

Appendix F

Response to Comments

On the

Municipal Stormwater General Permit

Modifications

National pollutant discharge elimination system (NPDES) and state waste discharge general permits for discharges from large and medium Municipal Separate Storm Sewer Systems (The Phase I Municipal Stormwater Permit)

National pollutant discharge elimination system (NPDES) and state waste discharge general permits for discharges from small Municipal Separate Storm Sewer Systems (The Western Washington Phase II Municipal Stormwater Permit)

National pollutant discharge elimination system (NPDES) and state waste discharge general permits for discharges from small Municipal Separate Storm Sewer Systems (The Eastern Washington Phase II Municipal Stormwater Permit)

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INTRODUCTION

On March 18, 2009 Ecology filed a notice with the State Register to propose modifications to the following municipal stormwater general permits issued on January 17, 2007:

- Phase I Municipal Stormwater General Permit for Discharges from Large and Medium Municipal Separate Storm Sewer Systems
- Western Washington Phase II Municipal Stormwater General Permit for Discharges from Small Municipal Separate Storm Sewers
- Eastern Washington Phase II Municipal Stormwater General Permit for Discharges from Small Municipal Separate Storm Sewers

Ecology invited public comment on the draft permit modifications and fact sheet. The public comment period ended May 1, 2009.

Federal and state water quality laws require a permit for the discharge of stormwater (see Federal Water Pollution Control Act Title 22 United States Code, Section 1251 et seq., state Water Pollution Control Act RCW 90.48 and Washington Waste Discharge General Permit regulation WAC 173-226-130). The permits address these legal requirements and control the discharge of pollutants to protect surface water and ground water quality in Washington State. The permits require municipalities and secondary permittees covered by the permit to develop and implement a stormwater management program to control stormwater runoff into and from their storm sewer system.

ORGANIZATION OF THE RESPONSE TO COMMENTS

Ecology organized this Response to Comments according to the specific permits, in order by permit section. The first section of this document summarizes the modifications made to all three permits and modifications specific to each permit. The next section summarizes and responds to comments, first the comments applying to all three permits and then comments specific to each permit. For each listed permit there is a subsection for Ecology's responses to comments on the March 18, 2009 proposed permit modifications, followed by a subsection for Ecology's responses to comments to improve flexibility and reduce costs.

Those who submitted comments during the public comment period from March 18, 2009 to May 1, 2009 are listed below with the comment numbers corresponding to the list of summarized comments and Ecology's response.

List of Respondents and Comment Number with Ecology Response

Name	Organization	Comment Number(s)
Dave Tucker	Kitsap County	77
Arthur West	Citizen	5, 55
Cheryl Morgan	Citizen	97
Elizabeth Gilbertson	Kent School District	16
Greg Zimmerman	City of Renton	81
John Sherman	City of Pullman	97
Mayor Glenn Johnson	City of Pullman	97
Keith Bloom	Citizen	97
Rob Buchert	City of Pullman	97, 103
Tammy Lewis	Pullman Chamber of Commerce	97
Susan Fagan	Pullman Chamber of Commerce	97
Pat Wright	Citizen	97
Donald H. Gatchalian	Yakima County	1, 2, 96
Tim Parham	on behalf of the Pierce County Coordinators Group for the cities of: Puyallup, Bonney Lake, Milton, DuPont, Edgewood, Gig Harbor, Fife, Steilacoom, Buckley, Fircrest, Enumclaw, Orting, Sumner, Pacific, and University Place.	72
Gene Patterson	Washington State University	14-20
Rod Swanson	Clark County	24, 46, 62, 63
Steven E. Thomsen	Snohomish County	7, 24, 30, 35, 36, 44, 46, 49-51, 53, 62
Doug Navetski	King County	6, 25, 34, 39, 42-44, 47, 52, 58-60, 62
Lars Hendron	City of Spokane	3
Craig Doberstein	Herrera Environmental Consultants	21, 23, 61, 81
Dvija Michael Bertish	Rosemere Neighborhood Association	21, 27, 33, 38, 73
Jan Hasselman	Earth Justice	26, 29, 68, 73, 98,
Marilyn Guthrie	Port of Seattle	11, 12, 21, 22, 32, 48, 56-58, 62-64
Sue Mauermann	Port of Tacoma	28, 31, 54, 62
Loren Dunn	Riddell Williams	4, 9
Dan Thompson	City of Tacoma	62
Nancy Ahern	City of Seattle	10, 21, 37, 40, 41, 43, 45, 49, 62, 63
Dan Repp	City of Auburn	81, 82, 91
Pete Butkus	City of Sammamish	81, 82
Gregg Zimmerman	City of Renton	81
Andy Loch	City of Bothell	84

Name	Organization	Comment Number(s)
Blaine Chesterfield	City of Mount Vernon	81, 82
Leticia Neal	City of Milton	85
Charles Anderson	Whatcom County	81
Jim Bachmeier	Thurston County	81, 82
Heather Kibbey	City of Everett	70, 78, 81, 82, 88, 92
Denny Vidmer	City of Bellevue	81, 82, 88, 91
Kerry Ritland	City of Issaquah	65, 81, 94
Mindy Fohn	Kitsap County	13, 93
Melva Hill	City of Bainbridge Island	67, 69, 71, 76
Larry Blanchard	City of Kent	81
Mayor Mike Anderson	City of Sedro-Woolley	81
Andrea Archer	City of Port Orchard	81
Josh Johnson	City of Longview	74, 75, 79, 80, 86, 89
Andrew Rheame	City of Redmond	87, 90, 95
Cheryl Sonnen	cities of Asotin and Clarkston and Asotin County	99, 101
Joy Bader	Walla Walla County	100, 102, 104, 105
Karen Rogers, President	Association of Washington Cities	21, 82, 91

Comments Outside the Scope of this Permit Modification

The March 18, 2009 Fact Sheet advised commenters to limit public comments to the proposed modifications to address the outcomes of permit appeals and to provide suggestions for extending interim permit deadlines or other ideas to reduce costs. A number of commenters provided comments and questions that address other issues and fall outside of the scope of this permit modification. Examples include suggestions to add or significantly modify permit requirements, questions regarding enforcement in specific situations, and suggestions to improve coordination, training, and implementation. Ecology values all of these comments, and plans to respond to comments and questions that are not specific to this permit modification outside of this Response to Comments.

SUMMARY OF THE PERMIT MODIFICATIONS

During the public comment period, Ecology held five informational public workshops and two public hearings. The public hearings took place in Moses Lake on April 22, 2009 and Tacoma on April 23, 2009. Copies of the final permit modifications, comment letters and a transcript of public hearing testimony are on Ecology's website at <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/permitMOD.html>

Ecology modified the permits to implement orders of the Pollution Control Hearings Board and settlement agreements as outcomes of permit appeals. Ecology made additional changes to

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improve clarity and readability of the permits. Settlement agreements and PCHB Summary Judgments and Orders on the permits are available at <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/appeals.html>.

Ecology also modified the permits to reduce costs of permit compliance including, but not limited to, extending interim deadlines in the permits. Ecology recognizes the significant budget impacts of the recent economic downturn on local government budgets, and modified permit conditions to increase flexibility and reduce costs during this permit term. Many permittees that are building stormwater programs face the increased costs of ramping up programs, including hiring and training staff, mapping stormwater systems, coordinating with other permittees, purchasing equipment, and developing pollution prevention plans. Ecology provided additional flexibility to allow them to build effective programs, address maintenance backlogs, and target staff and equipment in priority areas for water quality protection.

Modifications to all three permits

S4. Compliance with Standards

- S4.F – Incorporated language given by the PCHB to clarify the notification requirements, the adaptive management process, and Ecology’s response.
- S4.F. 3.f – Compliance with water quality standards – Incorporated language directly from a settlement agreement reached with Puget Sound Energy.

General Conditions

- General Conditions G3 Notification of Discharges Including Spills and G20 Notification of Noncompliance - Moved a condition from G20 to G3 for consistency with the PCHB ruling on S4 Compliance with Standards and clarified requirements in both general conditions.

Definitions and Acronyms

- Deleted the term “equivalent documents” or “equivalent manual.”

Appendix 4

- Appendix 4 – Provided a revised format for the secondary permittee annual report.

Other Minor Modifications and Clarifications

- Illicit Discharge Detection and Elimination component – Clarified that a spill is a type of illicit discharge and removes the specific reference to the terms “dumping” and “improper disposal” as prohibited discharges.
- Modified language in the Phase I (S5.C.9.b.ix), the Western Washington Phase II (S5.C.5.i) and Eastern Washington Phase II (S5.B.6.a.i) permits for consistency in referring to requirements for Stormwater Pollution Prevention Plans for facilities operating under another NPDES permit that covers stormwater discharges.
- Clarified the deadline for secondary permittees in S6.D.3.f.

- Deleted wording in S6.D.6.b that is inconsistent with the requirement in the *General NPDES Permit for Stormwater Discharges Associated with Industrial Activities* for the facility operator to apply for such coverage.
- Corrected annual report form errors.

