

APPENDIX D—PERMIT MODIFICATION

**Fact Sheet Addendum
For the
Industrial Stormwater General Permit National Pollutant Discharge Elimination System
(NPDES) and
State Waste Discharge General Permit**

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

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APPENDIX D—PERMIT MODIFICATION

This Fact Sheet Addendum supports the Draft Industrial Stormwater General Permit (ISGP) Modification (modification), released for public comment Feb 1, 2012.

This modification is necessary to address the April 25, 2011 ruling by the Pollution Control Hearings Board (PCHB), which ordered the Department of Ecology (Ecology) to modify the permit in accordance with *PCHB Nos. 09-135 through 09-141 Findings of Fact, Conclusions of Law, and Order* (ruling).

Ecology also proposes to revise the additional requirements that apply to certain permittees discharging to waterbodies that are “impaired” for fecal coliform bacteria pursuant to Section 303(d) of the Clean Water Act.

This modification also includes corrections of errors in the permit that were listed in an Errata Sheet that was published on Ecology’s Industrial Stormwater General Permit shortly after the permit was issued. The Errata Sheet was added to in 2010 and 2011 when additional errors were identified.

Revisions Related to Permit Appeal/PCHB Ruling

Multiple parties filed appeals of the Industrial Stormwater General Permit (ISGP) issued by the Department of Ecology (Ecology) in October 2009:

- Puget Soundkeeper Alliance,
- Columbia Riverkeeper,
- Olympians For Public Accountability
- The Boeing Company
- Copper Development Association
- International Copper Association, Ltd.
- Arthur West

The appeals were consolidated as PCHB Nos. 09-135 through 09-141. A Pre-Hearing Order dated January 25, 2010, identified seventy-one (71) legal issues which governed the proceedings and controlled the issues before the PCHB on appeal. The PCHB entered seven Orders on Summary Judgment addressing many of the legal issues raised by the parties, while requiring others to proceed to hearing. After the completion of motion practice, thirty-one (31) issues remained for hearing.

The PCHB held a hearing in this matter on January 24 through February 3, 2011, at the PCHB’s office in Tumwater, Washington. The PCHB received the sworn testimony of witnesses, admitted exhibits, and heard arguments on behalf of the parties.

On April 21, 2011, the PCHB issued *PCHB Nos. 09-135 through 09-141 Findings of Fact, Conclusions of Law, and Order*. This document may be downloaded from:

<http://www.eho.wa.gov/searchdocuments/2011%20archive/pchb%2009-135-141%20findings%20of%20fact,%20conclusions%20of%20law,%20and%20order.pdf>

The order (p.73) directed Ecology to take the following actions:

“A. The Board concludes that the majority of provisions of the 2010 Industrial Stormwater General Permit are valid and lawful. Pursuant to WAC 371-08-540, we remand the following limited aspects of the permit to Ecology for modifications.

1. Ecology shall modify Condition S4.B.6., the “Consistent Attainment” provision consistent with the alternatives discussed in this opinion.

2. Ecology shall modify the provisions of Condition S8., “Corrective Actions” consistent with this opinion.”

Revisions related to Consistent Attainment of Benchmarks

The following excerpt from the PCHB ruling (p. 65-66) provides the rationale for revising the consistent attainment provisions in Condition S4.B.6:

“We conclude the consistent attainment provision of Condition S4.B.6., which allows a permittee to suspend sampling after four consecutive quarters of sampling demonstrate a reported value equal to or less than the benchmark value is invalid, and appears to have been somewhat arbitrarily selected by Ecology. Although the consistent attainment provision is not applicable to sampling at facilities subject to numeric effluent limitations for discharges to 303(d)-listed waters, the last permit required a full eight quarters of sampling of applicable parameters before a permittee could take advantage of this provision. Ecology’s decision to reduce the number of quarters necessary to achieve consistent attainment is not based on any data, nor on an underlying assessment of how many compliant sampling periods are reasonably predictive of future attainment of benchmarks. Ecology recognized this in the Fact Sheet for the draft permit (p. 70), concluding “four samples are not sufficient to adequately characterize the discharge from a facility,” while an internal briefing paper stated that seven samples are adequate. Some limited evidence before the Board suggests a relatively large percentage of facilities will again exceed benchmarks after a period of four quarters of attainment of benchmarks for particular pollutant parameters (*Horner Testimony*). Given the variable nature of stormwater, allowing a suspension of sampling for the remainder of a five year permit term based on only four quarters does not appear to be designed to achieve compliance with benchmarks, and may lead to violations of water quality standards. While the Board concludes that it is reasonable to “carry forward” quarters of attainment of benchmarks from the prior permit period and count those toward consistent attainment under the current permit, we conclude that at least seven quarters of meeting benchmark values should be expected prior to a suspension of sampling for the remainder of the permit term. Alternatively, the permit could allow a fewer number of quarters to serve as the basis for a determination of consistent attainment (such as four quarters), but require a resumption of

