal Guidelines in Appendix 6. Solids generated from maintenance of the MS4 may be reclaimed, recycled, or reused when allowed by local codes and ordinances. Soils that are identified as contaminated pursuant to Chapter 173-350 WAC shall be disposed at a qualified solid waste disposal facility (see Appendix 6).

G11. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit shall not be affected thereby.

G12. REVOCATION OF COVERAGE

The director may terminate coverage under this General Permit in accordance with Chapter 43.21B RCW and Chapter 173-226 WAC. Cases where coverage may be terminated include, but are not limited to the following:

A. Violation of any term or condition of this general permit;

B. Obtaining coverage under this general permit by misrepresentation or failure to disclose fully all relevant facts;

C. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

D. A determination that the permitted activity endangers human health or the environment, or contributes significantly to water quality standards violations;

E. Failure or refusal of the Permittee to allow entry as required in Chapter 90.48.090 RCW;

F. Nonpayment of permit fees assessed pursuant to Chapter 90.48.465 RCW;

Revocation of coverage under this general permit may be initiated by Ecology or requested by any interested person.

G13. TRANSFER OF COVERAGE

The director may require any discharger authorized by this General Permit to apply for and obtain an individual permit in accordance with Chapter 43.21B RCW and Chapter 173-226 WAC.

G14. GENERAL PERMIT MODIFICATION AND REVOCATION

This General Permit may be modified, revoked and reissued, or terminated in accordance with the provisions of WAC 173-226-230. Grounds for modification, revocation and reissuance, or termination include, but are not limited to the following:

A. A change occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under this General Permit;

B. Effluent limitation guidelines or standards are promulgated pursuant to the CWA or Chapter 90.48 RCW, for the category of dischargers covered under this General Permit;

C. A water quality management plan containing requirements applicable to the category of dischargers covered under this General Permit is approved; or

D. Information is obtained which indicates that cumulative effects on the environment from dischargers covered under this General Permit are unacceptable.

E. Changes in state law that reference this Permit.

G15. REPORTING A CAUSE FOR MODIFICATION OR REVOCATION

A Permittee who knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation and reissuance under General Condition G12, G14, or 40 CFR 122.62 must report such plans, or such information, to Ecology so that a decision can be made on whether action to modify, or revoke and reissue this Permit will be

required. Ecology may then require submission of a new or amended application. Submission of such application does not relieve the Permittee of the duty to comply with this Permit until it is modified or reissued.

G16. APPEALS

A. The terms and conditions of this General Permit, as they apply to the appropriate class of dischargers, are subject to appeal within thirty days of issuance of this General Permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226 WAC.

B. The terms and conditions of this General Permit, as they apply to an individual discharger, are appealable in accordance with Chapter 43.21B RCW within thirty days of the effective date of coverage of that discharger. Consideration of an appeal of General Permit coverage of an individual discharger is limited to the General Permit's applicability or nonapplicability to that individual discharger.

C. The appeal of General Permit coverage of an individual discharger does not affect any other dischargers covered under this General Permit. If the terms and conditions of this General Permit are found to be inapplicable to any individual discharger(s), the matter shall be remanded to Ecology for consideration of issuance of an individual permit or permits.

D. Modifications of this Permit are appealable in accordance with Chapter 43.21B RCW and Chapter 173-226 WAC.

G17. PENALTIES

40 CFR 122.41(a)(2) and (3), 40 CFR 122.41(j)(5), and 40 CFR 122.41(k)(2) are hereby incorporated into this Permit by reference.

G18. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this Permit.

G19. Certification and Signature

All formal submittals to Ecology shall be signed and certified.

A. All permit applications shall be signed by either a principal executive officer or ranking elected official.

B. All formal submittals required by this Permit shall be signed by a person described, above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described, above, and submitted to Ecology, and

2. The authorization specifies either an individual or a position having responsibility for the overall development and implementation of the stormwater management program. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

C. Changes to authorization. If an authorization under condition G19.B.2 is no longer accurate because a different individual or position has responsibility for the overall development and implementation of the stormwater management program, a new authorization satisfying the requirements of condition G19.B.2 must be submitted to Ecology prior to or together with any reports, information, or applications to be signed by an authorized representative.

D. Certification. Any person signing a formal submittal under this Permit shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that Qualified Personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for willful violations."

G20. Non-compliance notification

In the event a Permittee is unable to comply with any of the terms and conditions of this Permit, the Permittee must:

A. Notify Ecology of the failure to comply with the permit terms and conditions in writing within 30 days of becoming aware that the non-compliance has occurred. The written notification must include all of the following:

1. A description of the non-compliance, including dates.
2. Beginning and end dates of the non-compliance, and if the compliance has not been corrected, the anticipated date of correction.
3. Steps taken or planned to reduce, eliminate, or prevent reoccurrence of the non-compliance.