Other Changes to Improve Flexibility and Reduce Costs

- S6.D.2 – Public Involvement and Participation - Allowed a secondary permittee to post its public notice for public review of its Stormwater Management Program on its website in place of a public notice in a newspaper.

Modifications to the Phase I Permit

Ecology made the following changes to the Phase I permit to implement the outcomes of appeals and to correct inconsistencies with other permits:

S5. Stormwater Management Program

- S5.C.5.b.iii – Implemented the PCHB ruling to require low impact development (LID) by inserting PCHB language and inserted a footnote to describe the path forward for LID. The purpose of the footnote is to acknowledge that an upcoming stakeholder process is planned and that a performance standard must be developed in order to require LID.
- S5.C.5.b.iii – Implemented the PCHB ruling to provide public review of Ecology’s determination of equivalency of ordinances/manuals by inserting language in this section to refer to Appendix 10 and by creating Appendix 10. Ecology provided the public review period during this permit modification.
- S5.C.6.b.ii – Implemented the PCHB ruling requiring permittees to describe the prioritization process, procedures, and criteria used to select structural stormwater projects, describe how the selected projects comply with AKART and MEP requirements, and describe/address any of Ecology’s concerns related to the program meeting AKART and MEP requirements. Ecology included language to clarify that permittee annual report submittals are reviewed by Ecology along with any updates and revisions the permittee makes to its program.
- S5.C.10.b.ii – Clarified the intent that each permittee is required to implement or participate in an effort to measure understanding and adoption of targeted behaviors for at least one target audience in at least one subject area.

S6. Stormwater Management Program for the Port of Seattle and Port of Tacoma

- S6.E.7 – Included the PCHB language to exempt environmental mitigation sites from SWPPP development.

S7. Compliance with Total Maximum Daily Load Requirements

- S7 – Included language from a settlement agreement to remove the requirement that permittees must be in compliance with total maximum daily load requirements.

S8. Monitoring

- S8.D.2.a, b, d, and f - S8.H – Included language from a settlement agreement to clarify intent.
- S8.D.2.d – Included language from a settlement agreement to clarify intent and reduce the level of effort for toxicity sampling.

S9. Reporting Requirements

- S9.E.2.10, 11, and 12 – Included PCHB language to report low impact development information to Ecology including barriers, watershed planning, and areas for potential basin planning.

Other Changes to Improve Flexibility and Reduce Costs

S5. Stormwater Management Program

- S5.C.5.b.vi – Lowered the level of effort to inspect 95% of all sites to 80%.
- S5.C.7.b.iii – Included a provision that the Permittee may count follow-up compliance inspections toward the 20% inspection rate.
- S5.C.8.b.vi.(1) and (2) – Extended the deadline for outfall screening for cities and counties from 4 years to 5 years after the permit effective date.
- S5.C.9.b.i.(2) - Increased the timeline for maintenance of municipal facilities following inspections to one year for typical maintenance, except catch basins, and included re-vegetation as typical maintenance.
- S5.C.9.b.ii.(5) – Lowered the level of effort to inspect all sites from 95% to 80%.
- S5.C.9.b.ii.(3) – Extended the deadline to inspect 95% of all sites to achieve an annual rate of 95% by 180 days prior to permit expiration date.
- S5.C.9.b.iv.(1) – Clarified language on catch basin cleaning to allow for methods that reduce the cost of inspection and cleaning.

S6. Stormwater Management Program for Port of Seattle and Port of Tacoma

- S6.E.3.d – Extended the deadline to visually inspect known outfalls from 24 months to 3 years from date of permit coverage.
- S6.E.6.b.ii – Same as S5.C.9.b.i.(2) above.

S8. Monitoring

- S8.D.2.d – Lowered the level of effort for toxicity sampling to once during this permit term and required half of the permittees to perform toxicity sampling beginning in August 2010 and the other half to begin toxicity sampling in August 2011.

Modifications to the Western Washington Phase II Permit

Ecology made the following changes to the Western Washington Phase II permit to implement the outcome of an appeal and to correct inconsistencies with other permits:

S5. Stormwater Management Program

- S.5.C.3.b.ii – Clarified and corrected language about a type of conditional discharge to remove the restriction to “construction de-watering sites” in order to be consistent with other permits.
- S.5.C.3.c.v – Clarified language requiring elimination of illicit connections to allow for documented situations that extend beyond the 180-day limit due to extenuating circumstances.
- S9.E.4 – Incorporated language from the PCHB ruling to advance LID and prepare permittees for more prescriptive LID requirements in future permits by adding reporting requirements.

Other Changes to Improve Flexibility and Reduce Costs

S5. Stormwater Management Program

- S5.C.1.b – Clarified that the requirement to measure the understanding and adoption of behaviors applies to at least one targeted audience for at least one subject area.
- S.5.C.4. – Extended the deadline for the adoption and effective date of the ordinance or other enforceable mechanism to control runoff for new and redevelopment and construction sites to February 16, 2010. The new deadline also applies to related requirements for training and inspections.
- S.5.C.4.b – Lowered the level of effort for inspections required for this permit term for the periods before, during, and upon completion of construction from 95% to 80%.
- S.5.C.4.c.ii(2) – Standardized the timeline for post-construction maintenance following inspections to one year for typical maintenance, except catch basins, and included re-vegetation as typical maintenance. The change provides more flexibility in scheduling and simplifies tracking activities.
- S.5.C.5.a.ii – Increased the timeline for maintenance of municipal facilities following inspections to one year for typical maintenance, except catch basins, and included re-vegetation as typical maintenance.
- S.5.C.5.d – Clarified language on catch basin cleaning to allow for methods that reduce the cost of inspection and cleaning.
- S.5.C.5.e – Allowed for a gradual increase in the compliance rate for maintenance inspections in order to reach an annual rate of 95% by 180 days before the end of the permit term.

S8. Monitoring

- S8.C.1.a.v – Clarified that the report on site selection for stormwater discharge monitoring is a limited effort.

Appendix 3- Annual Report Form for Cities, Towns and Counties

- Removed the requirement to identify specific target audiences in question 6.

Modifications to the Eastern Washington Phase II Permit

Ecology made the following changes to the permit as corrections and clarifications:

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S5. Stormwater Management Program

- S5.B.4 and S.5.B.5 – Clarified that the effective date for ordinances and other enforceable mechanisms to control runoff from construction sites and new and redevelopment is February 16, 2011. This deadline also applies to program elements such as training and inspections.

Appendix 2

- Added requirements for the City of Selah from the Selah Ditch TMDL water cleanup plan. Ecology omitted the requirements when it issued the permit in January, 2007.

Other Changes to Improve Flexibility and Reduce Costs

S5. Stormwater Management Program

- S5.B.4.c.iii – Lowered the level of effort for inspections before, during, and upon completion of construction from 95% to 80%.
- S5.B.6.a – Extended the deadline for developing and beginning to implement an operation and maintenance plan from 3 years to 4 years from the permit effective date.
- S5.B.6.a.i - Lowered the level of effort for assessing existing flood management projects for water quality impacts.
- S5.B.6.a.ii – Reduced the maintenance inspection requirement for municipal facilities from twice during this permit term to once before the end of the permit term.

S8. Monitoring

- S8.C.1.a.v – Clarified Ecology’s intent that the monitoring report to select sites for stormwater discharge monitoring is a limited effort.
- S8.C.1.c and S8.C.2.b – Clarified that the best management practices selected for monitoring must be built to standards required by the permit that are effective no later than February 16, 2011. Ecology also delayed the deadline for submitting the report to December 31, 2011 to allow for best management practices to be built according to permit requirements.

GENERAL COMMENTS ON THE PERMIT MODIFICATION

COMMENTS APPLYING TO ALL THREE PERMITS

Comments on the March 18, 2009 Draft Permit Modifications

S4. Compliance with Standards

1. Several commenters suggest that a definition of “adaptive management” be added to the Definitions and Acronyms section of the permits.
2. Yakima County supports the proposed modification including an adaptive management process and language to clarify that such discharges are not automatically permit violations.

3. The City of Spokane requests that Ecology prepare guidance regarding AKART in the context of the permits.

Response to the range of comments:

No change. Ecology will provide guidance document(s) for the permittees for reporting and adaptive management requirements included in S4. The guidance document(s) will address meeting AKART requirements in the context of S4.

4. Riddell Williams does not agree that the revised S4 language meets requirements of RCW 90.48.520.
5. Arthur West does not agree with removing the term "violation" and states that the permit modification fails to incorporate timely reporting requirements for the permittees. The commenter states that the permits include adaptive management terms that will allow unregulated discharges, and that the permit, as modified, will not protect water quality or comply with the minimum standards of the Clean Water Act.
6. King County suggests adding language to this section to indicate that notification under S4.F.1 must be based on credible data.
7. Snohomish County suggests adding additional language S4.F.2 to clarify which agency is responsible for each response action and to simplify reporting procedures.
8. The Rosemere Neighborhood Association states that the 30-day notification timeline to report a water quality violation is too long. The commenter also suggests public review for stakeholders for the opportunity to comment on outfall reconnaissance actions. The commenter is concerned that without a prescribed reporting function and a prescribed Illicit Discharge Detection and Elimination program, it is possible that permittees will not report contaminated outfalls.