sampling within a reasonable time frame within this permit term (two to three years appears reasonable, given the five year permit cycle). We leave it to Ecology's discretion which of these two approaches will work best in the application of the ISGP. We remand the consistent attainment provision of S4B.6. to Ecology for amendment consistent with this opinion."

Based on the PCHB ruling, Ecology is proposing to require 8 consecutive quarterly samples before permittees can suspend sampling based on "consistent attainment". For permittees who already ceased sampling based on 4 consecutive samples, Ecology proposes to 1) require the sampling to resume, but 2) give credit for those previous samples, and require only four more consecutive "attainment" samples until a total of 8 samples attain the benchmarks.

For example if a permittee met the zinc benchmark during 4 consecutive quarters in 2010, and ceased sampling zinc beginning in 2011; the permittee must resume sampling zinc in July 2012. If, the permittee meets the benchmark for 4 additional quarters (e.g., Quarter 3, 2012 through Quarter 2, 2013), the permittee can again claim consistent attainment and cease sampling for zinc beginning in Quarter 3, 2013.

Proposed revision to S4.B.6:

6. The Permittee may suspend sampling for one or more parameters (other than "visible oil sheen") based on consistent attainment of *benchmark* values when:
 - a. ~~Four~~ **Eight** consecutive quarterly samples, collected after the effective date of this permit, demonstrate a reported value equal to or less than the *benchmark* value; or for pH, within the range of 5.0 – 9.0.
 - b. For purposes of tallying "consecutive quarterly samples":
 - i. Do not include any quarters in which the Permittee did not collect a sample, but should have (e.g., discharge(s) occurred during normal working hours, and during safe conditions; but no sample was collected during the entire quarter). If this occurs, the tally of consecutive quarterly samples is reset to zero.
 - ii. Do not include any quarters in which the Permittee did not collect a sample because there was no *discharge* during the quarter (or the discharges during the quarter occurred outside normal working hours or during unsafe conditions). These quarters are not included in the calculation of ~~four~~ **eight** consecutive quarters, but do not cause the tally to be reset; i.e., they are skipped over.
 - iii. Permittees who suspended sampling based on consistent attainment of benchmarks for four consecutive quarterly samples must resume/continue sampling until four more consecutive quarterly samples (for a total of 8) demonstrate consistent attainment of the applicable benchmark.

Revisions related to Corrective Actions

Timing and Enforceability of Corrective Actions. The following excerpt from the PCHB ruling (p. 67-68) addresses the timing and enforceability of Level 1, 2, and 3 corrective actions, and provides the rationale for revising the Corrective Action provisions in Condition S8:

“The Board concludes that portions of Condition S8. lack elements necessary for true adaptive management as required by RCW 90.48.555(8) and present unduly vague and confusing terms that result in unreasonable delays and questionable enforceability. We therefore conclude that Condition S8. is invalid in several respects explained below and remand this aspect of the permit to Ecology for modification consistent with this opinion. **First, we conclude the permit must include a reasonably short time frame within which a permittee must initiate an investigation of a benchmark exceedence and revise its SWPPP accordingly,** a step currently missing from the permit. With such a timeframe in place, it is then reasonable for the permit to require a permittee to “fully implement” the revised SWPPP “as soon as possible.” **We also conclude that the deadline for implementation of a Level 2 corrective action (September 30 of the following calendar year) is excessively long and must be shortened.** As currently written, the timeframe provides a permittee up to one and one half years of the five year permit cycle to implement a Level 2 corrective action, depending on when during the calendar year the benchmark exceedences occur. When read in conjunction with footnote 4 (ISGP, p. 35), the permit’s current language would allow a permittee to register as many as ten benchmark exceedences over a period of three years without ever triggering a Level 3 response. In the absence of any evidence that structural source control BMPs typically require this long to implement, become effective, and be evaluated, this timeframe is unreasonably long. **We conclude that footnote 4 must be eliminated and that the permit must clarify when and how a permittee escalates from a Level 2 to a Level 3 when a Level 2 corrective action is already underway.**

Based on the PCHB ruling, Ecology proposes to revise S8.B to require a Level 1 Corrective Action to be initiated within 14 days:

B. Level One Corrective Actions – Operational Source Control BMPs

Permittees that exceed any applicable *benchmark* value(s) in Table 2 or Table 3, shall complete a Level 1 Corrective Action for each parameter exceeded in accordance with the following:

1. Within 14 days of receipt of sampling results that indicate a benchmark exceedence:
 - a. Conduct an inspection to investigate the cause.