B. Take appropriate action to stop or correct the condition of non-compliance.

G21. UPSETS

Permittees must meet the conditions of 40 CFR 122.41(n) regarding "Upsets." The conditions are as follows:

A. ***Definition.*** "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. ***Effect of an upset.*** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (C) of this condition are met. Any determination made during administrative

review of claims that noncompliance was caused by upset, and before an action for noncompliance, will not constitute final administrative action subject to judicial review.

C. ***Conditions necessary for demonstration of upset.*** A Permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that the Permittee can identify the cause(s) of the upset;
2. The permitted facility was at the time being properly operated; and
3. The Permittee submitted notice of the upset as required in 40 CFR 122.41(l)(6)(ii)(B) (24-hour notice of noncompliance).
4. The Permittee complied with any remedial measures required under 40 CFR 122.41(d) (Duty to Mitigate).

D. ***Burden of proof.*** In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

DEFINITIONS AND ACRONYMS

This Section includes definitions for terms used in the body of the Permit and in all the appendices except Appendix 1. Terms defined in Appendix 1 are necessary to implement requirements related to Appendix 1.

40 CFR means Title 40 of the Code of Federal Regulations, which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

AKART means All Known, Available, and Reasonable methods of prevention, control and Treatment. See also State Water Pollution Control Act, Chapter 90.48.010 RCW and Chapter 90.48.520 RCW.

All Known, Available and Reasonable Methods of Prevention, Control and Treatment (AKART) refers to the State Water Pollution Control Act, Chapter 90.48.010 RCW and Chapter 90.48.520 RCW.

Applicable TMDL means a TMDL which has been approved by EPA on or before the issuance date of this Permit, or prior to the date that Ecology issues coverage under this Permit, whichever is later.

Beneficial Uses means uses of waters of the State, which include but are not limited to use for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, recreation, generation of electric power and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the State.

Best Management Practices are the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

BMP means Best Management Practice.

Bypass means the diversion of stormwater from any portion of a stormwater treatment facility.

Circuit means a portion of a MS4 discharging to a single point or serving a discrete area determined by traffic volumes, land use, topography or the configuration of the MS4.

Component or **Program Component** means an element of the Stormwater Management Program listed in S5 - *Stormwater Management Program for Cities, Towns, and Counties*, or S6 – *Stormwater Management Program for Secondary Permittees*, or S7 – *Compliance with Total Maximum Daily Load Requirements*, or S8 – *Monitoring and Assessment*, of this Permit.

Community-based social marketing is a social marketing methodology. It employs a systematic approach intended to change the behavior of communities to reduce their impact on the environment. Realizing that providing information is usually not sufficient to initiate behavior change, community-based social marketing uses tools and findings from social psychology to discover the perceived barriers to behavior change and ways of overcoming these barriers.

Conveyance System means that portion of the municipal separate storm sewer system designed or used for conveying stormwater.

Co-Permittee means an owner or operator of an MS4 which is in a cooperative agreement with at least one other applicant for coverage under this Permit. A Co-Permittee is an owner or operator of a regulated MS4 located within or in proximity to another regulated MS4. A Co-Permittee is only responsible for permit conditions relating to discharges from the MS4 the Co-Permittee owns or operates. See also 40 CFR 122.26(b)(1).

CWA means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 *et seq.*).

Director means the Director of the Washington State Department of Ecology, or an authorized representative.

Discharge Point means the location where a discharge leaves the Permittee's MS4 through the Permittee's MS4 facilities/BMPs designed to infiltrate.

Entity means a governmental body, or a public or private organization.

EPA means the U.S. Environmental Protection Agency.

Fully Stabilized means the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions or geotextiles) which prevents erosion.

General Permit means a permit which covers multiple dischargers of a point source category within a designated geographical area, in lieu of individual permits being issued to each discharger.

Groundwater means water in a saturated zone or stratum beneath the surface of the land or below a surface water body. Refer to Chapter 173-200 WAC.

Hazardous Substance means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or WAC 173-303-100.

Heavy Equipment Maintenance or Storage Yard means an uncovered area where any heavy equipment, such as mowing equipment, excavators, dump trucks, backhoes, or bulldozers are washed or maintained, or where at least five pieces of heavy equipment are stored on a long-term basis.

Highway means a main public road connecting towns and cities.

Hydraulically Near means runoff from the site discharges to the sensitive feature without significant natural attenuation of flows that allows for suspended solids removal. See Appendix 7 Determining Construction Site Sediment Damage Potential for a more detailed definition.

Hyperchlorinated means water that contains more than 10 mg/Liter chlorine.