Response to the range of comments:

No change. The language in the permit modification is direct language given to Ecology by the PCHB. In a ruling dated August 7, 2008, the PCHB ordered Ecology to modify the permits by including specific language in S4 given by the PCHB in order to clarify the intent and requirements of this section.

9. Riddell Williams agrees with the additional language in S4.F.3.f.
10. The City of Seattle proposes deleting or modifying the additional language in S4.F.3.f.

Response to the range of comments:

The permit modification language is directly incorporated into the permits from a settlement agreement reached with Puget Sound Energy.

G3 Notification of Discharge Including Spills

11. The Port of Seattle requests that Ecology remove the proposed requirement to report discharges and spills “from” the Municipal Separate Storm Sewer (MS4). The commenter also notes that the permit defines “discharge” as only discharges from the MS4, not into the MS4 and requests clarification.

12. The Port of Seattle raises a concern that the modification would result in notification after a heavy rain for all discharges from its MS4 that may contribute cumulatively to a threat to human health, welfare or the environment. The Port also requests that Ecology require notification only under one NPDES permit.

Response to range of comments:

No change. Ecology does not delete “and from” as the commenter requests. The original permit language in G3 included notification procedures for a spill “into” a permittee’s MS4. In the March 18, 2009 Fact Sheet, Ecology explained that this modification combines a condition previously included under G20.C to notify Ecology for a discharge, including spills, “from” the MS4, and therefore it is not a new requirement. Ecology also inserts the term “discharge” in addition to the existing term “spill” to clarify that it considers a “spill” to be a type of discharge.

The Illicit Discharge Detection and Elimination elements of all three permits refer to “discharges into” the MS4. This is consistent with language in the federal rule. It is also consistent with the permit definition of a discharge where “...for purposes of this permit, unless indicated otherwise, refers to the discharges from MS4s of the Permittee”.

Ecology recognizes that stormwater runoff is the number one water pollution problem in the urban areas of our state. The Port of Seattle’s concerns regarding the cumulative impacts of stormwater runoff are consistent with our understanding of this problem. The stormwater management program requirements and associated minimum performance measures described in the Permits, such as operations and maintenance, are intended to address this type of general stormwater pollution problem. General Condition G3 is intended for reporting discharges, including spills, that require immediate notification. Special Condition S4.F requires notification when a Permittee becomes aware that municipal stormwater discharges are causing or contributing to a violation of water quality standards, and establishes a mechanism to adaptively manage such discharges.

Definitions and clarifications

13. Kitsap County comments that a “spill” is a type of discharge, and notes that the permit does not define this term. The commenter also requests that Ecology either define or delete terms such as “dumping” and “improper disposal.” They are confusing terms for permittees that are drafting ordinances to prohibit illicit discharges.

Response to comment:

Ecology agrees, and has modified the permits (including associated annual report questions) to refer to “discharges, including spills” in the Illicit Discharge Detection and Elimination element and general condition G3 Notification of Discharge Including Spills. Ecology is also deleting the

requirement to prohibit “dumping” and “improper disposal” because they are covered under the broader term “illicit discharge.”

Comments on Delaying Interim Deadlines and Reducing Costs

S6. Stormwater Management Program for Secondary Permittees

General comment

14. Washington State University (WSU) suggests that Ecology modify the permit to require secondary permittees to develop plans and procedures during this permit cycle, but delay program implementation until the next permit cycle. Examples of programs that WSU lists as financially difficult include the illicit discharge detection and elimination program (S6.D.3) and the pollution prevention and good housekeeping program (S6.D.6).

Response to comment:

No change to permit deadlines for secondary permittees. Ecology stated in the March 18, 2009 Fact Sheet that it did “...not intend to extend the timelines beyond the expiration date of the permit.”

S6.D.1 Public Education and Involvement

15. WSU offers the following specific suggestions for delaying interim deadlines for secondary permittees:
 - S6.D.1.a.ii - Labeling stormwater inlets
 - S.6.D.1.a.iii – Extend timeline for replacing labels destroyed by snow removal equipment during the winter from no more than 90 days to “within a reasonable amount of time.”

Response to comment:

No change to deadlines for labeling and re-labeling inlets. Ecology considers a delay in meeting the requirement for re-labeling during the winter months a reasonable one.

S6.D.2 Public Involvement and Participation

16. S6.D.2.a - The Kent School District and WSU ask that the permit allow a secondary permittee to place public notices for public review of Stormwater Management Programs on the permittee’s web site rather than in a local newspaper to reduce costs.

Response to comment:

Ecology agrees and has modified the permit the option to post public notices for public review of the Stormwater Management Program on the secondary permittee’s website. Ecology’s intent is to reduce costs for permittees that have a website for disseminating information to the community. Secondary permittees that do not have a website must publish notice in the local newspaper.

S6.D.3 Illicit Discharge Detection and Elimination

17. WSU comments that it may not be able to remove all illicit discharges by the end of the permit cycle as required by requirement S6.D.3.d .

Response to comment:

No change to the illicit discharge requirements. This permit condition requires secondary permittees to “...develop and implement procedures to identify and remove any illicit discharges.” It does not stipulate that all illicit discharges must be removed by the end of the permit term. Ecology recognizes that some illicit discharge removals may require significant time for permitting and design, as well as to obtain funding.

S.6.D.4 Construction Site Stormwater Control

18. WSU requests that Ecology clarify the following:

- S6.D.4 – Clarify that this section applies to projects that are 1 acre or greater in size.
- S6.D.4.d and S6.D.6.d – Clarify that after initial training the permittee’s newly hired staff will be trained in a reasonable amount of time.

Response to range of comments:

No change to construction site stormwater runoff controls. It would be inaccurate to state that the construction site stormwater controls also apply to sites smaller than 1 acre if they are part of a larger, common plan of development or sale. Additionally, secondary permittees must comply with all local ordinances even when the local jurisdiction chooses to exceed the permit requirement. Ecology does not have the legal authority to exempt secondary permittee projects from local code requirements.

No changes to construction site and maintenance staff training requirements. The permit does not give a timeline for training new staff. Ecology recognizes that training sessions for new staff may not occur immediately. Ecology expects that on-the-job training will include practices to protect stormwater.

S6.D.6. Pollution Prevention and Good Housekeeping for Municipal Operations

19. WSU submits the following recommendation and comments:

- S6.D.6.a – Delay the deadline for secondary permittees to develop an operations and maintenance plan from 3 years after the date of permit coverage to the end of the permit cycle (5 years after permit coverage).
- S6.D.6.a.vi – WSU may not be able to implement the required Stormwater Pollution Prevention Plans at all facilities by the deadline under funding for the July 1, 2009 to June 30, 2011 biennium.

Response to range of comments:

No change in the deadline to develop and implement an operations and maintenance plan, including SWPPPs. Ecology’s intent is for secondary permittees to develop the plan and begin implementing it no later than three years after the permit coverage date. Permit condition S6.A.3 requires that the secondary permittee fully implement the stormwater program, including operations and maintenance, no later than 180 days before the end of the permit term. This is the

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date by which Ecology expects full implementation, allowing permittees flexibility to set priorities for implementing the operations and maintenance plan.

S9 Reporting and Recordkeeping

20. WSU requests that Ecology modify the permit to require only one report at the end of the permit cycle.

Response to comment:

No change to the annual reporting deadline. The federal stormwater rules (40 CFR 122.42(c)) require that municipal stormwater permittees submit annual reports.

COMMENTS APPLYING ONLY TO THE PHASE I PERMIT

Comments on the March 18, 2009 Draft Permit Modifications

S5.C.5 Runoff Controls for New Development, Redevelopment and Construction Sites

Comments on Low Impact Development:

21. The Association of Washington Cities, City of Seattle, Port of Seattle, Rosemere Neighborhood Association, and Herrera Environmental Consultants requested to be involved in the stakeholder process for developing the low impact development (LID) performance standard
22. The Port of Seattle suggests participating in the LID process since they have specific barriers to installation including high groundwater tables, contaminated soils, tidally influenced sites and that they discharge into large water bodies exempt from flow control requirements.
23. Herrera Environmental Consultants requests that Ecology coordinate and sponsor Puget Sound-wide sizing tools based on updated LID guidance and local jurisdiction experience.
24. Snohomish and Clark Counties suggest that the footnote is premature and should be removed. Clark County suggests the footnote be deleted until the scope of the LID process and feasibility have been defined
25. King County proposes alternative language for the footnote inserted into this section detailing the LID process to include that the process is funding-dependent and will have yet to be defined committees.
26. Earth Justice does not agree with the timing of the LID path forward presented in the footnote in this section. The commenter is concerned that Ecology will not complete the process for LID until the close of this permit cycle, which undermines the Pollution Control Hearings Board (PCHB) ruling to require LID during this permit term. The commenter also

suggests that Ecology or the Puget Sound Partnership provide additional guidance that includes elimination of cultural barriers.

