



January 25, 2012  
WP58542

Municipal Permit Comments  
WA Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia, WA 98504-7696

Re: Pierce County Comments to Ecology's Public Comment Draft  
NPDES Phase I Municipal Stormwater Permits

Pierce County submits this comment letter to Ecology's Public Comment Draft 2012-2013 and 2013-2018 NPDES Phase I Municipal Stormwater Permits. This letter summarizes the County's key concerns with the drafts. The attachments to our letter provide detailed comments and suggest revised language where appropriate.

To provide a context for our comments, we wish Ecology to know that we understand and appreciate the important role that the Permit plays in improving the water quality of our marine waters, streams and lakes. Our comments are guided by the knowledge that overall, the health of our streams and lakes are assessed as "average" under our annual watershed health status and trends report card ([www.piercecountywa.org/watershedhealthdata](http://www.piercecountywa.org/watershedhealthdata)). We also know that about half of the source of decline to Pierce County's waterbodies comes from "nonpoint pollution," such as agricultural and forest lands runoff or direct discharges that are not covered under the Phase I municipal stormwater permit. Yet, 80% of our water quality resources are and continue to be aligned to meet the Permit requirements, which address only half of the problem.

Our comments also are made with the knowledge that the challenge of fixing or retrofitting existing stormwater deficient or non-existing controls is a challenge only surmountable with a major and significant contribution of investment by state and federal partners. The Puget Sound Partnership's estimate of retrofit needs in Pierce County alone is well over \$1.5 billion. Costs for meeting the operational and maintenance requirements of the Permit are in addition to that \$1.5 billion. This is a staggering amount of money – particularly in this economy. The reality is that without major funding assistance from the state and federal



government, neither Pierce County nor any other local government can achieve the State Legislature's goal of achieving a healthy Puget Sound by addressing polluted stormwater runoff.

Finally, Pierce County acknowledges that continued improvements of the effectiveness of Permit implementation will occur through adaptive management that includes substantive involvement and use of local expertise. We are encouraged by the use of these principles over the past two years in the development of a new regional approach to stormwater monitoring. We believe taking similar approaches to other major potential Permit required programs, while keeping in mind the sources of decline of watershed health and the magnitude of fixing existing stormwater problems, will ultimately lead to more effective and efficient water pollution control.

Thus framed, we offer the following comments.

### **Pierce County Requests Ecology Extend Rather than Reissue Permits**

In September 2010, at the beginning of Ecology's process to reissue the Permit, Pierce County submitted written comments that urged Ecology to administratively extend the 2007 Permit rather than reissue a revised Permit. Administratively extending NPDES permits is a common practice nationwide. Our September 2010 comment stated that an extension of the Permit was appropriate in order to focus existing resources on maturing important components of existing permit for effective stormwater management rather than new, untested start up initiatives. Our comment recognized that most of the existing permit requirements have only been in place since February 2009 and that it made good ecological and business sense to give these programs time to work as intended.

We support and agree with Ecology's decision to extend the Permit from February 2012 to August 2012. However, we continue to believe that a longer extension is needed in order to utilize an adaptive management approach to reducing polluted runoff through an evaluation of various new Permit program requirements. Extending rather than reissuing the Permits would accomplish the following objectives:

- Continued improvement in stormwater quality through the use of adaptive management;
- Synchronize Washington's MS4 Permits with EPA's new Stormwater Regulations and EPA Audits;
- Moderate additional high costs of compliance;
- Allow for Permits that are consistent with Legislative intent.

These reasons are detailed in Attachment One.

**Pierce County Requests Ecology End 2007 Permit Monitoring Requirements with Expiration Date of that Permit.**

Pierce County strongly requests that Ecology remove proposed Permit requirements S8C1a, b, c and d in their entirety. These proposed Permit conditions would require Permittees to continue stormwater monitoring started in the 2007 Permit and would add additional reporting requirements to extend well into the next (2013) Permit cycle. Ecology's proposed monitoring conditions would increase the already high cost of monitoring that to date has done little to add to our existing understanding of the quality and characteristics of stormwater and would result in a overlapping monitoring requirement with the 2013 Permit's proposed Regional Stormwater Monitoring Program. Pierce County supports in principle the goals of the Regional Monitoring Program and recognizes it is an entirely different approach than the 2007 monitoring program. We request Ecology end the 2007 monitoring requirement with the expiration date of the 2007 Permit so that resources can be redirected to the 2013 Permit Proposed Regional Stormwater Monitoring Program. Attachment Three to this letter provides more detailed comments on the Proposed 2012-2013 Permit for Monitoring, as well as the proposed 2013-2018 monitoring requirements.

**Summary of Pierce County Concerns on the Proposed 2013-2018 Permit**

The following are some high level concerns Pierce County has about the proposed Phase I 2013-2018 Permit. Attachment Two provides more detail and suggested Permit revision language for several of our concerns.

Feasibility of Certain Low Impact Development Techniques. We remain very concerned about the speed with which these new LID requirements are expected to be implemented with minimal experience on long term durability and maintenance. We urge Ecology to extend timeframes in the Permit to begin this transition.

Unrealistic and Unachievable Deadlines. The deadlines in the Permit for preparation and implementation of new site development manuals, standards and codes are unachievable and unrealistic. This is exacerbated by the fact that companion documents local governments are directed to use are not even available or completed. For example, the Stormwater Management Manual for Western Washington is in draft form, with the public comment period running at the same time as the comment period for these Phase I Permits. We urge Ecology to extend timeframes in the Permit to begin this transition.

Duplication of Monitoring. While Pierce County supports the proposed Regional Stormwater Monitoring Program, we do not support a continuation of the 2007 Permit monitoring requirement. As discussed above, we believe that continuation of the 2007 monitoring requirements that would extend well into the term of the 2013-2018 Permit will cause overlap

and drain limited local resources away from the transition to the Regional program. We urge Ecology to end that monitoring with the expiration of the 2007 Permit.

Total Maximum Daily Loads. We note that the proposed Permit contains several completed TMDLs in an appendix and assigns “waste load allocations” to Pierce County for their implementation. Generally, those actions requiring a prioritization and application of pollutant source identification and elimination. We believe this is a reasonable approach to using both different Clean Water Act tools (NPDES Permits and TMDLs) to help cleanup waterbodies. However, we note that there is a “reserved” section in the Permit for the Clarks Creek Waterbody Cleanup Plan. Because that Plan has not been adopted by US EPA, it should not be “reserved” in the Permit. The “reserved” language and reference to Clarks Creek Waterbody Cleanup Plan should be removed from the Permit.

Public Participation and Involvement. In various sections of the Permit, Permittees are required to conduct public involvement in the decision making of various Permit-required programs. However, Pierce County believes that the Permit is overly prescriptive with too many specific, aggressive deadlines that ultimately will cause frustration on the part of the public as well as local decision makers. Additionally, the Permit public comment process on the proposed Permits opens and closes and creates new obligations on Permittees, including site development regulations that may not go into effect until several years later. This approach means that in all likelihood most citizens and businesses are effectively deprived of an opportunity to have meaningful involvement in these Permit-required actions. Once they become aware of the Permit’s implications after development regulations are in effect, they will learn the County has no flexibility because it is a permit requirement. We urge Ecology to build flexibility into the permit and to lengthen permit deadlines.

Moderating Differences between Phase I and Phase II Permits. Pierce County has long held that all Permittees discharging to the same watershed or waterbody be held to the same standards and goals. Having different standards for water crossing jurisdictional lines doesn’t make sense ecologically and shifts a higher burden of pollution reduction onto the jurisdiction being held to higher requirements. Consistent standards also create a level playing field for regional economic development. We urge Ecology to eliminate the differences in both Phase I and Phase II permits.

Expansion of Regulatory Implications of “Guidance Documents,” “Recommended Models,” and 12 Appendices. We note that the proposed 2013-2018 Permit contains over 157 pages with 12 appendices and references no fewer than five “guidance” documents and three water quality models that local governments are to use to meet Permit requirements. Many of these documents and models are extremely prescriptive and add regulatory requirements to Permittees without formal rulemaking. Pierce County is increasingly concerned that Ecology is relying on documents other than the Permit to impose legal obligations on local

governments. We urge Ecology to clearly delineate legally binding conditions from generally applicable or recommended "guidance."

Impact on Economic Development. In a world economy, businesses in Pierce County are competing with businesses in South Carolina, China, India and elsewhere. Requirements in the Permit that go beyond federal requirements or that differ due to timing of Permit coverage create an uneven playing field regionally and nationally. Pierce County urges Ecology to achieve Permit requirement consistency with federal standards for all permittees.

### Attachments

#### Attachment One

- Provides justification for administrative extension of permit.

#### Attachment Two

- Provides specific comments and suggested Permit changes for 2013-2018 Permit.

#### Attachment Three

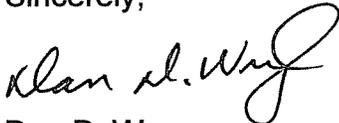
- Provides specific comments and suggested Permit changes for monitoring requirements of both proposed 2012-2013 and 2013-2018 Permits.

#### Attachment Four

- Provides specific comments and suggested Permit changes for watershed-scale planning requirements of proposed 2013-2018 Permits.