Based on the PCHB ruling, Ecology proposes to revise S8.C to shorten the deadline for Level 2 Corrective Actions by 2 months; the new deadline is “July 30th the following year”, rather than “September 30th the following year”:

4. **Level 2 Deadline:** The Permittee shall fully implement the revised SWPPP according to Permit Condition S3 and the applicable *Stormwater Management Manual* as soon as possible, but no later than ~~September~~ July 30th the following year.
 - a. If installation of necessary *Structural Source Control BMPs* is not feasible by ~~September~~ July 30th the following year, *Ecology* may approve additional time, by approving a *Modification of Permit Coverage*.

The proposed change in the Level 2 Deadline creates a timing conflict with the deadline for requesting Level 2 waivers and extension. As such, Ecology also proposes to shorten the deadline to request a Level 2 or 3 Corrective Action waiver or extension by two months; the proposed deadline for permittees to request a waiver/extension is “April 1st prior to the Level 3 Deadline”. [See Draft Modified Permit Condition S8.C.4.c & S8.D.4.d]

Based on the PCHB ruling, Ecology proposes to delete Footnotes 4 and 5, from Conditions S8.C and S8.D, respectively:

~~⁴Facilities that continue to exceed benchmarks after a Level 2 Corrective Action is triggered, but prior to the Level 2 Deadline, are not required to complete another Level 2 or 3 Corrective Action the following year for the same parameter. However, a Level 1 Corrective Action is required each time a benchmark is exceeded.~~

~~⁵Facilities that continue to exceed benchmarks after a Level 3 Corrective Action is triggered, but prior to the Level 3 Deadline, are not required to complete another Level 2 or 3 Corrective Action the following year for the same parameter. However, a Level 1 Corrective Action is required each time a benchmark is exceeded.~~

This change is intended to clarify when and how a permittee escalates from a Level 2 Corrective Action to a Level 3 Corrective Action when a Level 2 corrective action is already underway. By eliminating the footnotes 4 and 5, Ecology believes the proposed permit more clearly states when a Level 2 is required vs. a Level 3:

S8.C: “Permittees that exceed an applicable *benchmark* value (for a single parameter) for any two quarters during a calendar year shall complete a Level 2 Corrective Action...”

S8.D: Permittees that exceed an applicable *benchmark* value (for a single parameter) for any three quarters during a calendar year shall complete a Level 3 Corrective Action...”

Benchmark Exceedances Prior to the Level 2 or 3 Deadline. In addition, Ecology has proposed a sentence to S8.C.4 and S8.D.4 to address what happens if benchmarks are exceeded during the calendar year after a Level 2 or 3 corrective action is triggered, but prior to the Level 2 or 3 deadline:

- d. Permittees do not trigger additional Level 2 or 3 Corrective Actions, if they are already implementing a Level 2 or 3 from a previous calendar year (for the same parameter), and the applicable deadline hasn't passed yet.

Example: Facility exceeds zinc benchmark during three quarters in 2010, therefore a Level 3 corrective action is due by Sept 30, 2011. If the facility exceeds the zinc benchmark during 3 quarters in 2011 (e.g., Q1, Q2, Q3 2011), the facility is not required to complete another Level 3 corrective action by Sept 30, 2012 because those benchmark exceedances occurred during the implementation phase, prior to the Level 3 deadline.