27. The Rosemere Neighborhood Association suggests that the LID stakeholder groups contain a balance of environmental groups, citizens, government officials and developers.
- The commenter suggests that LID should be based on local hydrology rather than the Puget Sound conditions since conditions vary throughout the state.
 - The commenter also suggests defining the phrase “where feasible” to avoid confusion and establishing a set of parameters regarding where LID practices are required versus where they are discretionary.
 - The commenter also suggests that Ecology design a certification program for LID similar to the program for erosion control.
28. The Port of Tacoma suggests that Ecology develop a checklist that comprehensively lists barriers to LID in order to assist the permittee with planning.

Response to the range of comments:

Ecology recently initiated a webpage designed to communicate updates about the stakeholder process to develop LID standards and definitions. The nature of the process and the challenging schedule require that Ecology structure the process for different levels of participation, and will provide opportunities for input from interested members of the public and the stormwater community. The webpage can be found at

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

Ecology will develop guidance for permittees on LID reporting that includes technical and cultural barriers and examples of metrics and non-structural actions. Ecology will consult with the Puget Sound Partnership and other regional experts in developing the guidance.

Comments on Structural Stormwater Controls

29. Earth Justice does not agree that Ecology’s proposed modification of the Structural Stormwater Controls program adequately implements the PCHB’s order because it does not establish a consistent, verifiable standard for the report on prioritization schemes, nor does it provide for Ecology review and approval of programs to ensure that AKART will be applied.

Response to comment:

Ecology has modified the permit to include language ordered by the PCHB requiring permittees to describe the prioritization process, procedures and criteria used to select the structural stormwater control projects. Ecology included a requirement that permittees describe how the selected projects comply with AKART and MEP requirements. Updates and revisions to the permittees structural control project list will be submitted in the annual report. The report is required to contain any concerns identified by Ecology during its review of the Structural Stormwater Controls program.

30. Snohomish County suggests adding “included in the permittee’s structural stormwater controls program” to the new language in this section to clarify intent.

Response to comment:

Ecology agrees and has modified the permit language by including a reference to the permittee’s Structural Stormwater Control projects to the sentence for clarification.

Comments on S6. Stormwater Management Program for the Port of Seattle and Port of Tacoma

31. The Port of Tacoma suggests Ecology include, in addition to the exemption for environmental mitigation sites, an exemption for development and implementation of Stormwater Pollution Prevention Plans (SWPPPs) for all Port-owned lands for facilities required to have coverage under other NPDES permits that cover stormwater discharges.

The Port also requests that Ecology clarify that environmental mitigation sites cover all habitat sites developed through both Port’s regulatory mitigation obligations and voluntary conservation effort.

32. The Port of Seattle requests that Ecology add the same language added to S5.C.9.b.ix of the Phase I permit. This language would require the Port to develop SWPPPs for sites owned and operated by the Port, where heavy equipment, maintenance or storage yards and material storage facilities are present but are not required to have coverage under another NPDES stormwater permit.

Response to comment:

No change as a result of the comment. However, Ecology removed the terms “general permit or an individual” from S6.E.7 since these terms are redundant. Ecology does not agree to exempt SWPPP development and implementation for sites that are required to have another NPDES permit, but do not obtain one. Additionally, Ecology does not agree with changing or clarifying the definition of “environmental mitigation site” since this wording was given to Ecology by the PCHB.

Comments on S7. Compliance with Total Maximum Daily Load Requirements

33. The Rosemere Neighborhood Association objects to the removal of this sentence from the first paragraph in S7: *All Permittees shall be in compliance with the requirements of applicable TMDLs from the first paragraph of S7.*

Response to comment:

No change. The above language resulted from a settlement agreement between Ecology and Snohomish County. Removal of this language does not change or reduce the requirements associated with applicable TMDLs.

Comment on S8. Monitoring

34. King County proposes changes to settlement language to clarify the intent of capturing qualifying storm events.

Response to comment:

No change. Ecology and the Phase I permittees agreed to this permit language during a formal settlement agreement.

Comments on Appendix 1

35. Snohomish County supports the proposed modifications to Section 4.2. and Section 4.2.12

Response to comments:

Comment noted.

Comments on Appendix 2

36. Snohomish County made several suggestions for text changes for clarifying intent throughout this appendix.

Response to comments:

No change. Comments noted. Ecology will provide further technical assistance on the intent of these requirements to the affected jurisdictions.

Comments on Appendix 10

37. The City of Seattle requests a change to footnote 3 to include the March 16, 2009 version date of their enforceable ordinances, to add the term “administrative adoption”.

Response to comment:

Ecology agrees and has modified the permit to include the version/date of Seattle’s ordinance and the term “administrative”.

Comments on Delaying Interim Deadlines and Reducing Costs

General comments

38. Rosemere Neighborhood Association opposes Ecology extending any permit compliance deadlines.

Response to comment:

Comment noted.

S5.C.2 Municipal Separate Storm Sewer System Mapping and Documentation

39. King County requests extending the deadline from 4 years from permit effective date for mapping to the end of the permit cycle and inserting language requiring the permittee to have “capacity” to map.

Response to comment:

No change. Ecology considers the mapping requirement to be integral to an effective program for preventing and addressing illicit discharges and for responding to spills during this permit term. Ecology encourages permittees to prioritize areas for mapping that are most likely to generate

harmful illicit discharges, including spills. Ecology's decision to reduce the level of effort during this permit term for some other conditions may provide flexibility for permittees to re-direct resources to meet this requirement.

S5.C.5 Runoff Controls for New Development, Redevelopment and Construction Sites

40. City of Seattle proposes to reduce the level of effort for inspections from 95% to an average of 80% annually and include language to clarify that in a case where the permit term is extended, the same level of effort will continue as long as the permit remains in effect.

Response to comments:

Ecology agrees and has modified the permit to lower the level of effort for compliance during this permit term from 95% to 80%. Compliance with the requirement still requires that permittees develop and establish an inspection program that is designed to inspect all sites before, during and upon completion of construction. Although the required inspection rate for the permittees is lower during this permit term, Ecology has not reduced the standards that apply to new development and re-development.

S5.C.7 Source Control Program for Existing Development

41. The City of Seattle requests including language to indicate the 20% inspection rate can be averaged to 20% over multiple years. The commenter also suggests that inspections made by businesses that participate in the self-certification program are counted toward compliance with this inspection rate.
42. King County requests that the permittee is allowed to count re-visits toward the 20% inspection rate.

Response to comments:

Ecology modified the permit to allow follow-up inspections at individual facilities to count toward the 20% annual inspection rate. Ecology agrees that the nature of compliance inspections for source control involves one or more compliance inspections to bring the discharger in compliance with local codes. Ecology does not agree that a self-certification program can be used toward the 20% inspection rate or to allow the Permittee to average the 20% annual inspection rate over multiple years.

S5.C.8 Illicit Connections and Illicit Discharges Detection and Elimination

43. City of Seattle and King County request deadline extensions from 4 years to 5 years from permit effective date for prioritizing conveyances and outfalls and to complete field screening.
44. Snohomish and King County suggest new permit language to enable the permittee to provide alternatives for measuring and prioritizing outfall screening for counties.

Response to comments:

Ecology modified the permit to extend outfall screening for both counties and cities from 4 years to 5 years from permit effective date. This extension will give the permittee an additional dry season to conduct the field screening requirements in the permit. Ecology does not agree to a significant modification of the language associated with selecting outfalls and conveyances subject to the screening requirement.

45. City of Seattle requests extending the initial investigation for responding to illicit connections from 21 to 90 days, except in cases where an illicit connection is discovered that presents a severe threat to human health or the environment. The City also requests extending the deadline to eliminate the connection from 6 to 12 months to allow time for coordination and permitting.

Response to comment:

No change. The permittee must initiate the investigation within 21 days to demonstrate a good faith effort to quickly eliminate the connection. Regarding the extension request from 6 to 12 months, Ecology does not agree with this proposal. The requirement to terminate illicit connections specifies that the permittee use its enforcement authority in a documented effort to eliminate the connection. As long as the permittee documents the effort made to eliminate the connection within 6 months, it is in compliance with this requirement.

S5.C.9 Operation and Maintenance Program

Comments regarding stormwater facilities regulated by the Permittee:

46. Snohomish County and Clark County request changes to deadlines for performing maintenance after an inspection indicates that maintenance is needed, to allow more flexibility associated with cost of maintenance. The rationale is that the permittee should be allowed to prioritize based on cost to help target backlog maintenance needs. Clark County suggests Ecology allow the permittee to submit alternative schedules and Snohomish County suggested permit language.
47. King County requests that Ecology extend the deadline for typical maintenance from 6 months to 1 year and extend the deadline for maintenance requiring re-vegetation from 9 months to one year.
48. The Port of Seattle requests Ecology extend the deadline (in Section S6.E.6.b.ii) for catch basin maintenance from 6 months to 24 months and require the permittee to identify backlogged and unmaintained systems

Response to comments:

Ecology agrees, and has modified the timelines in S5.C.9.b.i and S6.E.6.b.ii to one year after the inspection for typical maintenance, including re-vegetation sites, but does not include catch basins. Ecology is retaining the catch basin timeline because catch basins that exceed the standard for cleaning should be cleaned within 6 months. A catch basin sump that is already full does not provide any environmental benefit. Ecology's decision to delay other typical maintenance should

provide more flexibility and reduce costs associated with maintenance activity tracking. Additionally, permittees may use maintenance records from time periods before implementing the program to justify a reduced frequency of inspection.