Illicit Connection means any infrastructure connection to the MS4 that is not intended, permitted or used for collecting and conveying stormwater or non-stormwater discharges allowed as specified in this Permit (S5.C.5 and S6.D.3). Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.

Illicit Discharge means any discharge to a MS4 that is not composed entirely of stormwater or of non-stormwater discharges allowed as specified in this Permit (S5.C.5 and S6.D.3).

Impervious Surface means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or stormwater areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Land Disturbing Activity means any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. 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 land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

LID means Low Impact Development.

LID BMP means Low Impact Development Best Management Practices.

LID Principles means land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

Low Impact Development (LID) means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

Low Impact Development Best Management Practices (LID BMP) means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

Material Storage Facilities means an uncovered area where bulk materials (liquid, solid, granular, etc.) are stored in piles, barrels, tanks, bins, crates, or other means.

Maximum Extent Practicable refers to paragraph 402(p)(3)(B)(iii) of the federal Clean Water Act which reads as follows: Permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the Administrator or the State determines appropriate for the control of such pollutants.

MEP means Maximum Extent Practicable.

MS4 means Municipal Separate Storm Sewer System.

Municipal Separate Storm Sewer System means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(i) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of Washington State.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Which is not a combined sewer;

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.; and

(v) Which is defined as "large" or "medium" or "small" or otherwise designated by Ecology pursuant to 40 CFR 122.26.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the State from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

Native Vegetation means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

New Development means land disturbing activities, including Class IV General Forest Practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development. Refer to Appendix 1 for a definition of hard surfaces.

New Permittee means a city, town, or county that is subject to the *Western Washington Municipal Stormwater General Permit* and was not subject to the permit prior to July 1, 2019.

New Secondary Permittee means a Secondary Permittee that is covered under a municipal stormwater general permit and was not covered by the permit prior to July 1, 2019.

NOI means Notice of Intent.

Notice of Intent (NOI) means the application for, or a request for coverage under, a General Permit pursuant to WAC 173-226-200.

Notice of Intent for Construction Activity means the application form for coverage under the *Construction Stormwater General Permit.*

Notice of Intent for Industrial Activity means the application form for coverage under the *Industrial Stormwater General Permit.*

NPDES means National Pollutant Discharge Elimination System.

Outfall means a point source as defined by 40 CFR 122.2 at the point where a discharge leaves the Permittee's MS4 and enters a surface receiving waterbody or surface receiving waters. Outfall does not include pipes, tunnels, or other conveyances which connect segments of the same stream or other surface waters and are used to convey primarily surface waters (i.e., culverts).

Overburdened Community means minority, low-income, tribal, or indigenous populations or geographic locations in Washington State that potentially experience disproportionate environmental harms and risks. This disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations or places. The term describes situations where multiple factors, including both environmental and socio-economic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities.

Permittee unless otherwise noted, the term "Permittee" includes city, town, or county Permittee, Co-Permittee, New Permittee, Secondary Permittee, and New Secondary Permittee.

Physically Interconnected means that one MS4 is connected to another storm sewer system in such a way that it allows for direct discharges to the second system. For example, the roads with drainage systems and municipal streets of one entity are physically connected directly to a storm sewer system belonging to another entity.

Project site means that portion of a property, properties, or right-of-ways subject to land disturbing activities, new hard surfaces, or replaced hard surfaces. Refer to Appendix 1 for a definition of hard surfaces.

QAPP means Quality Assurance Project Plan.

Qualified Personnel means someone who has had professional training in the aspects of stormwater management for which they are responsible and are under the functional control of the Permittee. Qualified Personnel may be staff members, contractors, or volunteers.

Quality Assurance Project Plan means a document that describes the objectives of an environmental study and the procedures to be followed to achieve those objectives.

RCW means the Revised Code of Washington State.

Receiving Waterbody or **Receiving Waters** means naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or groundwater, to which a MS4 discharges.

Redevelopment means, on a site that is already substantially developed (i.e., has 35% or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities. Refer to Appendix 1 for a definition of hard surfaces.

Regulated Small Municipal Separate Storm Sewer System means a Municipal Separate Storm Sewer System which is automatically designated for inclusion in the Phase II stormwater permitting program by

its location within an Urbanized Area, or by designation by Ecology and is not eligible for a waiver or exemption under S1.C.

Runoff is water that travels across the land surface and discharges to water bodies either directly or through a collection and conveyance system. See also "***Stormwater.***"

SAM means Stormwater Action Monitoring

Secondary Permittee is an operator of a regulated small MS4 which is not a city, town or county. Secondary Permittees include special purpose districts and other public entities that meet the criteria in S1.B.