Ongoing Adaptive Management and Corrective Actions. The following excerpt from the PCHB ruling (p.70-71) addresses the legal issues around the ISGP’s adaptive management and corrective action requirements; and provides the rationale for additional revisions to Condition S8:

“Boeing misconstrues both the Board’s ruling on summary judgment, and the manner in which the presumption of compliance stated at RCW 90.48.555(6) must be applied. As we have repeatedly stated, while an exceedance of a benchmark is not, in and of itself, a

violation of a water quality standard, the benchmarks are indicator values--values that are predictive of potential, or actual, water quality violations. *PSA v. Northwest Marine Trade Assc.*; *Association of General Contractors v. Ecology, supra*. **A failure to meet benchmarks requires a permittee to make continued efforts to improve application and performance of BMPs. The statutory “presumption of compliance” requires a permittee to comply with “all permit conditions,” including those that require increasing levels of corrective actions to meet the benchmark values. This calls for professional level involvement in the modification of the SWPPP, and implementation of new or site-specific BMPs.** *Condition S8.D.2.b.* The permittee may have to pursue industry specific responses to meet benchmarks

If, in the course of the adaptive management process, the permittee has AKART in place and has implemented a Level 3 response but continues to not meet the benchmarks, the ISGP offers two paths. The first option is to seek a waiver, and to demonstrate that installation of additional BMPs is not feasible or not necessary to prevent discharges that may cause or contribute to violations of water quality standards. The second option is to take further steps to attain the benchmark or, alternatively, bring a facility into compliance with water quality standards as the case may be. Ecology may require this second option through the issuance of an administrative order.

The adaptive management process envisioned by the permit is iterative, and does not necessarily anticipate the kind of definitive cut-off point Boeing appears to seek. The permittee is ultimately required to comply with water quality standards, both under the law, and under the terms of the ISGP. *Condition S10.* To work as an effective adaptive management process, however, Condition S8. requires further refinement. This Board has previously recognized that, to be valid, an adaptive management program in a general permit requires a meaningful mechanism for feedback, to allow evaluation of the effectiveness of the measures and to make any necessary changes in response to such results in order to achieve the desired goal. *Puget Soundkeeper Alliance v. Ecology*, PCHB Nos. 07-021, 07-026 through 07-030, 07-037 (Phase I) and 07-022 & 07-023 (Phase II), Findings of Fact, Conclusions of Law, and Order, (2008) (Municipal Stormwater General Permit, Condition S4., Phase I and Phase II). Quarterly discharge monitoring reports may be sufficient feedback in some circumstances, particularly with Level 1 and Level 2 actions, but they are likely inadequate in more complex situations such as Level 3 treatment BMPs. *Id.* at COL 22. Ecology’s lead permit writer has explained that at a Level 3 corrective action, Ecology and the permittee will be engaged in an iterative exchange and evaluation of BMPs, to bring the facility to compliance with benchmarks. **We conclude that Condition S8.D. (Level Three Corrective Actions) of the ISGP should also require the use of monitoring, assessment, or evaluation information as a basis on which Ecology and the permittee may determine whether further modification of the BMPs or additional BMPs are necessary to meet the goal of achieving the applicable benchmark values in future discharges. This information should be included in a permittee’s summary of its Level 3 Corrective Actions (planned or taken) submitted in its Annual Report. In this manner, the permit will correctly state the adaptive management process expected of permittees.**

When a permittee is taking all the steps required by the adaptive management process, as modified by this opinion, or is *in fact* meeting benchmarks of the permit, then the permittee is entitled to the presumption of compliance provided by the statute. This interpretation does

not convert the benchmarks into numeric effluent limitations. Rather, it implements the adaptive management response that is called for by both state and federal law.”

Consistent with the PCHB ruling, Ecology has added language to S8.D, Level 3 Corrective Actions:

C. Level Three Corrective Actions – Treatment BMPs

Permittees that exceed an applicable *benchmark* value (for a single parameter) for any three quarters during a calendar year shall complete a Level 3 Corrective Action in accordance with the following:

1. Review the SWPPP and ensure that it fully complies with Permit Condition S3.
2. Make appropriate revisions to the SWPPP to include additional *Treatment BMPs* with the goal of achieving the applicable *benchmark* value(s) in future discharges. The revisions shall be based upon monitoring, assessment or evaluation information to determine whether further modification of the Level 3 Treatment BMPs or additional BMPs are necessary to meet the goal of achieving the applicable benchmark value(s) in future discharges.
 - a. The Permittee shall sign and certify the revised SWPPP in accordance with S3.A.6.
 - b. A licensed professional engineer, geologist, hydrogeologist, or Certified Professional in Storm Water Quality (CPSWQ) shall design and stamp the portion of the SWPPP that addresses *stormwater* treatment structures or processes.
 - i. *Ecology* may waive the requirement for a licensed or certified professional upon request of the Permittee and demonstration that the Permittee or treatment device vendor can properly design and install the treatment device.
 - ii. *Ecology* will not waive the Level 3 requirement for a licensed or certified professional more than one time during the permit cycle.
3. Summarize the Level 3 Corrective Actions (planned or taken) in the Annual Report (Condition S9.B). Include information on how monitoring, assessment or evaluation information was (or will be) used to determine whether further modification of the BMPs or additional BMPs are necessary to meet the goal of achieving the application benchmark value(s) in future discharges.
4. **Level 3 Deadline:** The Permittee shall fully implement the revised SWPPP according to Permit Condition S3 and the applicable *Stormwater Management Manual* as soon as possible, but no later than September 30th the following year.
 - a. If installation of necessary *Treatment BMPs* is not feasible by the Level 3 Deadline; *Ecology* may approve additional time by approving a *Modification of Permit Coverage*.
 - b. If installation of *Treatment BMPs* is not feasible or not necessary to prevent discharges that may cause or contribute to violation of a water quality standard, *Ecology* may waive the requirement for *Treatment BMPs* by approving a *Modification of Permit Coverage*.
 - c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a *Modification of Coverage* form to *Ecology* in accordance with Condition S2.B, by April 1st prior to the Level 3 Deadline. *Ecology* will approve or deny the request within 60 days of receipt of a complete *Modification of Coverage* request.
 - d. Permittees do not trigger additional Level 2 or 3 Corrective Actions, if they are already implementing a Level 2 or 3 from a previous calendar year (for the same parameter), and the Level 3 deadline hasn't passed yet.

5. **Additional Corrective Actions May Be Required: Permittees that continue to exceed benchmark values after a Level 3 Corrective Action has been completed must complete additional corrective actions per S8.B, C or D.**

Example:

- 2010: Facility exceeds zinc benchmark during three quarters in 2010, therefore a Level 3 corrective action for zinc is due by Sept 30, 2011.
- 2011: If the facility exceeds the zinc benchmark during 3 quarters in 2011 (e.g., Q1, Q2, Q3 2011), the facility is not required to complete another Level 3 corrective action for zinc by Sept 30, 2012 because those benchmark exceedances occurred during the implementation phase, prior to the Level 3 deadline.
- **2012: If the facility exceeds the zinc benchmark during 3 quarters in 2012, another Level 3 corrective action for zinc is required by Sept 30, 2013 (unless waiver/extension granted).**

Revisions related to Modification of Coverage Timeline

Level 2 and 3 Waiver/Extension Requests Not Automatically Approved.

Appellants Puget Soundkeeper Alliance, Columbia Riverkeeper, and Olympians for Public Accountability moved for Summary Judgment on **Legal Issue 23: Are the provisions of S2.C. concerning timelines for permit modification invalid?** Their primary concern was that Permit Modifications could be automatically granted to facilities seeking Level 2 or 3 Waivers after 31 days (per Condition S2.C), in conflict with the 60-day waiver/extension review periods set forth in S8.C and D.

The PCHB ruled on this matter and granted Summary Judgment to Ecology; this ruling can be downloaded at:

[http://www.eho.wa.gov/searchdocuments/2010%20archive/pchb%2009-135-09-141%20order%20on%20summary%20judgment%20\(psa's%20%20motion%20on%20self%20regulatory%20issues-%20nos%2018,%2023\).pdf](http://www.eho.wa.gov/searchdocuments/2010%20archive/pchb%2009-135-09-141%20order%20on%20summary%20judgment%20(psa's%20%20motion%20on%20self%20regulatory%20issues-%20nos%2018,%2023).pdf)

The following excerpt from the PCHB ruling (p.70-71), addresses the legal issues related to the modification of coverage timeline for Level 2 and 3 waiver and extension requests, and concludes that there is nothing invalid with Condition S2.C, and waivers/extensions are not automatically approved after 31 days:

“The Board concludes that there is nothing invalid about the modification timeline and procedure set out in Condition S2.C. (p. 12), and that it does not result in impermissible self-regulation. First, the regulations relied upon by PSA are not violated by the modification conditions of the General Permit. WAC 173-220-190(2) states that Ecology may, upon request of the permittee, modify an operating condition in an issued permit—if it determines good and valid cause exists for such revision.|| The federal regulation also provides authority for permit modifications for cause, within the limitations and procedures set out in the regulation. 40 C.F.R. § 122.62. Permit Condition S2.C. is consistent with these rules, as Ecology intends to review all requests for modification. This process, which anticipates Ecology action within a given time frame, is not self-regulatory, as the agency has neither avoided its responsibility to assure compliance, nor allowed permittees to control the manner

in which they comply with substantive requirements of water pollution statutes. We are also satisfied that when it comes to modifications related extensions of time or waivers under the corrective action provisions of Condition S8., the more specific permit term, which requires Ecology to approve or deny within 60 days, controls over the more general permit modification provision of S2.C.