Thank you for the opportunity to comment on the draft Permits. Pierce County is available to assist Ecology in the evaluation and exploration of alternative approaches to improved stormwater management through adaptive management. We would welcome the opportunity to work with Ecology and all stakeholders in the municipal stormwater community to ensure that municipal stormwater programs are effective and are leading us to improved watershed health. Feel free to call me at (253) 798-4672 if you have any questions.

Sincerely,



Dan D. Wrye  
Water Quality Manager  
Public Works and Utilities, Surface Water Management

DDW:kj  
Attachments



## Attachment One

### Justifications for Extending, Rather than Reissuing Permit

For the reasons summarized below, Pierce County urges Department of Ecology to administratively extend the existing (2007) NPDES Phase I Municipal Stormwater Permit rather than reissue it as proposed.

**Opportunity to Apply Adaptive Management.** Almost two-thirds of the current Permit requirements have become effective in the past 2 1/2 years. Many of those were new programs requiring startup activities, database development, training, legal authority changes, and, of course, revisions to local fund sources in order to pay for them. Existing stormwater monitoring requirements have only fully been deployed in some areas since 2010 and none are fully completed. With the exception of the monitoring requirements which resulted in a totally new direction for stormwater monitoring, there has not been an evaluation of the various 2007 Permit-required programs to determine their effectiveness and whether some should be enhanced, continued, or eliminated. Pierce County believes the appropriate application of adaptive management is missing in the current Permit reissuance and that it would be far more beneficial for Ecology and municipal stormwater community to continue implementing the 2007 Permit, evaluate specific programs started with that Permit, and fill information gaps about specific LID design and maintenance needs.

**EPA Municipal Stormwater Regulations.** EPA is in the process of promulgating new federal rules for municipal stormwater permitting, which are scheduled to be adopted in 2012. It is reasonable and appropriate to wait for those federal regulations before reissuing the Permit so that Washington State can better align its permit requirements with the federal rules that will apply nationwide.

**Cost of Compliance.** When Ecology issued the 2007 Phase I Stormwater Permit, we strongly urged Ecology to reconsider many requirements based on the projected high cost of compliance. That Permit, which was issued in one of the worst economic climates ever experienced in Washington State, has resulted in a staggering multimillion dollars of annual cost to Pierce County. Again, we urge Ecology to consider the impacts of its Permit reissuance on Pierce County and other local governments. In addition, the LID requirements will ultimately be borne by County residents, businesses and industries. These economic impacts are real and need to be fully considered before Ecology issues the Phase I Permit and the Phase II Permit in Washington. A pause in adding new requirements will enable local governments to better absorb costs of compliance and program anticipated costs out into a more reasonable future.

**Consistency with Legislative Intent.** Engrossed Substitute House Bill 1478 of the 2011 Legislative session recognized fiscal impacts to local governments from numerous State-mandated requirements. It specifically directed Ecology not to issue a new NPDES Phase II Municipal Stormwater Permit. Pierce County greatly appreciates the fact that Ecology choose to generally follow the Legislature's direction on the Phase II Permit extension for Phase I Permit reissuance. We believe that, while not specifically directed by the Legislature to administratively extend the Phase I Permit, the findings of expressions of concerns for the economic impacts on local governments made by the Legislature clearly apply to all local governments, irrespective of if they were first permitted in 2007 or some other date.

Attachment Two

Pierce County Comments on Proposed 2013-2018 NPDES Phase I Muni Stormwater Permit

**SECTION 5.C.2 – Stormwater Management Program**

<b>Sub-Section</b>	<b>WDOE Proposed Language</b>	<b>Reason/Explanation/Comment</b>	<b>Pierce County Recommended Revision</b>
B.	<p>The SWMP shall be designed to reduce the discharge of pollutants from MS4s to the maximum extent practicable (MEP), meet state AKART requirements, and protect water quality.</p> <p>Permittees that are already implementing some or all of the SWMP components in this section shall continue implementation of those components of their SWMP...Permittees shall not repeal existing local requirements to control stormwater that go beyond the requirements of this permit...</p>	<p>The Permit needs to be explicit that its requirements meet MEP, AKART, and protect water quality.</p> <p>This language is inappropriate for a general permit. If Ecology believes an individual Permittee may make changes it disagrees with, Ecology has other avenues to pursue, such as a jurisdiction-specific permit.</p> <p>Additionally, meeting Permit requirements constitute Permit compliance. The term "go beyond" is vague and ambiguous and susceptible to numerous, inconsistent interpretations.</p> <p>Moreover, changes to existing programs that are outside of the Permit terms are beyond the scope of this Permit and, therefore, not appropriately regulated. The language should be deleted.</p>	<p>The SWMP requirements of this Permit are shall be designed to reduce the discharge of pollutants from MS4s to the maximum extent practicable (MEP), meet state AKART requirements, and protect water quality. <u>Permittees implementing their SWMP meet the MEP, AKART, and water quality requirements of this Permit.</u></p>

**SECTION 5.C.2 – Municipal Separate Storm Sewer Mapping**

<b>Sub-Section</b>	<b>WDOE Proposed Language</b>	<b>Reason/Explanation/Comment</b>	<b>Pierce County Recommended Revision</b>
a.	<p>Ongoing Mapping: Each Permittee shall continue mapping the features listed below on an ongoing basis. All updates shall be completed within six months of additional features being found, modified, or constructed</p>	<p>A six month deadline is inconsistent with implementing "an ongoing program." Mapping updates are sporadic, based on the needs at any given time. Pierce County has been mapping MS4 drainage on a continuous basis since 1999 and has completed updates daily, weekly, monthly, quarterly, or annually, based on need since the program was established. An arbitrary deadline is unnecessary.</p>	<p>Each Permittee shall continue mapping the features listed below on an ongoing basis.</p>
b.i-ii	<p>i. Counties shall map existing, known connections greater than 8 inches in nominal diameter to tributary conveyances mapped in accordance with S5.C.2.a.v.</p> <p>ii. Each Permittee shall map existing, known connections equal to 8 inches in nominal diameter to tributary conveyances mapped in accordance with S.5.C.2.a.v.</p>	<p>Confusing and duplicative language.</p>	<p>i. Counties shall map existing, known connections greater than 8 inches in nominal diameter to tributary conveyances mapped in accordance with S5.C.2.a.v.</p>

**SECTION 5.C.3 – Coordination**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
a.	<p><del>No later than 1 year after the effective date of this permit, establish, in writing, and begin implementation of, intra-governmental (internal) coordination agreement(s) or Executive Directive(s) to facilitate compliance with the terms of this permit. Permittees shall include information in the first year annual report to identify all departments within the Permittee's jurisdiction that conduct stormwater-related activities and their roles and responsibilities under this permit, and a current organizational chart specifying these departments' key personnel.</del></p>	<p>Organizational charts change as well as personnel; this will be of no use to anyone. A point of contact would be a better use of this, which is in the annual report. Recommend deleting the highlighted sentence.</p>	<p>Implement intra-governmental (internal) coordination agreement(s) or Executive Directive(s) to facilitate compliance with the terms of this permit.</p>

**SECTION 5.C.4 – Public Involvement and Participation**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
b.	<p>Permittees shall create opportunities for the public to</p>	<p>Given the prescriptive nature of the Permit and the specific deadlines in</p>	<p>Permittees shall <u>provide information and make available to the public information on</u></p>

<p>participate in the decision making process involving the development, implementation and update of the Permittee's SWMIP</p>	<p>the Permit, we believe the proposed public participation in the decision making process of permit implementation could only lead to frustration on the part of the public and decision makers. In reality, Permittees have virtually no discretion in permit implementation and to suggest otherwise through a permit condition mandating public participation in decision making whether to comply or not comply is not meaningful.</p> <p>We support extensive outreach and public participation and review of the SWMIP, but propose alternate language that more accurately describes the public participation opportunities.</p>	<p><u>the effects of polluted stormwater and efforts to reduce those negative impacts, including the Permittee's annual SWMIP. In doing so, Permittees shall inform the public of the requirements of the Permit that are not discretionary and identify how the public can substantively affect Permittee's stormwater programs through the state's Permit decision making processes.</u></p>
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**SECTION 5.C.5 – CONTROLLING RUNOFF FROM NEW DEVELOPMENT**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
a.iii	<p>iii. No later December 31, 2014 each Permittee shall adopt and make effective a local program that meets the requirements in S5.C.5.ab.i through iii(1)., above. The local program adopted to meet the requirements of S5.C.5.b.i through ii, above, shall apply to all applications submitted after</p>	<p>The deadlines and application of new requirements to approved but yet unconstructed sites are unreasonable, unfair, and unattainable. The length of time necessary to establish new site development regulations and manuals, to have meaningful public</p>	<p>No later <u>than the end of the term of this Permit</u>, each Permittee shall adopt and make effective a local program that meets the requirements in S5.C.5.ab.i through iii(1)., above. The local program adopted to meet the requirements of S5.C.5.b.i through ii, above, shall apply to all applications submitted after <u>the effective date of the new requirements.</u></p>