49. Snohomish County and the City of Seattle request that Ecology reduce the requirement for establishing an inspection program designed to inspect 95% of all sites.
50. Snohomish County requests reducing the level of effort for inspecting facilities regulated by the Permittee from each facility at least once during the term of this permit to 50% of the facilities during the term of the permit.
 - The commenter also requests that for the permittee's on-going inspection schedule, the Permittee be allowed to reduce the inspection frequency from less frequently than annually to less frequently than biannually based on maintenance records of that at least equal the length of time of the proposed inspection frequency.
 - The commenter also requests extending the inspection deadline for new permanent stormwater facilities in new residential developments from 6 months to 12 months.

Response to the range of comments:

Ecology has modified the permit to lower the level of effort for compliance during this permit term from 95% to 80%. Compliance with the requirement to inspect stormwater facilities regulated by the permittee still requires that permittees develop and establish an inspection program that is designed to inspect all relevant facilities once during this permit term. Although the inspection rate is lower during this permit term, Ecology is not reducing the maintenance standards.

Comments regarding stormwater facilities owned and operated by the Permittee

51. Snohomish County suggests extending the required deadline to inspect stormwater facilities owned and operated by the permittee from annually to once every other year
 - The commenter requests that the 95% inspection rate be reduced.
 - The commenter suggests extending the requirement to inspect catch basins and inlets from annually to once every other year.
 - The commenter also suggests that justification to reduce the inspection frequency is based on maintenance records of at least equal the proposed frequency.
52. King County suggests adding new permit language to extend maintenance of catch basins and inlets identified during the initial round of inspections to no later than 5 years from permit effective date.

Response to comments:

Ecology has modified the permit to reduce the level of effort for compliance in S5.C.9.b.iii allowing permittees to ramp up inspections gradually to reach an annual rate of 95% by 180 days before the end of the permit term. This provides permittees with flexibility to set priorities for maintenance inspections based on equipment and staff availability, and to address maintenance backlogs that may exist. Although the inspection rate is lower during this permit term, Ecology is not reducing the maintenance standards.

S5.C.10 Education and Outreach

53. Snohomish County made several suggestions to change permit language in this section.

Response to comment:

Ecology does not agree to significantly modify this requirement at this time. Ecology added language to clarify the level of effort required by the permit for measuring changes for at least one target audience, for at least one targeted behavior. Although the permit requires that the education program reach a variety of audiences over the permit term, Ecology does not intend that the effectiveness of all education and outreach activities be measured. Jurisdictions should focus on measuring and improving at least one significant effort, such as a campaign, either as individual jurisdictions or in a group effort. Ecology also refers permittees to its online publication *Focus on Stormwater Public Education and Outreach* (available at <http://www.ecy.wa.gov/biblio/0710092.html>) for guidance on activities to reduce costs, including collaboration with other permittees, using available demographic data, and informal surveys for measuring behaviors. Ecology intends the clarification to refer to a new educational initiative conducted after the effective date of the permit, and expects permittees to make reasonable progress on stormwater education.

S6. Stormwater Management Program for the Port of Seattle and Port of Tacoma

54. The Port of Tacoma suggests extending the deadline for development and implementation of the Stormwater Management Program from 3 years to 4 years from the permit effective date.

55. A citizen commented that the Port of Seattle and Tacoma are granted 3 years to implement proposed practices and identify what their actual stormwater systems are. The Ports should have a complete plan of their stormwater systems already.

Response to comments:

No change. Comments noted. Ecology does not agree with allowing the Port an extra year to develop their Stormwater Management Program. For clarification, the Ports are allowed 3 years to develop and implement their Stormwater Management Program as an original permit requirement. Ecology does not allow an extension to that requirement.

56. The Port of Seattle requests reducing the level of effort for outfall screening requirements from at least 1/3 to 1/5 of all known outfalls annually.

Response to comments:

Ecology agrees with reducing the level of effort for the outfall screening requirements and has modified the permit by extending the deadline for outfall screening from 24 months to 3 years from the date of permit coverage to allow an additional dry season in which to conduct the required screenings.

S8. Stormwater Monitoring

General Comments

57. The Port of Seattle requests that Ecology allow a tiered list of parameters on half of the stormwater samples to reduce laboratory costs
- The commenter requests that Ecology allow the Permittee to conduct monitoring only within the amount that complies with the cost estimate of the permit.
 - The commenter requests deleting the requirement for grab samples to be collected as early in the event as possible and/or allowing the Permittee to collect total petroleum hydrocarbons (TPH) and fecal coliform using automated samplers to reduce costs.

Response to comments:

No change. The tiered list of parameters provided in S8.D.2.c is a priority list of parameters. Ecology does not agree to reduce the list of parameters in half based on further prioritization because it conflicts with the goals and objectives for stormwater characterization studies. The objectives of characterization sampling are to determine over time, what pollutants/parameters are present in untreated stormwater discharges. Some parameters are highly variable in stormwater and may present themselves in every sampled storm event. The data collected will be used to make assumptions for similar land uses throughout the permittee's jurisdiction.

Ecology does not agree with deleting the requirement for grab samples to be collected as early in the event as possible. The intent of this sampling protocol is to grab a sample prior to continuing dilution and to present the worst case scenario for these parameters.

The specific sampling procedure (grab sampling) in the permit prohibits permittees from using automated samplers to collect these parameters because of quality assurance and quality control issues. Certain types of automated sampler tubing can adhere to petroleum products and oftentimes, very specialized materials are needed to ensure data quality. Fecal coliform samples should not be sampled throughout automated sampler since the sampler tubing can contain and "build up" fecal coliforms during dry events. This can also cause data quality issues with sampling results.

58. The Port of Seattle and King County request that Ecology allow an alternative scheme for dropping parameters from the list of analysis. Port of Seattle recommends that after eight (8) sampling events where the results were reported as non-detects, the parameter can be dropped. King County requests changing permit language to allow dropping parameters from the list of analysis based on a multiplication factor based on water quality standards.

Response to comments:

No change. Ecology does not agree with an approach to drop parameters from the list for stormwater characterization sampling. The objectives of characterization sampling are to determine over time, what pollutants/parameters are present in untreated stormwater discharges. Some parameters are highly variable in stormwater and may present themselves in every sampled storm event.

59. King County requests reducing costs by deleting the requirement that permittees use USEPA's Urban Stormwater BMP Performance Monitoring as additional guidance and collect information pertinent to fulfilling the National SW BMP Data Base Requirements.
60. King County offers an alternative to meeting the statistical goals in the permit by limiting monitoring to 18 storm events.

Response to comments:

No change. Ecology does not agree with removing this requirement. The reference to the USEPA's Urban Stormwater BMP Performance Monitoring document is for the permittee to use as guidance for preparation of their specific BMP evaluation program. The permittee is required to use Section 3.4.3 to collect information pertinent to fulfilling the National Stormwater BMP Data Base Requirements; however, permittees are not required to submit to the Data Base. Ecology included this provision in the permit since it demonstrates a complete report submittal including information needed by Ecology for reviewing BMP performance.

Ecology does not agree with accepting alternatives to meeting the statistical goals in the permit by limiting monitoring events. If a permittee reaches their statistical goals after monitoring 18 storm events, the test will be considered complete.

Statistical goals may be directly associated with the number of storm events but rather related to BMP performance. If the BMP tested reaches statistical goals after 12 sampling events, the test is considered complete. If statistical goals are not achieved after 12 sampling events, the permittee must continue sampling until statistical goals are met. Statistical goals are required to be met for the parameters listed in the Guidance for Evaluating Emerging Technologies, Technology Assessment Protocol (TAPE) for each BMP type.

61. Herrera Environmental Consultants requests that Ecology stay committed to permit standards related to stormwater monitoring.

Response to comment:

Comment noted.

Comments on Toxicity

62. City of Seattle, Port of Tacoma, Port of Seattle, City of Tacoma, Clark County, Snohomish County and King County request revising toxicity sampling requirements. Comments range from reducing costs by having Ecology conduct the toxicity results review and compare to the library of toxicity instead of requiring this of the permittee, extending toxicity monitoring deadlines, and/or allowing the permittee to submit alternative proposals for other toxicity monitoring occurring in their jurisdiction.

Response to comments:

Ecology modified the toxicity testing requirements by requiring each permittee to conduct toxicity sampling only once during this permit cycle. Toxicity testing as required may be problematic because of limited gamete availability and coordination with sample submittal. To

address this, Ecology is requiring toxicity sampling to occur once during this permit cycle. In an attempt to ease concerns related to gamete availability, sample volume submittals and other constraints, Ecology has divided toxicity sampling into two sampling seasons. Half of the permittees are required to conduct toxicity sampling in August 2010 and the other half are required to conduct toxicity sampling in August 2011.