However, Ecology finds this aspect of the permit to be a source of ongoing confusion. Several permittees have claimed that their waiver/extension requests were automatically approved, even though Ecology had not completed its review and final determination. To correct ongoing confusion regarding automatic approvals of modifications of coverage, Ecology proposes the following revision to Condition S2.C:

A. Permit Coverage ~~or Permit Modification~~ Timeline

1. If the applicant does not receive notification from *Ecology*, permit coverage ~~or modification of coverage~~ automatically commences on whichever of the following dates occurs last:
 - a. The 31st day following receipt by *Ecology* of a completed *application* for coverage ~~or modification of coverage form~~.
 - b. The 31st day following the end of a 30-day public comment period.
 - c. The effective date of the *general permit*.
2. *Ecology* may need additional time to review the *application*:
 - a. If the *application* is incomplete.
 - b. If it requires additional site-specific information.
 - c. If the public requests a public hearing.
 - d. If members of the public file comments.
 - e. When more information is necessary to determine whether coverage under the *general permit* is appropriate.
3. When *Ecology* needs additional time:
 - a. *Ecology* will notify the applicant in writing within 30 days and identify the issues that the applicant must resolve before a decision can be reached.
 - b. *Ecology* will submit the final decision to the applicant in writing. If *Ecology* approves the *application* for coverage/~~coverage~~, coverage begins the 31st day following approval, or the date the approval letter is issued, whichever is later.

Revisions Related to Numeric Effluent Limits for Discharges to 303(d) Waters

Agency-Request Legislation Proposed. The Department of Ecology has determined that a section in RCW 90.48.555 should be changed to remove the requirement for industrial stormwater discharges to bacteria-impaired water bodies to comply with numeric effluent limits. The change is necessary because bacteria is a unique stormwater pollutant, in terms of stormwater pollution prevention, control and treatment, and industrial facilities are not considered a significant source of bacteria in Washington's water bodies. Due to factors beyond the control of industrial facilities, including the seagulls and other birds, facilities subject to numeric effluent limits are, or will be, unable to comply with numeric limits for bacteria - regardless of industrial activity or pollution prevention measures. The resulting non-compliance with limits places businesses in violation of State and Federal water quality laws and permits, without the availability of a clear compliance pathway. Ecology's legislative proposal includes language to require non-numeric, narrative effluent limits (Best Management Practices) for discharges to bacteria-impaired water bodies, rather than end-of-pipe numeric effluent limits. Agency request legislation would ensure that the Industrial Stormwater General Permit is modified to appropriately regulate bacteria in stormwater runoff from industrial facilities, while other regulatory programs (Municipal Stormwater Permits, and Water Clean-up Plans) will appropriately identify and control bacteria in stormwater runoff.

Proposed Permit Revision. Ecology proposes to remove numeric effluent limits for discharges to 303(d) waters that are listed for bacteria, and replace them with non-numeric effluent limits (BMPs) to ensure that industrial stormwater is managed to prevent violations of the bacteria water quality standards. Specifically, S6.C. Table 5 would be revised, striking the numeric limits (i.e., surface water recreation bacteria criteria in WAC 173-201A, applied end-of-pipe), and amending "footnote h" as follows:

A numeric effluent limit does not apply, but permittees must sample according to Table 5. In addition, the following mandatory BMPs shall be incorporated into the SWPPP and implemented:

- 1) Use all known, available and reasonable methods to prevent rodents, birds, and other animals from feeding/nesting/roosting at the facility;
- 2) Perform at least one annual dry weather inspection of the stormwater system to identify and eliminate sanitary sewer cross-connections;
- 3) Install effective structural source control BMPs to address on-site activities and sources that could cause bacterial contamination (e.g., dumpsters, compost piles, food waste, animal products, etc.);
- 4) Implement effective operational source control BMPs to eliminate any known sources of fecal coliform bacteria (e.g., animal waste, etc.);
- 5) Additional bacteria-related sampling and/or BMPs, if ordered by Ecology on a case-by-case basis.