<p>January 1, 2015 and shall apply to projects approved prior January 1, 2015, which have not started construction by January 1, 2018. [stet 2020]</p> <p>The Permittees shall submit draft enforceable requirements, technical standards and manuals to Ecology no later than <u>December 31, 2013</u> -12 months after the effective date of this permit.</p>	<p>involvement, and to take through local advisory committees, local planning committees, committees of local Councils or Commissions can take four years or longer. Add to that the complex and controversial nature envisioned by the Permit for whole changes to site development and legal concerns of vesting, makes the timeframes in the Permit unrealistic.</p>	<p>The Permittees shall submit draft requirements, technical standards and manuals to Ecology no later than four years after the effective date of this Permit.</p>
<p>b. i.</p> <p>No later than December 31, 2014, Permittees shall review and revise their local development-related codes, rules, standards, or other enforceable documents to incorporate and require Low Impact Development (LID) Principles and LID Best Management Practices (BMPs) .....</p>	<p>See concern above. This timeline should track that of a.iii. Add "where feasible"</p>	<p>No later than four years after the effective date of this Permit, Permittees shall review and revise their local development-related codes, rules, standards, or other enforceable documents to incorporate and require Low Impact Development (LID) Principles and LID Best Management Practices (BMPs) where feasible...</p>
<p>c.</p> <p>c. Watershed scale stormwater planning requirements...</p>	<p>Pierce County supports watershed planning. Our concerns with the proposed language are that it lacks a specific objective, goes beyond the PCHB decision, limits Permittees from selecting basins based on local conditions, and fails to acknowledge the financial magnitude of the Permit's proposed requirements.</p>	<p>c. Watershed scale stormwater planning requirements:  i. No later than December 31, 2013, each County Permittee listed below shall select one watershed within their jurisdiction to conduct detailed stormwater basin planning. The purpose of this basin planning requirement shall be to identify strategies (as a tool among other tools) to protect aquatic resources within</p>

		<p>See Attachment Four for more justification details.</p>
		<p>the watershed so existing and future projected stormwater flows meet applicable stormwater requirements to the maximum extent practicable.”</p> <p>ii. Each County Permittee shall convene and lead a process involving other Permittees subject to a municipal stormwater permit as well as other cities and counties with areas of their jurisdiction in the watershed selected in i., above. This process shall begin no later than February 2, 2014. The process shall develop a watershed scale stormwater basin plan for the watershed identified in i. above. The planning process shall include:</p> <p>(1) An assessment of baseline conditions of water bodies, including but not limited to biota, habitat, beneficial uses, water quality conditions, and hydrologic conditions.</p> <p>(2) Identification of watershed conditions requiring special attention. For example: preservation of headwater wetlands or critical aquifer recharge areas.</p> <p>(3) An analysis of flows and water quality conducted at the <u>basin</u> scale.</p> <p>(4) Projected potential adverse polluted runoff impacts from future development at full build-out under existing or alternative future <u>scenarios using comprehensive land use management plans.</u></p>

(5) Identification of strategies, projects and programs, both structural and nonstructural, changes to address projected harmful impacts from polluted runoff to beneficial uses to the maximum extent practicable.

(6) Identification of structural retrofit actions to address harmful impacts to designated beneficial uses to the maximum extent practicable.

(7) Identification of other actions such as non-regulatory actions including, but not limited to, land acquisition or restoration actions to address harmful impacts to beneficial uses to the maximum extent practicable.

(8) An implementation plan that identifies a schedule of actions, responsible parties, estimated costs, and funding strategies, provided that the implementation plan may be contingent upon the availability of state and federal funds on an equitable basis with local funds.

iii. The planning may include:

(1) Evaluation of the need for basin-specific stormwater control requirements, and identification of appropriate changes to stormwater requirements as allowed by Section 7 of Appendix 1.

(2) Evaluation and identification of strategies to encourage redevelopment and infill, and an

			<p>assessment of options for efficient, effective runoff controls for redevelopment projects, such as regional facilities, in lieu of individual site requirements.</p> <p>(3) Identification of barriers and conflicting state and federal environmental programs and priorities.</p> <p>iv. Minimum Performance Measures</p> <p>(1) By February 2, 2014, establish a schedule for conducting the stormwater planning required under this section.</p> <p>(2) Each County Permittee must solicit public review and comment on the draft watershed-scale stormwater plan.</p> <p>(3) Complete the final plan to Ecology no later than August 1, 2016. The plan must identify recommended capital improvements, regulatory, programmatic, state and federal funding contingency, and land use actions as appropriate for meeting plan objectives.</p> <p>(4) The plan shall include a schedule of actions, responsible parties, estimated costs, and funding strategies.</p>
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**SECTION 5.C.6 – STRUCTURAL STORMWATER CONTROLS**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
a.ii.(2)	Or restoration of forest cover and/or riparian buffers for compliance with this requirement.	Certain types of stream restoration are highly beneficial and may substitute for flow control facilities to manage the adverse effects of stormwater runoff. Stream restoration projects should be eligible generally and also in the context of possible water quality/stormwater trading.	Restoration of forest cover and/or riparian buffers and stream restoration projects that compensate for impacts caused by excessive stormwater runoff peak flows and geomorphologically significant flows.
a.ii.(3)	Other projects to address stormwater runoff into or from the MS4 not otherwise required in S5C.	See Pierce County comment, above, under a ii(2)	
a (i)	Permittees may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement	Ravines where erosion takes place are often more susceptible to erosion because of past logging or removal or natural channel complexity. Restoring this complexity can be very effective at preventing erosion even with increased watershed hydrologic runoff.	Permittees may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement unless specifically designed and intended to reduce erosion by restoring channel complexity.
c.	Each Permittee's annual report must provide annually updated or revised list of planned, individual projects scheduled for implementation during the permit term.	Annual updates of the projects are excessive. Updating less frequently would allow projects to be completed and new projects to be developed on a more reasonable timeline consistent with capital projects construction cycles which include project initiation and budgeting, property acquisition, design and	Each Permittee's annual report must provide a list of planned, individual projects scheduled for implementation during the permit term. The list shall be updated at least once during the permit term.

		permitting, and construction.	
Appendix 11	Retrofit Incentive	Pierce County appreciates and agrees with the intent of the retrofit incentive. However, it should not be used exclusively for determining priority. Many other factors (i.e. cooperating partners for projects, willing property owners, land availability) are also critical.	Note to Table in Appendix 11:  Retrofit incentive points are only one aspect of determining priority. Other aspects include available budget, cooperating partners for projects, willing property owners, and land availability.

**SECTION 5.C.7 – SOURCE CONTROL PROGRAM for EXISTING DEVELOPMENT**

<b>Sub-Section</b>	<b>WDOE Proposed Language</b>	<b>Reason/Explanation/Comment</b>	<b>Pierce County Recommended Revision</b>
a.iii.	<p>Application and enforcement of local ordinances at applicable sites, [insert 1] including sites with discharges authorized by a <u>separate National Pollutant Discharge Elimination System or State Waste Discharge permit that are covered by other stormwater permits issued by Ecology.</u></p> <p><del>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. [insert 2]</del></p>	<p>Pierce County believes and fully intends to have the authority for local enforcement of facilities that are or should have permits issued by Ecology for impacts to its MS4 and/or surface or ground waters. However, we strongly disagree that the State should continue to shift its delegated authority for full responsibility for pollution by retaining potential liability against local governments in the event the state does not meet its responsibilities to control pollution from facilities it is legally required to permit. Ecology should retain the existing Permit language.</p>	<p>Application and enforcement of local ordinances at applicable sites, as appropriate, including sites with discharges authorized by a separate National Pollutant Discharge Elimination System or State Waste Discharge 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.</p>

<p>a.iv.</p> <p>Reduction of pollutants associated with the application of pesticides, herbicides, and fertilizer discharging into municipal separate storm sewers owned or operated by the Permittee.</p>	<p>A specific list of "pollutants associated with the application of pesticides, herbicides and fertilizer" would be useful in targeting reductions to. Alternatively, this requirement could be made more clear by clarifying that the targets are the broad categories mentioned rather than "pollutants associated with" them.</p>	<p>Reduction of polluted runoff from the application of pesticides, herbicides, and fertilizer discharging into municipal separate storm sewers owned or operated by the Permittee.</p>
<p>7.b.iii.(2)</p> <p>... The Permittee may count up to <u>two</u> follow up compliance inspections at the same site toward the 20% compliance rate.</p>	<p>Often, more than two technical assistance visits are needed to achieve compliance. Where there is a willing land owner and progress is being made, there may be a period of intensive technical assistance towards the goal of compliance. This can become a high workload, but one that pays dividends in water quality. Permittees should not be punished by quotas for this level of effort.</p>	<p>... The Permittee may count up to ten follow up compliance inspections at the same site toward the 20% compliance rate.</p>

**SECTION 5.C.9 – OPERATIONS AND MAINTENANCE**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
<p>a.</p>	<p>....Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those</p>	<p>We are unable to comment on the manual because it is in draft and far from complete. Additionally, we are concerned that so much of the site development requirements of the</p>	<p>...No later than end of the term of this permit, each Permittee shall update their maintenance standards as necessary to meet the requirements of this section.</p>