Comments on Extending Full Monitoring Implementation Deadlines:

63. City of Seattle, Clark County, and the Port of Seattle requested extending the full monitoring implementation deadlines to reduce costs.

Response to comment:

No change. Ecology does not agree to delay the start-up of monitoring programs outlined in S8.D, S8.E and S8.F, with the exception of toxicity sampling as stated above. Several permittees have approved Quality Assurance Project Plans (QAPPs) in place and some have started monitoring. The Phase I monitoring data, required to be reported beginning in March 2010, will provide important information for Ecology to inform the next permit cycle.

Appendix 9 – Laboratory Methods

64. The Port of Seattle requested raising the method reporting limits for all metals listed in the permit, not just cadmium and lead, since the permit-required limits are so low that “clean hands dirty hands” procedures would be applicable.

Response to comment:

Ecology modified the reporting limit of dissolved lead and cadmium from 0.02 ug/L to 0.1 ug/L. Appendix 9 requires the use of ICP/MS methods for analyzing dissolved metals. The reporting limits are consistent with those methods. A laboratory that uses an ICP/MS method has the ability to reach the required reporting limit. The permit, including methods listed in Appendix 9, do not require the use of the “Clean Hands Dirty Hands” technique. This procedure is not in 40 CFR part 136; therefore, Ecology does not require it.

COMMENTS APPLYING ONLY TO THE PHASE II WESTERN WASHINGTON PERMIT

Comments on the March 18, 2009 Proposed Permit Modifications

S5.C.3 Illicit Discharge Detection and Elimination

65. The City of Issaquah points out an inconsistency in the last bullet of the list of allowable discharges, limiting additional discharges covered by another NPDES discharge permit or other state or federal permit to those related to construction site dewatering. This provision is not in the other two permits, and the city requests a correction or clarification.

Response to comment:

Ecology agrees and has modified the language to be consistent with the Phase I and the Eastern Washington Phase II permit. The “*stormwater pollution prevention plan reviewed by the Permittee...*” referenced in this section is not necessarily the same as the SWPPP for construction sites or municipal facilities. What is important is that the stormwater pollution prevention plan directly address the proposed discharge under review to minimize the potential for pollution.

S5.C.4 Runoff Controls for New Development, Redevelopment and Construction Sites

66. S5.C.4 - A number of commenters support the proposed effective date of November 16, 2009 for the construction and post-construction ordinances to control runoff.

Response to comment:

Comment noted.

Definitions and Acronyms

67. The City of Bainbridge Island requests that Ecology clarify its intent in deleting the definition of “equivalent document,” including language that the manual may be developed by “a state agency, local government, or other entity.” The commenter asks Ecology to clarify that it intends to continue to allow Phase II jurisdictions to use a substitute document or manual that Ecology has not reviewed or approved.

Response to comment:

Ecology’s intent in deleting the definition for “equivalent document” is to remove a term that is not used in the permit. Ecology deleted the language that such a document may be developed by a “state agency, local government, or other entity” as part of the larger definition, but did not intend to delete that option for permittees. Permit condition S5.C.4.a. continues to allow local governments to develop and use a substitute equivalent ordinance and manual that Ecology has not reviewed or approved.

S9.E.4 – Low Impact Development Reporting

68. Earth Justice agrees with Ecology’s plan to develop an appropriate LID performance standard and criteria for feasibility, but disagrees with Ecology’s proposed implementation of the PCHB ruling on LID, and recommends the following:
- Ecology should include requirements that result in actual implementation of LID during this permit term. The commenter expresses concern that if the reissuance of the Phase II permit is delayed, this will result in a further delay in LID implementation.
 - Ecology or the Puget Sound Partnership should provide additional guidance on reporting requirements to remove barriers to LID, and the guidance should cover cultural barriers such as additional burdens on developers.
 - Ecology should include an earlier deadline for the LID reports, stating that March 31, 2011 is too late in the permit term and is an excessive delay.
 - Ecology should provide incentives for early adoption of the LID standard. The commenter suggests that Ecology provide Phase II jurisdictions with an option to commit to adopting the LID standard on the same schedule as the Phase I jurisdictions. The commenter proposes an incentive that allows permittees to delay adopting the

Appendix 1 standards for new development and redevelopment if they commit to requiring the LID standard by the deadline that will apply to Phase I permittees. This would allow them to amend their ordinances only once. As a further incentive, the commenter proposes waiving the proposed S9.E.4 reporting requirements for those who commit to this option.

69. The City of Bainbridge Island requests that Ecology develop the required metrics for the municipalities and define “non-structural” for the LID reporting requirement. The city requests that Ecology clarify the term “barriers” in question 93 of the annual report for this requirement.
70. The City of Everett suggests that Ecology allow permittees that have participated in the Puget Sound Partnership’s *Low Impact Development Regulation Assistance Project* to submit a copy of the project final report to meet the permit requirement for S9.E.4.b.

Response to the range of comments:

No change to the LID reporting requirements. Ecology included reporting requirements that are consistent with the PCHB’s conclusion that “...Ecology must take additional steps in the Phase II permit to ensure that Phase II jurisdictions undertake actions to implement, or ready themselves to implement LID.” The permit requires individual permittees to allow LID practices, to educate target audiences, and to report on barriers to LID and measures to address them. They also must report on LID techniques that are reasonable for immediate implementation, planned structural and non-structural actions, and goals, metrics and timelines to promote LID as well as schedules for requiring and implementing LID, all of which are elements of an implementation plan. Many permittees, especially in Puget Sound, have experience in allowing and permitting LID. However a number of jurisdictions, especially those in Western Washington outside of Puget Sound, do not have this experience. Ecology included these requirements in order to prepare all permittees for LID requirements in the next permit cycle.

Ecology will develop guidance for permittees on LID reporting that includes technical and cultural barriers and examples of metrics and non-structural actions. Ecology will consult with the Puget Sound Partnership and other regional experts in developing the guidance.

The March 31, 2011 deadline for submitting the Phase II LID reports allows for time for permittees to thoroughly examine LID barriers, practices, metrics and timelines for the reports. The reports will help them plan and implement LID and will provide Ecology with helpful information as it develops the next permit.

Ecology encourages Phase II permittees to promote LID projects and to adopt the Phase I LID standards when they are available. However, Ecology does not agree with the incentive proposal to delay the adoption deadline by several years for runoff controls for new development and redevelopment based on a commitment to adopt LID standards that are not yet developed. The PCHB found that both conventional and LID practices are necessary in combination to protect ecosystems, and Ecology does not delay the benefits of the Appendix 1 stormwater standards until

late in the permit term. Ecology will continue to encourage early adoption for jurisdictions that are prepared to implement the Phase I LID standards appropriately.

Ecology recognizes the substantial value of the reports and ordinances prepared for some jurisdictions in a project funded and led by the Puget Sound Partnership. To the extent that those reports or sections of those reports meet the LID reporting requirements, Ecology will accept them. Permittees may reference, update, edit or supplement them as needed to fulfill the reporting requirement.

Appendix 4 – Annual Report for Cities, Towns and Counties

71. The City of Bainbridge Island provides the following comments on the revised annual report form:

- Question 36 – The commenter suggests changing “attached report” to “summary” as called for in permit condition S5.C.3.e.
- Questions 57, 59, 60 The commenter requests that Ecology clarify the meaning of “qualifying projects”

Response to the range of comments:

Ecology agrees and has modified question 36 as suggested by the commenter. “Qualifying projects” is a term that refers to projects that are approved under the permit requirements in conditions S5.C.4.a and b. Ecology added this term to clarify that permittees are not required to report on inspections to sites smaller than those subject to permit requirements, sites inspected prior to the jurisdiction’s adopting the permit requirements, or to sites vested under older local requirements.

Comments on Delaying Interim Deadlines and Reducing Costs

General Comments

72. A group of 15 cities represented by the City of Puyallup (includes the cities of Milton, Bonney Lake, Buckley, DuPont, Edgewood, Fircrest, Gig Harbor, Enumclaw, Fife, Orting, Pacific, Steilacoom, Sumner, and University Place) suggest that the permit requirements with the greatest financial burden to local governments are the Illicit Discharge Detection and Elimination program and the Operations and Maintenance program. They state that additional grants from Ecology would help ease the financial burden of purchasing equipment, staffing field activities, and enforcement.

73. Earth Justice and the Rosemere Neighborhood Association oppose extending any of the deadlines in the permits as inappropriate because of the delay in initially issuing the permit, the costs of non-compliance, and the ability of local governments to fund the programs through utility fees and permit fees.

Response to the range of comments:

Comments noted. Ecology explains the modifications to specific permit requirements in individual permit sections below.

Response to Comments

June 17, 2009

S5.A.3.a Requirement to track program costs

74. The City of Longview requests that Ecology change the language from “shall track the cost” to “should track the cost” as it is burdensome for staff and it is not clear how Ecology will use the information to improve water quality. In addition, it requires sustained cooperation among departments and resources to do so.