Sediment/Erosion-Sensitive Feature means an area subject to significant degradation due to the effect of construction runoff, or areas requiring special protection to prevent erosion. See Appendix 7 Determining Construction Site Sediment Damage Potential for a more detailed definition.

Shared Water Bodies means water bodies, including downstream segments, lakes and estuaries that receive discharges from more than one Permittee.

Significant Contributor means a discharge that contributes a loading of pollutants considered to be sufficient to cause or exacerbate the deterioration of receiving water quality or instream habitat conditions.

Small Municipal Separate Storm Sewer System means an MS4 that is not defined as "large" or "medium" pursuant to 40 CFR 122.26(b)(4) & (7) or designated under 40 CFR 122.26 (a)(1)(v).

Source Control BMP means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The *SWMMWW* separates source control BMPs into two types. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

Stormwater means runoff during and following precipitation and snowmelt events, including surface runoff, drainage or interflow.

Stormwater Action Monitoring (SAM) is the regional stormwater monitoring program for Western Washington. This means, for all of Western Washington, a stormwater-focused monitoring and assessment program consisting of these components: status and trends monitoring in small streams and marine nearshore areas, stormwater management program effectiveness studies, and source identification projects. The priorities and scope for SAM are set by a formal stakeholder group that selects the studies and oversees the program's administration.

Stormwater Associated with Industrial and Construction Activity means the discharge from any conveyance which is used for collecting and conveying stormwater, which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant, or associated with clearing, grading and/or excavation, and is required to have an NPDES permit in accordance with 40 CFR 122.26.

Stormwater facility retrofits means both: projects that retrofit existing treatment and/or flow control facilities; and new flow control or treatment facilities or BMPs that will address impacts from existing development.

Stormwater Management Program (SWMP) means a set of actions and activities designed to reduce the discharge of pollutants from the MS4 to the MEP and to protect water quality, and comprising the components listed in S5 (for cities, towns, and counties) or S6 (for Secondary Permittees) of this Permit and any additional actions necessary to meet the requirements of applicable TMDLs pursuant to S7 – *Compliance with TMDL Requirements,* and S8– *Monitoring and Assessment.*

Stormwater Treatment and Flow Control BMPs/Facilities means detention facilities, permanent treatment BMPs/facilities; and bioretention, vegetated roofs, and permeable pavements that help meet Appendix 1 Minimum Requirements #6 (treatment), #7 (flow control), or both.

Surface Waters includes lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the jurisdiction of the State of Washington.

SWMMWW or **Stormwater Management Manual for Western Washington** means *Stormwater Management Manual for Western Washington (2019).*

SWMP means Stormwater Management Program.

TMDL means Total Maximum Daily Load.

Total Maximum Daily Load (TMDL) means a water cleanup plan. A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The calculation must include a margin of safety to ensure that the water body can be used for the purposes the state has designated. The calculation must also account for seasonable variation in water quality. Water quality standards are set by states, territories, and tribes. They identify the uses for each water body, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs.

Tributary Conveyance means pipes, ditches, catch basins, and inlets owned or operated by the Permittee and designed or used for collecting and conveying stormwater.

UGA means Urban Growth Area.

Urban Growth Area (UGA) means those areas designated by a county pursuant to RCW 36.70A.110.

Urbanized Area is a federally-designated land area comprising one or more places and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. Urbanized Areas are designated by the U.S. Census Bureau based on the most recent decennial census.

Vehicle Maintenance or Storage Facility means an uncovered area where any vehicles are regularly washed or maintained, or where at least 10 vehicles are stored.

Water Quality Standards means Surface Water Quality Standards, Chapter 173-201A WAC, Groundwater Quality Standards, Chapter 173-200 WAC, and Sediment Management Standards, Chapter 173-204 WAC.

Waters of the State includes those waters as defined as "waters of the United States" in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the State" as defined in

Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

Waters of the United States refers to the definition in 40 CFR 122.2.

POLLUTION CONTROL HEARINGS BOARD

FOR THE STATE OF WASHINGTON

PUGET SOUNDKEEPER ALLIANCE, Appellant, v. STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Respondents.	)	PCHB NO. DECLARATION OF SERVICE Phase II Municipal Stormwater Permit

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington.

On July 31, 2019, I served a true and correct copy of the following documents on the parties listed below:

1. Notice of Appeal
2. Attachment 1- Phase II Municipal Stormwater Permit

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Yakima County
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Yakima, WA 98901

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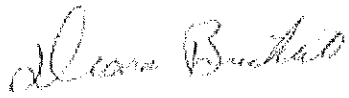
I, Diana Brechtel, declare under penalty of perjury that the foregoing is true and correct. Executed on this 31st day of July, 2017, at Seattle, Washington.



Diana Brechtel, Litigation Paralegal

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