	<p>specified in Chapter 4 of Volume V of the 2012 Stormwater Management Manual for Western Washington.....</p> <p><u>..No later than December 31, 2014, each Permittee shall update their maintenance standards as necessary to meet the requirements of this section.</u></p>	<p>permit will be specified in a document that has not gone through rule making under the Administrative Procedures Act.</p> <p>We believe that the existing comment period needs to be extended until after the WDOE completes the Manual.</p> <p>Additionally, it is unreasonable and inappropriate to propose a due date in the permit for updated maintenance standards when those standards have yet to be published in a companion document to the permit.</p>	
<p>a.ii.</p>	<p>....maintenance shall be performed:</p> <p>(1) Within 1 year for typical maintenance of facilities, except catch 11 basins.</p> <p>(2) Within 6 months for catch basins.</p> <p>(3) Within 2 years for maintenance that requires capital construction of less than \$25,000.</p>	<p>Based on experience, initial inspections resulted in significant reduction of "legacy loads" of sediment, primarily, and lack of vegetation management from past neglect. Return inspections generally result in higher compliance ratings. Some maintenance activities of the environmentally exposed facilities (ponds and swales) are restricted, due to weather conditions, erosion concerns, and seeding difficulties.</p> <p>If a CB is full and pipes are obstructed; current program protocol is to assess risk by discharge point identification, if CB fails.</p> <p>Finally, the \$25,000 threshold is</p>	<p>....maintenance shall be performed:</p> <p>(1) Within 18 months for typical maintenance of facilities, except catch 11 basins.</p> <p>(2) Within 12 months for catch basins.</p> <p>(1) Within 2 years for maintenance that requires capital construction of <u>more</u> than \$25,000.</p>

		<p>confusing as "or less". We suggest a clear option.</p>	
<p>9.a.ii.</p>	<p>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.</p>	<p>When sites are under active compliance actions, the time frame for each of the facility component may vary to best meet available resources and ensure the most urgent needs are addressed first. These may not fit the neat order envisioned by the Permit.</p>	<p>ii. (4) <u>Within the sequence and schedule as determined through a local compliance action.</u></p>
<p>9.b.iv.</p>	<p>Permittee shall manage maintenance activities to inspect all permanent stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every 6 months, until 90% of the lots are constructed, to identify maintenance needs and enforce compliance with maintenance standards as needed.</p>	<p>The 2007 Permit standard should be retained (i.e., every 6 months during the period of heaviest construction) This is generally sufficient for most cases and individually, Permittees may and likely will conduct more frequent inspections as plats are development.</p>	<p>Permittee shall manage maintenance activities to inspect all permanent stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every 6 months <u>during the period of heaviest construction</u> to identify maintenance needs and enforce compliance with maintenance standards as needed.</p>
<p>9.b.vi.</p>	<p>The Permittee shall require cleaning of catch basins regulated by the Permittee if they are found to be out of compliance with established maintenance standards in the course of inspections conducted at facilities under the requirements of S5.C.7.</p>	<p>Unnecessary language is proposed for deletion.</p>	<p>The Permittee shall require cleaning of catch basins regulated by the Permittee if they are found to be out of compliance with established maintenance standards in the course of inspections.</p>

	<p>(Source Control Program), and S5.C.8. (Illicit Connections and Illicit Discharges Detection and Elimination), or if the catch basins are part of the stormwater facilities inspected under the requirements of S5.C.9. (Operation and Maintenance Program).</p>		
<p>9.c.ii.</p>	<p>Each Permittee shall implement a program to / conduct spot checks of potentially damaged permanent stormwater treatment and flow control BMPs/facilities after major storm events (<del>24-hour storm event with a 10-year recurrence interval</del>). If spot checks indicate widespread damage/maintenance needs, inspect all stormwater treatment and flow control facilities that may be affected. Conduct repairs or take appropriate maintenance action in accordance with maintenance standards established under S5.C.9.a., above, based on the results of the inspections.</p>	<p>Pierce County has successfully implemented the requirement that Ecology has deleted and believes having the standard explicit achieves consistent implementation. We request that the language be retained.</p>	<p>Each Permittee shall implement a program to conduct spot checks of potentially damaged permanent stormwater treatment and flow control BMPs/facilities after major storm events (<b>24 hour storm event with a 10 year recurrence interval</b>). If spot checks indicate widespread damage/maintenance needs, inspect all stormwater treatment and flow control facilities that may be affected. Conduct repairs or take appropriate maintenance action in accordance with maintenance standards established under S5.C.9.a., above, based on the results of the inspections</p>
<p>9.c.iii</p>	<p>Compliance with the inspection requirements of S5.C.9.b-iii-(1)i., and (2)ii.</p>	<p>Based on Pierce County's experience, inspecting 80% of sites is a more reasonable standard and sufficient to</p>	<p>Compliance with the inspection requirements of S5.C.9.i and ii. above, shall be determined by the presence of an established inspection</p>

	<p>above, shall be determined by the presence of an established inspection program designed to inspect all sites. <del>Compliance during this permit term shall be determined by and achieving an annual rate of at least 95% of required inspections no later than 180 days prior to the expiration date of this permit.</del></p> <p>Each Permittee shall continue to annually inspect catch basins and inlets owned or operated by the Permittee, except as provided below....</p> <p>The following alternatives to the standard approach of inspecting catch basins every two years are allowed:</p>	<p>ensure systems are appropriately maintained and operated.</p> <p>The proposed language is confusing and contradictory.</p>	<p>program designed to inspect all sites and achieving at least 80% of <u>required</u> inspections.</p>
9.d.i.	<p>Each Permittee shall continue to annually inspect catch basins and inlets owned or operated by the Permittee, except as provided below....</p> <p>The following alternatives to the standard approach of inspecting catch basins every two years are allowed:</p>	<p>The proposed language is confusing and contradictory.</p>	<p>Each Permittee shall continue to <del>annually</del> inspect catch basins and inlets owned or operated by the Permittee, <u>every two years</u> except as provided below....</p> <p>The following alternatives to the standard approach of inspecting catch basins every two years are allowed:</p>
9.d.i.(2)	<p>The Permittee may clean the entire MS4 within a circuit, including all conveyances and catch basins, once during the permit term.</p>	<p>The entire MS4 and conveyance system includes ALL piping and facilities. This is an unnecessary, unrealistic, and unachievable permit requirement. Catch basin cleaning will accomplish the intent of capturing and removing potential pollutants before release to surface waters.</p> <p>Based on Pierce County's experience, inspecting 80% of catch basins using a circuit based approach and inspecting catch basins at the outfall of each circuit, is more than sufficient to ensure pollutants are captured and</p>	<p>The Permittee may clean the circuit, including catch basins, once during the permit term.</p>
9.d.iii.	<p>Compliance with the inspection requirements of S5.C.9.i. above, shall be determined by the presence of an established inspection program designed to inspect all catch basins and</p>	<p>to ensure pollutants are captured and</p>	<p>Compliance with the inspection requirements of S5.C.9.i. above, shall be determined by the presence of an established inspection program designed to inspect all catch basins and achieving at least <u>80%</u> of required inspections.</p>

	achieving at least 95% of required inspections.	removed prior to discharge.	
9.e	<del>Within 12 months of the effective date of this permit, establish</del> Each Permittee shall 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. Lands owned or maintained by the Permittee include, but are not limited to: parking lots, streets, roads, and highways, buildings, parks, open space, road right-of-way, maintenance yards, and stormwater treatment and flow control BMPs/facilities. <del>owned or operated by the Permittee; and road maintenance activities conducted by the Permittee.</del>	Delete "under the functional control". This section already says all lands owned or maintained by the Permittee.	Each Permittee shall 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 of the Permittee. Lands owned or maintained by the Permittee include, but are not limited to: parking lots, streets, roads, highways, buildings, parks, open space, road right-of-way, maintenance yards, and stormwater treatment and flow control BMPs/facilities.
9.e.vi	Snow and ice control <u>and disposal</u>	Delete "and disposal". Currently snow and ice control throughout the region is performed by plowing the snow to the shoulder and left to melt. How would this language change this process?	Snow and ice control

**SECTION 5.C.10 – Education and Outreach Program**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
b.	<p>Create stewardship opportunities and/or build on existing organizations to encourage residents to participate in activities such as stream teams, storm drain stenciling/marketing, volunteer monitoring, riparian plantings and education activities)</p>	<p>Pierce County participates in numerous stewardship activities, the vast majority of which have been not been credited for Permit compliance due to the prescriptive nature of the Permit. We suggest that more of these activities would occur if the Permit credited Permittees for those actions within their jurisdictions without extending the legal web of NPDES into them. We also suggest language to reflect more current practices of <u>marking</u> rather than <u>stenciling</u> storm drains..</p>	<p>Create stewardship opportunities and/or build on existing organizations to encourage residents to participate in activities such as stream teams, storm drain stenciling or marking, volunteer monitoring, riparian plantings and education activities). Stewardship activities conducted by a non-permittee shall satisfy this permit requirement of the Permittee with jurisdiction within which the activity occurs and is not subject to the provisions of S3B of this Permit.</p>
c.	<p>Education and outreach efforts shall target the following audiences and subject areas</p>	<p>Consistency with the Fact Sheet (page 50) and clarify that subject areas should match the appropriate target audience in each section.</p>	<p>Education and outreach efforts shall target the following audiences and subject areas <u>as appropriate.</u></p>
c.ii	<p>ii. General public and businesses, including home based and mobile businesses  (1) BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps and other hazardous materials.  (2) Impacts of illicit discharges</p>	<p>The types of equipment for BMPs are not specified.</p>	<p>ii. General public and businesses, including home based and mobile businesses  (1) BMPs for use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps and other hazardous materials.  (2) Impacts of illicit discharges and how to report them.  (3) BMPs for equipment maintenance <u>for typical types of equipment and vehicles used in home based and mobile businesses. such</u></p>

	and how to report them. (3) BMPs for equipment maintenance.		<u>as carpet cleaning, auto repair.</u>
c.iii	Homeowners, landscapers and property managers (1) Yard care techniques protective of water quality. (2) BMPs for use and storage of pesticides and fertilizers. (3) BMPs for carpet cleaning and auto repair and maintenance. (4) Low Impact: Development principles and BMPs and techniques, including site design, pervious paving, retention of forests and mature trees. (5) Stormwater facility maintenance, treatment and flow control BMPs. (6) Dumpster maintenance for property owners.	More appropriate audience and more consistent with other subject areas.	Recommend moving dumpster maintenance to section s5.C10ii (General Public and Businesses)
d	No later than February 2, 2015, each Permittee shall begin measuring the understanding and adoption of the targeted behaviors for at least one new targeted audience in at least one new subject area. No later than February 2, 2016 the resulting measurements shall	This requirement should not be limited to only "new" audiences or subject area. We believe we should be able to evaluate and make improvements to existing programs to meet this requirement as well.	No later than February 2, 2015, each Permittee shall begin measuring the understanding and adoption of the targeted behaviors for at least one targeted audience in at least one subject area. No later than February 2, 2016 the resulting measurements shall be used to direct education and outreach resources most effectively as well as to evaluate changes in adoption of the targeted