Response to comment:

No change. Ecology recognizes that this takes staff time, and clarifies its intent that the costs need not be in exhaustive detail, and may be estimated. However, most local governments track program costs as part of budget processes, and while it requires interdepartmental cooperation, such cooperation may also help implementation of the permit.

S5.C.1 Public Education and Outreach

75. The City of Longview suggests that Ecology delete or reduce the requirements to measure the understanding and adoption of targeted behaviors, in order to limit the necessity for costly surveys of the population for attitudes, knowledge, and behaviors. One suggestion is to change the language to clarify that not all audiences must be measured. The City also recommends that Ecology conduct a longer-term study for this purpose.

Response to comment:

Ecology agrees and has added language to clarify the level of effort required for measuring changes in “...at least one target audience for at least one targeted behavior.” Although the permit requires that the education program reach a variety of audiences over the permit term, Ecology does not intend that permittees measure the behavior change associated with every education and outreach activity. Jurisdictions should focus on measuring and improving at least one significant effort, such as a campaign, either as individual jurisdictions or as part of a group or regional effort. Ecology also refers permittees to its online publication *Focus on Stormwater Public Education and Outreach* (available at <http://www.ecy.wa.gov/biblio/0710092.html>) for guidance on actions to reduce costs, including collaboration with other permittees, using available demographic data, and informal surveys for measuring behaviors. Many permittees ask Ecology staff “how much” and “how often” they must measure, and Ecology agrees with the City’s request to clarify its intent regarding the minimum level of effort to meet the requirement.

However, Ecology intends the clarification to refer to a new educational initiative, and expects permittees to make reasonable progress on stormwater education. The stormwater public education program is a critical component of comprehensive stormwater management programs, in large part because stormwater quality depends on many large and small individual actions from all parts of the drainage area.

S5.C.3 Illicit Discharge Detection and Elimination Program (IDDE)

Comments on stormwater system mapping requirements S5.C.3.a

76. The City of Bainbridge Island comments that the mapping requirement in the illicit discharge program is a substantial burden for that jurisdiction, in that its boundary includes a 28-square mile island with a large number of outfalls. The city requests that Ecology either extend the deadline for this requirement or limit it to require Bainbridge Island and similar cities to map only the urbanized areas during this permit term.

Response to comment:

No change. Ecology recognizes that the mapping requirement may require a substantial effort for the City of Bainbridge Island because of challenging local conditions. Ecology considers the mapping requirement to be integral to establishing an effective program for preventing and addressing illicit discharges during this permit term. Ecology encourages permittees to prioritize areas for mapping that are most likely to generate illicit discharges. Ecology's decision to decrease the level of effort for some other permit requirements during this permit term may provide flexibility for permittees to re-direct resources to meet this requirement.

S5.C.3.b Ordinance to prohibit illicit, non-stormwater discharges

Comments on the IDDE ordinance

77. Kitsap County requests that Ecology change the deadline for the effective date of an ordinance prohibiting illicit discharges to the effective date of November 16, 2009, as proposed in the draft permit modification for the construction and post-construction ordinance. Having the same effective date is more efficient for most jurisdictions that are adopting them at the same time and in many cases, in the same section of the code.
78. The City of Everett requests that Ecology delay the IDDE program implementation deadline to August 2010 to reduce costs. The City of Bellevue also requests that Ecology delay the ordinance deadline.

Response to the range of comments:

No change. Ecology has not delayed the interim deadlines for the illicit discharge detection and elimination program, including the deadline for adopting and implementing an ordinance to prohibit such discharges. The ordinance to prohibit non-stormwater discharges does not require local governments to implement procedures for complex drainage reviews by plan reviewers. Ecology does not expect that the illicit discharge ordinance needs a lag time between ordinance adoption and effectiveness in order to be implemented.

Ecology recognizes that the decision to retain the existing deadline may complicate the adoption process for jurisdictions that plan to adopt IDDE requirements in the same section of the code as the controls for runoff from new development, re-development and construction sites (S5.C.4). The agency encourages permittees that are on a timeline to adopt both IDDE and construction and post-construction requirements by August 2009 to continue with that schedule. Alternatively, it

may be necessary to adopt a code amendment that assigns different effective dates to separate subsections of the code, or to adopt separate ordinances for the two requirements.

79. The City of Longview requests that Ecology add to the list of conditionally exempt non-stormwater discharges (S5.C.3.b.ii) the discharges from residential car washing, provided that the Permittee minimizes these discharges through a public education and outreach program. The City raises a concern that prohibiting these discharges will raise costs to administer the ordinance without significant water quality benefits.

Response to comment:

No change. The permits do not require local governments to prohibit residential car washing. Ecology's published guidance on residential car washing encourages permittees to take a public education approach to compliance by informing the public of practices that prevent car wash discharges from entering the municipal stormwater system. Permittees may put language in their codes clarifying that they will take a public education approach to compliance. Permittees will also have code provisions in place to use more stringent enforcement tools as appropriate in rare cases of a harmful non-stormwater discharge from a property for which the owner does not respond to public education and technical assistance efforts. Ecology's intent is to provide permittees with the flexibility to use local discretion to protect stormwater quality. Ecology's webpage includes examples from other jurisdictions, in Washington State and nationally, to assist permittees in education and technical assistance. Ecology guidance is available at <http://www.ecy.wa.gov/programs/wq/stormwater/CarWash.html>

S5.C.3.c.v Procedures for removing illicit connections

80. The City of Longview requests that Ecology add language to clarify that in cases where removing an illicit connection requires extensive permitting or resolution of a court case, the timeframe for removing the connection may extend beyond the 180-day permit deadline.

Response to comment:

Ecology agrees and has modified the language to be consistent with a similar requirements in the Phase I permit. The modified condition states that permittees must "...use their enforcement authority in a documented effort to eliminate the illicit connection within 6 months. All illicit connections to the MS4 shall be eliminated." As long as permittees can document their efforts to eliminate the connection in that timeframe, they are in compliance with this requirement.

S5.C.4 Control Runoff for New Development, Redevelopment and Construction Sites

81. Thirteen permittees, the Association of Washington Cities (AWC), and Herrera Environmental Consulting request delaying the deadline for adoption of the ordinance or other enforceable mechanism to control runoff from new development, redevelopment and construction sites. Permittees cite the delay in equivalency approval of Phase I ordinances and manuals and the need for additional time for Phase II's to evaluate them for local use. Additional reasons included the February 2009 PCHB ruling upholding the one-acre regulatory threshold and clarifying LID requirements, the need for time for local public

review, and the cost of implementation during this budget year. The various deadlines requested for this requirement and associated requirements are:

- November 16, 2009 (Thurston County, Bellevue, Sammamish)
- February 2010 (Port Orchard, Auburn) or February 16, 2010 (Kent, Whatcom County)
- March 18, 2010 (Mount Vernon, Renton, Sedro Woolley, AWC)
- Mid-2010 (Issaquah, Everett)

82. Several of the commenters requesting a delay in the deadline for adopting an ordinance for runoff controls also request a delay in the effective date of that ordinance. Suggestions for the effective dates vary from two to six months after the adoption dates.

83. The City of Everett and the AWC recommend that Ecology extend the deadline for staff training to implement the S5.C.4 ordinances and programs to November 16, 2009 if the adoption and effective date remain as proposed. If Ecology delays the adoption and effective deadlines, then the training deadline should be adjusted accordingly.

84. The City of Bothell opposes extending the deadlines for adopting development ordinances as this allows continuing damage from the stormwater discharges of upstream Phase I and Phase II permittee stormwater systems, and to protect water quality in Puget Sound. The commenter states that as a city permittee, it is prepared to meet the adoption deadline.

Response to the range of comments:

Ecology has modified the deadline for adoption and effective dates of the ordinance for controlling runoff to new development, redevelopment and construction sites (S5.C.4.a and b) to no later than February 16, 2010. Ecology does not set an earlier adoption (vs. effective) date in order to provide for maximum permittee flexibility in scheduling review, revision, adoption, and implementation activities. Ecology also applies this deadline to related requirements for training and long-term maintenance inspections.

Ecology has added six months to the timeframe for adoption and implementation to allow permittees to fully evaluate the Phase I ordinance and manual packages that were not available in August 2009 as planned. Some permittee comments indicate that because the PCHB ruling requires Ecology to list Phase I manuals in the Phase I permit, the uncertainty extends until July 17, 2009, the effective date of this permit modification. Ecology recognizes that the Phase I compliance packages are complex and may require significant review and analysis to determine whether and how to apply them to Phase II jurisdictions. Ecology has made documents associated with Phase I ordinance and manual package reviews available on its website throughout the process.

Ecology intends the extended deadline for adoption and implementation to allow for informed decision-making by local officials. Ecology's intent is also to provide local governments with additional time to conduct full public review of local ordinances and manuals.