	<p>be used to direct education and outreach resources most effectively as well as to evaluate changes in adoption of the targeted behaviors. Permittees may meet this requirement individually or as a member of a regional group.</p>		<p>behaviors. Permittees may meet this requirement individually or as a member of a regional group.</p>
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**SECTION 8 – MONITORING PROGRAM**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
			See Attachment Three

**DEFINITIONS AND ACRONYMS**

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
Definitions	<p>Low Impact Development” (LID) means a stormwater and land use management strategy that strives to and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic processes functions of</p>	<p>Remove “and land use” out of the definition. This should emphasize stormwater management not land use. Other minor edits.</p>	<p>Low Impact Development” (LID) means a stormwater management strategy that strives to mimic pre-development hydrologic processes and functions 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.</p>

	<p><u>infiltration, filtration, storage, evaporation and transpiration by</u>  <u>emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater</u>  <u>management practices that are integrated into a project design.</u></p>		
LID Principles	<p><u>"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.</u></p>	<p>Remove "land use" out of the definition. This should emphasize stormwater management not land use.</p>	<p>"LID Principles" means management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.</p>
Definitions	<p><u>"Outfall" means point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to surface or ground waters of the State. <del>Outfall</del> and does not include <del>open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which connect segments of the same</del></u></p>	<p>If the definition is primarily surface water, why add ground water to the definition. Recommend removing ground water.</p>	<p>"Outfall" means point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to surface waters of the State. 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.</p>

	<p>stream or other surface waters of the State and are used to convey primarily surface waters of the State.</p>		
<p>Definitions</p>	<p><u>“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 6 Determining Construction Site Sediment Transport Potential for a more detailed definition.</u></p>	<p>Change Appendix 6 to 7.</p>	<p>“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 Transport Potential for a more detailed definition.</p>
<p>Definitions</p>	<p><b>Hydraulically Near</b> 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.</p>	<p>This definition should not attempt to summarize Appendix 7, but instead should simply reference Appendix 7.</p>	<p>Hydraulically Near” as defined and explained in Appendix 7 - Determining Construction Site Sediment Damage Potential. Refer to Appendix 7 for a more detailed definition.</p>
<p>Definitions</p>	<p><b>Outfall</b> means point source as defined by 40 CFR 122.2</p>	<p>The proposed definition goes well beyond the federal Clean Water Act</p>	<p>“Outfall” means point source as defined by 40 CFR 122.2 at the point where a</p>

<p>at the point where a municipal separate storm sewer discharges to surface or ground waters of the State. Outfall and does not include open conveyances connecting two municipal separate storm sewer systems, or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the State surface waters and are used to convey primarily surface waters of the State.</p>	<p>definition and its breadth is unreasonable in the context of this municipal separate storm sewer system permit. The proposed definition would substantially expand the permit requirements for Pierce County by defining an "outfall" to include the point where a MS4 discharges to ground waters and by including "open conveyances connecting two municipal separate storm sewers" within the outfall definition. The term "outfall" is specifically defined by the federal municipal stormwater regulations and Washington State does not have any outfall definition for municipal stormwater (or otherwise) that supports Ecology's expansive definition. Consequently, Pierce County request that the current Permit's language, which is consistent with the federal regulation's definition of "outfall" (40 CFR 122.26(b) (9)).</p>	<p>municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.</p>
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**APPENDIX 1 – Minimum Technical Requirements for New Development and Redevelopment**

**Section 2. Definitions related to Minimum Requirements**

Overall Pierce County Comment:

Sub-Section	WDOE Proposed Language	Reason/Explanation/Comment	Pierce County Recommended Revision
All	Design language throughout Appendix 1	Design language in Appendix 1, generally, is confusing and may conflict with LID design manual. Pierce County recommends removing these from the Appendix.	Remove design criteria from Appendix 1.
Section 2	Arterial – A road or street primarily for through traffic. The term generally includes roads or streets considered collectors. It does not include local access roads which are generally limited to providing access to abutting property. See also RCW 35.78.010 and RCW 47.05.021.	The word “arterial” is only used in one place within Appendix 1. It is used in section 8.1.B to help explain situations where permeable pavements are infeasible. Further below in this document the County has recommended changes to section 8.1.B that will render a definition of arterial for Appendix 1 unnecessary. We therefore recommend that this definition be deleted.	
Definitions	<b>Land disturbing activity –</b> Any activity that results in movement of earth, or 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.	Current definition of stormwater facility does not include ditch conveyance systems so the there is a possibility that routine maintenance of ditches could be considered “land disturbing activity”	<b>Land disturbing activity –</b> Any activity that results in movement of earth, or 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 a land disturbing activity. Vegetation maintenance practices are not

	<p>Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.</p>		<p>considered land-disturbing activity. Stormwater facility <u>and ditch conveyance system maintenance</u> is not considered land disturbing activity if conducted according to established standards and procedures.</p>
<p>Definitions</p>	<p><b>Common plan of development or sale</b> means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules and/or by different contractors, but still under a single plan. Examples include: 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be</p>	<p>This definition is extremely broad and, in the context of this municipal stormwater permit, is difficult to implement and may create inconsistencies with development codes and other land use laws.</p>	

	<p>constructed under separate contract or by separate owners (e.g. a development where lots are sold to separate builders); 2) a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility; and 4) linear projects such as roads, pipelines, or utilities. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.</p>		
<b>SECTION 3. APPLICABILITY OF MINIMUM REQUIREMENTS</b>			
Section 3.1	Permittee is not required to apply the Minimum	Confusing seems to imply that no permit requirements will apply for some	

Figure 3.1	Requirements to this project	projects.	
Section 3.1	Arrow between box 5 and 6 on this table marked "Next Question"	Unnecessary and adds confusion	Remove arrow
Figure 3.3			
Section 3.2	All new development, regardless of size, shall be required to comply with Minimum Requirement #2.	Conflicts with table 3.1. Clarify that abbreviated SWPPP may be allowed.	

**SECTION 4. MINIMUM REQUIREMENTS – APPENDIX 1**

Section 4.1	<p><b>Minimum Requirement #1: Preparation of Stormwater Site Plans</b></p> <p>The permittee shall require a Stormwater Site Plan from all projects meeting the thresholds in Section 3.1 of this Appendix. Stormwater Site Plans shall use site-appropriate development principles to retain native vegetation and minimize impervious surfaces to the extent feasible. Stormwater Site Plans shall be prepared in accordance with Chapter 3 of Volume 1 of the <i>Stormwater Management</i></p>	Confusing. Please clarify expectations.	<p>Replace "Stormwater Site Plans shall use site-appropriate development principles to retain native..." with the following language: "Stormwater Site Plans shall <u>encourage</u> site-appropriate development principles to retain native</p>
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	<i>Manual for Western Washington (2012).</i>		
Section 4.2.	Minimum requirement 12	edit	Subsections e. and f. mislabeled
Section 4.5	Mandatory list #2 For a commercial building, a vegetated roof with runoff routed below permeable pavement. If the latter option is not used a cost analysis is necessary to claim infeasibility of a vegetated roof.	Please provide guidance on determining infeasibility based on cost.	
Section 4.6	Reference to Table 4.1	Table 4.1 deleted in its entirety.	Remove reference
Section 4.8	Standard Requirement "Projects within the drainage area of a wetland"	Provide guidance on distance from a wetland a hydrologic analysis is required.	Projects within ¼ mile of a wetland
<b>SECTION 8. FEASIBILITY CRITERIA</b>			
Section 8. I. A.	Where the site cannot be reasonably designed to locate bioretention facilities on slopes less than 15%, or if bioretention is within the road right-of-way and the right-of-way cannot be feasibly designed to locate bioretention facilities on slopes less than 8%	More conservative design criteria.	Change to "Where the site cannot be reasonably designed to locate bioretention facilities on slopes less than 10%, or if bioretention is within the road right-of-way and the right-of-way cannot be feasibly designed to locate bioretention facilities on slopes less than 10%
Section 8. I. A.	Within 50 feet from the top of slopes that are > 20%.	More conservative design criteria need to be consistent with drinking water wells and onsite drain field setbacks.	Within <del>50</del> <u>100</u> feet from the top of slopes that are > 20% and 10 ft vertical relief.

Section 8.1.A.	<p>Within 10 feet of small on-site sewage systems and greywater reuse systems. For setbacks from a "large onsite sewage disposal system", see Ch 246-272B WAC.</p>	More conservative design criteria.	<p>Change to "Within 10 feet of small on-site sewage systems and greywater reuse systems <u>including reserve areas</u>. For setbacks from a "large onsite sewage disposal system", see Ch 246-272B WAC.</p>
Section 8.1.A.	<p>Where the field testing indicates potential bioretention/rain garden sites have a short term (a.k.a., initial) native soil saturated hydraulic conductivity less than 0.30 inches per hour. In these instances bioretention/rain gardens serving pollutant-generating surfaces can be built with an underdrain, preferably elevated within the underlying gravel layer, unless other feasibility restrictions apply.</p>	<p>Design criteria for short term native soil saturated hydraulic conductivity too liberal. We support more conservative criteria. Please describe how 0.30 inches per hour was derived and confidence that side-flow will not occur.</p>	
Section 8.1.B	<p><b><u>Note: These criteria also apply to impervious pavements that would employ storm water collection and redistribution below the pavement</u></b></p>	<p>This note should be deleted from this section and should be added as design criteria for locating infiltration facilities in the proposed version of the SMMWWV. Locating these design requirements in an Appendix and in a section that pertains to LID BMP feasibility is poor organization, confusing to the reader and could potentially lead to errors in making sure the requirements are implemented.</p>	

<p>Section 8.1.B</p>	<p><u>In the drive aisles of parking lots as long as runoff is directed to pervious pavement parking spaces.</u></p>	<p>As written this is confusing. It is a design criterion not a feasibility criterion. This statement should be deleted from this section and the statement's intent should be relocated to the LID design section of the SMMWW.</p> <p>If there is a concern that drive aisles will be subject to higher wear, failure or maintenance problems and thus pervious pavement is infeasible, the change proposed by the County above "For vehicle driving surfaces that carry an average daily traffic of more than 800 vehicles per day." Should address the concern as a drive aisle is a "vehicle driving surface".</p>	
<p>8.1.B</p>	<p><u>Within an area designated as a landslide hazard area.</u></p>	<p>This criterion is redundant with similar criteria in 8.1.B.</p>	<p>In areas that infiltration should be discouraged or minimized due to reasonable concerns about destabilization of neighboring soils or down-gradient slopes including, but not limited to: erosion hazard areas, landslide hazard areas, and areas immediately adjacent thereto.  "Reasonable concern" shall be based on an evaluation by the appropriate state - licensed professional (engineer or geologist).</p>
<p>8.1.B</p>	<p><u>Where geotechnical engineering evaluation</u></p>	<p>This criterion is redundant with similar criteria in 8.1.B.</p>	<p>In areas that infiltration should be discouraged or minimized due to</p>

	<p><u>recommends infiltration not be used anywhere in the project area due to reasonable concerns about erosion, slope failure, or flooding.</u></p>		<p>reasonable concerns about destabilization of neighboring soils or down-gradient slopes including, but not limited to: erosion hazard areas, landslide hazard areas, and areas immediately adjacent thereto. "Reasonable concern" shall be based on an evaluation by the appropriate licensed professional (engineer or geologist).</p>
<p>8.1.B</p>	<p><u>Within 10 feet of a small on-site sewage disposal drainfield. For setbacks from a "large on-site sewage disposal system", see Ch 246-272B WAC.</u></p>	<p>We question why a more significant setback is required for "large" systems. The concept with permeable pavements is that they "distribute" the rainfall over a site in much the same manner as the existing condition. Infiltration is not being concentrated like might be the case with an infiltration pond or underground infiltration gallery. It would therefore seem that a 10 foot setback would be sufficient.</p> <p>This criterion also is a design standard and should be re-located to the appropriate section in the SMMWW.</p> <p>For the above two reasons we recommend that this criterion be deleted from this Section.</p> <p>In general we believe design criteria</p>	<p>Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.</p>

Section 8.1.B	<p>Where the site cannot <u>reasonable be designed to have a porous asphalt surface at less than 5 percent slope, or a pervious concrete surface at less than 6 percent slope, or a pervious paver surface (where appropriate) at less than 10 percent slope. Portions of pavements that must be laid at greater than 5 percent slope must prevent drainage from upgradient base courses into its base course.</u></p>	<p>should all be relocated to the SMMVWV. We also believe that the following infeasibility criteria should be added to this section. This criterion is a design standard and should be re-located to the appropriate section in the SMMVWV. We recommend that it be deleted and replaced with the following.</p>	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.
Section 8.1.B	<p><u>Excessively steep slopes where water within the aggregate base layer or at the subgrade surface cannot be controlled by defention structures and may cause erosion and structural failure, or where surface runoff velocities may preclude adequate infiltration at the pavement surface.</u> <u>Where the native soils below a road or parking lot do not meet the soil suitability</u></p>	<p>This criterion is a design standard and should be re-located to the appropriate section in the SMMVWV. We recommend that it be deleted and replaced with the following.</p>	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.
Section 8.1.B	<p><u>Where the native soils below a road or parking lot do not meet the soil suitability</u></p>	<p>This criterion is a design standard and should be re-located to the appropriate section in the SMMVWV.</p>	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.

	<p><u>criteria for providing treatment. Note: In these instances, the local government has the option of requiring a six-inch layer of media meeting the soil suitability criteria or the sand filter specification as a condition of construction.</u></p>	<p>We recommend that it be deleted and replaced with the following.</p>	<p>pavement design criteria.</p>
Section 8.1.B	<p><u>Where seasonal high groundwater creates saturated conditions within one foot of the bottom of the lowest gravel base course.</u></p>	<p>This criterion is a design standard and should be re-located to the appropriate section in the SMMWV. We recommend that it be deleted and replaced with the following.</p>	<p>Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.</p>
Section 8.1.B	<p><u>Where fill soils are used that can become unstable when saturated.</u></p>	<p>We recommend that this criterion be deleted from this section. We recommend that it be replaced by the following.</p>	<p>In areas that infiltration should be discouraged or minimized due to reasonable concerns about drainage impacts to pre-existing development including, but not limited to: basements, impermeable pavements, underground utilities, underground storage tanks, foundations, unstable fill, and shoreline structures (bulkheads, boathouses, stairways, etc.) "Reasonable concern" shall be based on an evaluation by the appropriate licensed professional (engineer or geologist).</p>
Section 8.1.B	<p><u>Where infiltrating and ponding water below new permeable pavement area</u></p>	<p>We recommend that these criteria be deleted from this section. We recommend that they be replaced by the</p>	<p>In areas that infiltration should be discouraged or minimized due to</p>

	<p><u>would compromise adjacent impervious pavements.</u></p> <p><u>Where infiltrating water below new permeable pavement area would threaten existing below grade basements.</u></p> <p><u>Where infiltrating water would threaten shoreline structures such as bulkheads.</u></p> <p><u>Where installation of permeable pavement would threaten the safety or reliability of pre-existing underground storage tanks.</u></p>	<p>following.</p>	<p>reasonable concerns about drainage impacts to pre-existing development including, but not limited to: basements, impermeable pavements, underground utilities, underground storage tanks, foundations, unstable fill, and shoreline structures (bulkheads, boathouses, stairways, etc.)</p> <p>“Reasonable concern” shall be based on an evaluation by the appropriate licensed professional (engineer or geologist).</p>
<p>8.1.B</p>	<p><u>Where underlying soils are unsuitable for supporting traffic loads when saturated.</u></p> <p><u>Soils meeting a California Bearing Ratio of 5% are considered suitable for residential roads.</u></p> <p><u>Where appropriate field testing indicates soils have a short-term (a.k.a. initial) native soil saturated hydraulic conductivity less than 0.3 inches per hour. In these instances, road and parking lots can be built with</u></p>	<p>This criterion is a design standard and should be re-located to the appropriate section in the SMMWW.</p> <p>We recommend that it be deleted.</p>	<p>Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.</p>

	<u>an underdrain, preferably elevated within the base course, unless other feasibility restrictions apply.</u>		
Section 8.1.B	<u>Excessively steep slopes where water within the aggregate base layer or at the subgrade surface cannot be controlled by detention structures and may cause erosion and structural failure, or where surface runoff velocities may preclude adequate infiltration at the pavement surface.</u>	This criterion is a design standard and should be re-located to the appropriate section in the SMMMWV.  We recommend that it be deleted and replaced with the following.	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.
Section 8.1.B	<u>Where the native soils below a road or parking lot do not meet the soil suitability criteria for providing treatment. Note: In these instances, the local government has the option of requiring a six-inch layer of media meeting the soil suitability criteria or the sand filter specification as a condition of construction.</u>	This criterion is a design standard and should be re-located to the appropriate section in the SMMMWV.  We recommend that it be deleted and replaced with the following.	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.
Section 8.1.B	<u>Where seasonal high groundwater creates saturated conditions within one foot of the bottom of the lowest gravel base course.</u>	This criterion is a design standard and should be re-located to the appropriate section in the SMMMWV.  We recommend that it be deleted and replaced with the following.	Where it can be shown that the area to be paved cannot reasonably be designed to meet the pervious pavement design criteria.
Section 8. II.	<u>The On-site Stormwater Management requirements</u>	<u>New subsection needed to allow for on-site stormwater management</u>	If community economic development will be significantly impacted.

	will be superseded or reduced if they are in conflict with:	requirements to be superseded or reduced when economic development will be significantly	
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**APPENDIX 2 – TOTAL MAXIMUM DAILY LOADS**

<b>Sub-Section</b>	<b>WDOE Proposed Language</b>	<b>Reason/Explanation/Comment</b>	<b>Pierce County Recommended Revision</b>
Page 19	Clarks Creek Water Quality Improvement Project	This project is incomplete and will not be completed by US EPA by the time the permit is issued.	Delete from Permit.



## Attachment Three

### Pierce County Comments on Monitoring (Section 8) of the Proposed

### 2012-2013 and 2013-2018 NPDES Phase I Municipal Stormwater Permits

#### Comments on Proposed 2012-2013 Permit

1. The draft requires that three complete water years of S8.D data and up to 35 BMP samples be entered into Ecology's EIM database and the International Stormwater BMP database no later than the expiration date of the permit (June 30, 2013). These requirements impose an unreasonable and unfair burden on Pierce County above what is required in the existing permit. As a Phase I Permittee, Pierce County has and continues to experience the same economic downturn recognized as Phase II jurisdictions, as recognized by Engrossed Substitute House Bill 1478. Additional reporting will require additional budget, training, time and staff hours for implementation.
2. June 20, 2013 is not an attainable deadline for completion of S8.D and S8.F sampling goals. Pierce County will have only a partial water year of S8.D data by June 2013. Section 8.F of the existing permit requires adequate BMP data to show a significant difference between the inlet and outlet concentrations with a power of 95% and a confidence of 80% for all of the listed parameters or a maximum of 35 samples. Our results suggest that metals concentrations are so similar at the inlet and outlet of most BMPs that hundreds of samples would be required to show a significant difference with sufficient power and confidence. Consequently, like many other Phase 1 Permittees, we anticipate having to collect 35 samples, which is not likely to be completed by June 2013.
3. For both S8.D and S8.F, sampling will need to continue past the proposed permit expiration date in order to meet permit goals. This will impose additional burdens on budget, resources, and personnel. In lieu of continuing existing monitoring, which will overlap with new permit requirements, we recommend that all existing monitoring end with the expiration date of the extension.

#### Comments on Draft of 2013 – 2018 Permit

1. (Page 64 - 65) Status & Trends Monitoring Option #2 – We recognize that the proposed status and trends monitoring is based on randomly selected sampling sites. However, municipalities should have the ability to choose the monitoring sites within their jurisdiction for a number of reasons, including the following:
  - a. Randomly selected sites are of less value in directing cleanup efforts. Focused stormwater monitoring can be used by municipalities for strategic planning, source detection and control. Also, randomly selected sites may not be located near MS4 outfalls, diminishing the ability to determine cause and effect.

- b. Most Phase 1 Permittees have an established internal water quality monitoring program. Pierce County has multiple years of benthic and water quality data from inside and outside the UGA. Locating NPDES monitoring on/near existing monitoring sites would build upon existing data, and could be utilized for trends analysis. This supports the objectives of Ecology's draft 2012 Status and Trends Monitoring QAPP, which include: "Incorporate existing information and monitoring data, where possible, into the status and trends assessment (p. 9, October 3, 2011 draft)."
- c. Establishing rights-of-way and/or rights-of-entry for new sites may cause an unreasonable delay in the implementation of monitoring and added costs for Permittees.
- d. New sites would incur costs for scoping, ROW, power, protection, access, and new equipment.
- e. We recommend additional permit language that allows Phase 1 Permittees more flexibility in site selection, but ensures a regional uniform sampling protocol. For example:

Ecology recognizes that many Phase 1 Permittees have established wadeable stream monitoring programs. In lieu of monitoring the RSMP sampling sites identified in the draft 2012 Status and Trends Stormwater Monitoring and Assessment Strategy for Small Streams – An Addendum to Quality Assurance Monitoring Plan (October 3, 2011) (QAPP), monitoring may occur at the existing monitoring sites of closest proximity to the RSMP sampling sites. The existing sites must be suitable for water quality, benthos, habitat and sediment chemistry monitoring according to the QAPP. Sampling and reporting shall follow the QAPP.

Ecology also recognizes that many Phase 1 Permittees have established marine nearshore monitoring programs. In lieu of monitoring the RSMP sampling sites identified in the Marine Nearshore Status and Trends QAPP (QAPP), monitoring may occur at the existing monitoring sites of closest proximity to the Ecology-selected sites. The existing sites must be suitable for sediment chemistry, bacteria, and mussel monitoring as described in the QAPP. Sampling and reporting shall follow the QAPP.

2. (Pages 64-65) Please clarify the following regarding the proposed RSMP sampling sites:

- a. The permit must specify whether Ecology or the Permittee is responsible for gaining legal access to the sites. Legal access may need to be acquired over multiple parcels.
- b. Clarify under what conditions Phase 1 Permittees can propose an alternative site. If a site is not viable, will Ecology be responsible for generating more random sites?

3. Regarding the draft *Status and Trends Stormwater Monitoring and Assessment Strategy for Small Streams – An Addendum to Quality Assurance Monitoring Plan* (October 3, 2011):
  - a. Page 21 specifies that “Compiling/Disseminating Reports and Results Data collection is completed by the middle of October in each calendar year. Analysis of water samples and biological samples will extend by three months the period that summary reports can be written.” We recommend scheduling all reporting dates to coincide with annual NPDES reporting.
  - b. The same paragraph specifies that “The reporting can be completed by providing information on a web site. “ What web site is being referenced? For benthic data, we encourage use of the Puget Sound Benthos database: [www.Pugetsoundstreambenthos.org](http://www.Pugetsoundstreambenthos.org).
4. (Appendix 12 –Line 40) Contractor tasks include writing a complete QAPP for marine nearshore status and trends monitoring, which will be reviewed and approved by Ecology in consultation with the SWG. Phase I Permittees opting to conduct nearshore monitoring should have an opportunity to comment on the QAPP when it becomes available.
5. (Page 65 – 68) Effectiveness Studies Option #2
  - a. Permittees are encouraged to conduct stormwater discharge monitoring at locations monitored under S8.D of the 2007 – 2012 permit. However, they are required to expand monitoring to five sites. This significantly increases the cost for personnel, QAPP revision, and equipment. What is the rationale or supporting scientific research for requiring two new sites in addition to the existing three? What additional information is Ecology expecting to gain from additional outfall monitoring sites?
  - b. The draft requires that a revised QAPP be submitted by February 2, 2014 and that monitoring starts no later than October 1, 2014. However, for new sites, Appendix 9 requires greater than or equal to one year continuous flow recording prior to commencement of monitoring. The permit should clarify that, at previously unmonitored sites, flow monitoring should start no later than October 1, 2014 and outfall monitoring no later than October 1, 2015.
  - c. We recommend that Option 2 be revised to read: “any Permittee who would like to change a discharge monitoring location *or is adding a new discharge monitoring location* shall document in the revised QAPP (See S8.D.2 below) why the pre-existing stormwater monitoring location is not a good location for additional monitoring and why the newly selected site(s) is are of interest for long

term stormwater discharge monitoring and associated stormwater management and program effectiveness evaluations.”

6. (Page 81) Definitions and Acronyms: Please include definitions for land uses that can be monitored under S8.D, including high density residential, commercial, industrial, and agriculture.

## **Attachment Four**

### **Pierce County Comments on S5c Watershed Scale Stormwater Planning\_of Proposed 2013-2018 NPDES Phase I Municipal Stormwater Permit**

Pierce County supports watershed planning and has implemented watershed planning for many years. The County continues to support three watershed councils created as a result of nonpoint source pollution watershed plans of the 1990's and early 2000's under the state's WAC 400-12 planning process. Pierce County is an active participant on these councils and on the Nisqually River Council. Pierce County has also been the planning unit lead on watershed plans under RCW Chapter 90.82 and has recently or will soon completed surface water management basin plans for its ten basin plan areas. In that effort, Pierce County spent significant local funds to develop basin plans that have enriched the region with water quality, water quantity, and habitat information at an extremely fine scale for the work plan purposes of the County.

Throughout state-created watershed planning processes (i.e., WAC 400-12 and RCW 90.82), the common result has been faltering state support and involvement in watershed plan implementation coupled with change of focus and priorities. We believe these shortcomings result from a lack of a specifically defined purpose of the effort.

Thus, we are concerned that without the specific changes recommended below, the Permit-proposed watershed plan requirement could also suffer from previous scope and attention drift; result in costs far in excess of the average costs of plans we have just completed; duplicate much of the work of our recent basin plans; and move Permittees unilaterally towards a retrofit need far in excess of local governments' capabilities. As a result, we request Permit language is revised to achieve the following:

- Clarify and specify the purpose of the planning requirement is to identify strategies as one tool for protecting aquatic resources, consistent with Pollution Control Hearings Board decision;
- Provide Permittees the option to select any basin within their jurisdiction for watershed planning, to take advantage of local knowledge, locally-available information, and locally-planned priorities;
- Provide Permittees discretion to identify what type of modeling best fits local conditions; and
- Acknowledge the magnitude of the Puget Sound retrofit needs, the role of state and federal funding necessary to make progress and not use the Permit requirement for watershed planning in a vacuum towards that end.

Rationale for these recommended changes are summarized below.

### Permit Needs to Clearly State Explicit Purposes of the Proposed Watershed Planning Requirement

The watershed planning process does not clearly articulate the specific objectives to be accomplished. In addition, the generalized goal that the permit and fact sheet allude to and the proposed Permit language goes beyond the Pollution Control Hearings Board decision that directed Ecology to identify “areas for potential basin or watershed planning that can **incorporate strategies as a water quality management tool to protect aquatic resources.**” (emphasis added). Contrary to the PCHB’s decision, the Fact Sheet states that the primary objective of watershed planning is “... to identify **whether and how the watershed could accommodate the planned growth and still maintain the beneficial uses of the watershed’s surface waters.**” We are concerned that the permit language goes beyond using watershed planning as a way to incorporate strategies as a tool (among other tools) to “protect aquatic resources” as directed by the PCHB. Requiring watershed planning to determine whether locally planned land growth should be allowed and maintain beneficial uses, exceeds the maximum extent practicable provision of the Clean Water Act which is the standard in federal law for municipal stormwater permitting. If Ecology intends to use state authorities to mandate local governments achieve a higher level of protection through local land use planning, it should propose amendments to the state’s Growth Management Act.

Pierce County believes that permittees should have the flexibility to select the basins for this permit requirement, based on local experience, knowledge, priority focus, and available information.

Pierce County notes that many of the models suggested by Ecology in the Fact Sheet for the permit are not appropriate because the models are: (a) not sufficiently developed or validated; or (b) are so site-specific as to require extensive data collection; or (c) will be of limited basin-wide value. We do not support the Permit requiring unproven or exceedingly costly modeling systems. Rather, we urge the Permit to allow Permittees discretion in the tools they use to accomplish the specific objective of the planning effort.

The watershed plan requirement anticipates structural retrofit actions, among other things. As such, Pierce County notes that the Permit must recognize the need for a state and federal funding partnership, given the high costs of retrofits. In 2010, the Puget Sound Partnership estimated the cost of stormwater retrofits to be as much as \$16 billion dollars. The Stormwater Committee of the Partnership’s Ecosystem Coordination Board endorsed this cost analysis and report and recommended that the need for a greater state and federal financial share to make progress on retrofiting. Consequently, Pierce County reasonably believes the permit must acknowledge this cost assumption and federal/state partnership role in watershed plan implementation.

### Proposed Revised Language

Pierce County urges Ecology to revise the proposed language concerning watershed planning as follows:

c. Watershed scale stormwater planning requirements:

No later than December 31, 2013, each County Permittee listed below shall select one watershed within their jurisdiction from the following list in which to conduct detailed stormwater basin planning. The purpose of this basin planning requirement shall be to identify strategies (as a tool among other tools) to protect aquatic resources within the watershed so existing and future projected stormwater flows meet applicable stormwater requirements to the maximum extent practicable."

- ~~• Clark County: Whipple, Salmon~~
- ~~• King County: Bear, Covington, Evans, Issaquah, Jenkins, May, Soos~~
- ~~• Pierce County: Clover, Mashel~~
- ~~• Snohomish County: Quilceda, Little Bear, Portage~~

ii. Each County Permittee shall convene and lead a process involving other Permittees subject to a municipal stormwater permit as well as other cities and counties with areas of their jurisdiction in the watershed selected in i., above. This process shall begin no later than February 2, 2014. The process shall develop a watershed scale stormwater basin plan for the watershed identified in

~~i. above that has the goal of accommodating growth and maintaining beneficial uses.~~ The planning process shall include:

(1) An assessment of baseline conditions of water bodies, including but not limited to biota, habitat, beneficial uses, water quality conditions, and hydrologic conditions.

(2) Identification of watershed conditions requiring special attention. For example: preservation of headwater wetlands or critical aquifer recharge areas.

(3) An analysis of flows and water quality conducted at the basin appropriate scale. ~~The analysis shall quantify estimated changes using computer modeling and best available science.~~

(4) ~~Identification of impacts to beneficial uses from existing development, and~~ Projected potential adverse polluted runoff impacts from future development at full build-out under existing or ~~proposed alternative future scenarios using comprehensive land use management plans.~~

(5) Identification of strategies, projects and programs, both structural and nonstructural, changes to codes, rules, standards, and plans to address projected harmful impacts from polluted runoff to beneficial uses to the maximum extent practicable ~~and comply with antidegradation provisions of state and federal statutes and rules.~~

(6) Identification of structural retrofit actions to address harmful impacts to designated beneficial uses to the maximum extent practicable.

(7) Identification of other actions such as non-regulatory actions including, but not limited to, land acquisition or restoration actions to address harmful impacts to beneficial uses to the maximum extent practicable.

(8) An implementation plan that identifies a schedule of actions, responsible parties, estimated costs, and funding strategies, provided that the implementation plan may be contingent upon the availability of state and federal funds on an equitable basis with local funds.

iii. The planning may include:

(1) Evaluation of the need for basin-specific stormwater control requirements, and identification of appropriate changes to stormwater requirements as allowed by Section 7 of Appendix 1.

(2) Evaluation and identification of strategies to encourage redevelopment and infill, and an assessment of options for efficient, effective runoff controls for redevelopment projects, such as regional facilities, in lieu of individual site requirements.

(3) Identification of barriers and conflicting state and federal environmental programs and priorities.

iv. Minimum Performance Measures

(1) By February 2, 2014, establish a schedule for conducting the stormwater planning required under this section.

(2) Each County Permittee must solicit public review and comment on the draft watershed-scale stormwater plan.

(3) Complete ~~Submit~~ the final plan to Ecology no later than August 1, 2016. The plan must identify recommended capital improvements, regulatory, programmatic, state and federal funding contingency, and land use actions as appropriate for meeting plan objectives.

(4) The plan shall include a schedule of actions, responsible parties, estimated costs, and funding strategies.

## **Pierce County Comments on Economic Development Impacts from**

### **Draft Phase I NPDES Permit**

There are several over-arching issues pertaining to the currently-proposed NPDES permit that cause Pierce County Economic Development great concern. The first issue is the lingering effects of our current recession and the relative competitive position of communities in Western Washington in a global economy, when it comes to attracting and retaining industrial employers. Regulations that should set national standards are interpreted and enforced differently in different parts of the country and Washington tends toward more restrictive environmental standards than most areas of the country. As a result, this region is generally more expensive when it comes to developing new industrial facilities. The more we exceed federal standards, the less competitive we become in our ability to attract new industry and employment. The state should not hamper competitiveness by imposing regulations that exceed the minimum federal standards.

In a similar vein, the costs to public-sector agencies to retrofit existing facilities will be breathtaking and, in many instances, prohibitive. Property values are down, margins for acquiring development financing are very tight now, and costs which do not contribute to profitability cannot be financed. It is difficult to see how, in the current economic environment, the new regulatory standards can avoid driving new business away from our County and driving a substantial number of existing businesses into foreclosure and/or bankruptcy.

It is disturbing that private citizens and businesses do not really have a fair opportunity to have input into the process of developing the standards by which they will be regulated. The proposed NPDES permit is imposed on jurisdictions, not on individuals or businesses. The jurisdiction's compliance with the proposed NPDES permit then requires development of new standards for private development which comply with the permit terms. It would most typically be the case that public awareness of the development regulations would occur at the time of jurisdictional code development. However, if the rules developed by the jurisdiction are mandated by that jurisdiction's permit from the State, any input by the public regarding that jurisdiction's rulemaking will be without effect – the jurisdiction's hands will be tied in terms of its ability to address public comment in the rule-making process. So, if the public wishes to influence the rules that will be imposed upon it, the current public comment period will be the only opportunity to do so. But the NPDES documentation is so exhaustive, technical and complex that few people will have the capacity, time and/or ability to understand how this permit will affect them, which effectively deprives them of any meaningful opportunity to make meaningful substantive comments.

Current standards have not yet been given a fair opportunity to show their effectiveness. New regulations were adopted at the onset of the recession and not enough development has occurred under those standards to gauge their effectiveness. We would suggest the adoption of new standards be delayed until such point that enough development has taken place that we can measure the effectiveness of our current regulatory matrix.

It is also unclear to us who is expected to bear the increased costs of new regulation. It seems the state understands the costs to enforce the new regulations will be increasing because DOE is shifting enforcement of their own permits (with hatcheries, for example) onto the local jurisdictions. The state legislature seems reticent to pass funding on to local jurisdictions to cover these additional costs. Local governments see all too well the problems with tax collections in the current economy. The only "easy" solution is to pass the costs on to new development, the burden of which increases the likelihood that new development will stop, further reducing local government revenue and making it more likely that permit conditions will be unattainable. We would suggest that the state impose no new regulations on local jurisdictions until a financing plan is developed that shows that the permit goals are both affordable and attainable.

Finally, we feel that the conditions of the new permit are unfair to jurisdictions that have gone beyond the strict minimum compliance standards in the past. The new permit does not allow jurisdictions to reduce any existing standards which currently exceed the new permit minimums in order to achieve compliance with the broad scope of the new permit. This creates an unfair playing field by allowing jurisdictions to be rewarded for maintaining minimal compliance in the past and having comparatively relaxed standards under the new permit which creates advantages in terms of attracting the limited amount of new development that may yet be able to occur. We strongly believe that rules and regulations should be equivalent across the state and nation. Jurisdictions that have shown a willingness to go beyond minimum standards in the past should not be penalized for that stewardship.