Ecology extends the effective date deadline of the ordinance or other enforceable mechanism to February 16, 2010. Ecology expects permittees to use the additional six months allowed for

adoption and implementation to prepare for implementation. The new standards may require new procedures, staff hiring and training, and efforts to inform developers and citizens. Ecology provides permittees that prefer to have a period of time between adoption and effective dates with the flexibility to determine an appropriate adoption date, provided the effective date is no later than February 16, 2010.

85. The City of Milton requests additional guidance on adopting the 2005 Ecology *Stormwater Management Manual for Western Washington* (Ecology manual) to meet requirements in Appendix 1 of the permit, as the differences between them are confusing for jurisdictions that have already adopted the Ecology manual.

Response to comment:

No change. Ecology guidance on the differences between Appendix 1 and the 2005 Ecology manual is available on Ecology's webpage at

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

86. The City of Longview requests that Ecology reduce the required inspection rate for sites before, during, and immediately upon completion of construction in condition S5.C.4.b.v. The city states that it is difficult to achieve the 95% compliance rate due to a lack of staff resources.

Response to comment:

Ecology agrees and has modified the permit to lower the level of effort for compliance during this permit term from 95% to 80%. Compliance with the requirement still requires that permittees develop and establish an inspection program that is designed to inspect all sites before, during, and upon completion of construction. Although the inspection rate is lower during this permit term, Ecology did not reduce the maintenance standards that apply to new development and re-development.

S5.C.4.c Post-construction Maintenance

87. The City of Redmond suggests for S5.C.4.c.iii that Ecology modify the requirement for post-construction inspections of stormwater treatment and flow facilities (other than catch basins) to allow biannual inspections, if the permittee inspects all the stormwater conveyance components, include pipes and catch basins. The City has found that cleaning conveyance systems prior to the facility is less costly than cleaning the treatment and flow facilities.

Response to comment:

No change. The current permit allows for this approach if the permittee submits records to justify a different frequency of inspections. Ecology appreciates the opportunity to share the City of Redmond's approach with other permittees.

S5.C.5. Pollution Prevention and Operation and Maintenance for Municipal Operations

S5.C.5.4.a Maintenance timelines after inspection

88. The cities of Everett and Bellevue request that Ecology change the deadline for cleaning catch basins after inspection from 6 months to 1 year. Alternatively, they suggest eliminating the timeframes for this permit cycle. The AWC comments that many cities lack capacity for cleaning catch basins.

Response to comments:

Ecology agrees and has modified the timelines in S5.C.5.a.ii to one year after the inspection for typical maintenance, which includes re-vegetation sites, but does not include catch basins. Ecology is retaining the catch basin timeline because catch basins that permittees identify in the inspection program as exceeding the standard for cleaning should be cleaned within 6 months. A catch basin sump that is already full does not provide any environmental benefit. Ecology's decision to delay other typical maintenance should provide more flexibility for cleaning catch basins. Additional changes to condition S5.C.5.d provide an alternative method to meet catch basin cleaning requirements. Permittees also may use maintenance records from time periods before implementing the program to justify a reduced frequency of inspection.

S5.C.5.e Compliance rates for maintenance inspections

89. The City of Longview requests that Ecology reduce the compliance rate for maintenance inspections because of staff. Spot checks after 10-year storms are particularly difficult to document with any accuracy.

Response to comment:

Ecology agrees and has modified the permit to reduce the level of effort for compliance in S5.C.5.e to allow permittees to ramp up inspections gradually to reach an annual inspection rate of 95% by 180 days before the end of the permit term. This provides permittees with flexibility to set priorities for maintenance inspections based on equipment and staff availability, and to address maintenance backlogs that may exist. Ecology also clarifies that the maintenance timeline requirement applies to inspections occurring after the program implementation deadline. Under condition S5.A.1 the entire SWMP must be fully implemented by 180 days before the expiration of the permit, or August 16, 2011. By this date, permittees must operate the full program schedule at a 95% inspection rate, although they still have until the end of the permit term to complete the schedule.

Ecology clarifies its intent that permittees may adapt timelines for spot checks after storms exceeding the 24-hour, 10-year event to the size and nature of the storm event and the individual stormwater system condition. Permittees have discretion to set priorities for implementing and documenting spot checks.

S5.C.5.d Circuit basis for cleaning catch basins

90. The City of Redmond proposes an alternative to the circuit approach for cleaning catch basins. The City calls it the "indicator structure" approach based on "branches" rather than a "circuit." By cleaning only those segments or structures upstream of the indicator

structure for which the inspection indicates that cleaning is needed, they avoid cleaning all the catch basins in the circuit that do not require cleaning.

Response to comment:

Ecology agrees and has clarified the language in this section to require that permittees clean only the catch basins in the circuit (or “branch”) for which the inspection indicates that cleaning is needed. Ecology did not intend this condition to require permittees to clean catch basins that do not exceed the maintenance standard for cleaning. Ecology expects permittees who use this method to divide the stormwater system into logical segments, whether circuits or branches, that are appropriate for this approach. For example, the “indicator structure” may be the lowermost structure in the segment, or it may be another structure. Ecology expects that the catch basin closest to the outfall in large sub-basins with multiple catch basins will be inspected. Ecology will request assistance from the City of Redmond in developing guidance for other permittees in this approach, as it reduces the time required for assessment and cleaning while it achieves the desired results.

S8. Stormwater Monitoring

91. The cities of Auburn and Bellevue recommend that Ecology extend the deadline for S8.C monitoring reports to December 31, 2011, and also require or encourage Phase II permittees to join the Association of Washington Cities (AWC) and Washington Association of Counties (WSAC) monitoring distribution list. The city states that the delayed deadline would allow permittees to review the study design the Puget Sound Monitoring Consortium is developing by summer 2010, reducing duplication of efforts and improving coordinated monitoring.

92. The City of Everett comments that Ecology should eliminate the requirements to prepare for future, long-term monitoring until a regional monitoring program is developed. The City cites the Puget Sound Monitoring Consortium efforts, and offers an alternative deadline of June 2011, when a monitoring plan for the region will be complete.

Response to comments:

No change to the deadline. The existing deadline of December 31, 2010 is necessary for Ecology to consider the information while developing the draft permit for the next permit term. However, Ecology has modified the monitoring requirement in S8.C.1.a.v to lower the level of effort required to identify potential monitoring sites. Ecology intends to limit the level of effort so that a staff person such as a stormwater engineer, an environmental planner, or a water resource specialist can develop the report. Ecology encourages permittees to participate in regional forums and discussions, but it does not require such participation.

Appendix 3 – Annual Report Form for Cities, Towns and Counties

93. Kitsap County comments that the terms “illicit discharge,” “illegal discharge,” “spills,” and “connections” are confusing for reporting purposes, and tracking is a significant cost. Questions 21, 22, 26, 27, 31, 33 and 33b refer to “illicit discharges” and are inconsistent with terms in questions 29 (illegal discharge), 32 (spills) and 34 (illicit connections). The

commenter suggests combining questions 32 and 33 and replacing the other terms with “illicit discharge” to reduce costs of tracking.

94. The City of Issaquah requests that Ecology delete the request in Annual Report questions 6b and 7b to identify individual audiences and number of activities for public education and outreach. The City also requests that Ecology delete the requirement to report numbers in questions 31b through 34b and 55 through 66 that request numbers for requirements related to eliminating illicit discharges and construction site plan review, inspection and enforcement. The City also suggests that Ecology delete the annual reporting requirement and instead conduct program evaluations.

Response to range of comments:

Ecology agrees with concerns raised over terms for illicit discharges, and has changed the language in the annual report form and the body of the permit (see response to condition G3 Notification of Discharges Including Spills, comment number 13) to delete undefined terms: “dumping,” “illegal,” and “improper disposal” that are types of illicit discharges. Ecology combined questions 31 and 32 in recognition that spills are a type of illicit discharge and to reduce the complexity and cost of tracking. Ecology does not change “illicit connection” since it is defined in the permit.

Ecology agrees that identifying target audiences is not necessary and has deleted question 6b. Ecology retains the other questions that ask for numbers during this permit term as an indicator of compliance as called for in the permit. The federal stormwater rules (40 CFR 122.42(c)) require that municipal stormwater permittees submit annual reports. Ecology provides annual report forms to permittees to clarify its reporting expectations and facilitate the process. Permittees can download the annual report forms from Ecology’s website in an Excel format and submit them electronically.

Appendix 7 – Construction Site Sediment Damage Potential

95. The City of Redmond suggests an alternative to the approach in Appendix 7 for determining the potential of a site to discharge sediment in order to allow an erosivity waiver. Rather than filling out the analysis to determine if a pre-construction site visit is warranted, permittees could inspect all sites under permit review prior to clearing and grading and to evaluate the site potential for transporting sediment offsite.

Response to comment:

No change. Ecology considers the suggested method to be allowable under the current permit conditions. Ecology encourages the City of Redmond and other permittees to continue to share innovative approaches to meeting permit requirements and improving water quality.

COMMENTS APPLYING ONLY TO THE PHASE II EASTERN WASHINGTON PERMIT

Comments on March 18, 2009 Draft Permit Modifications

S5.B.4.a and S5.B.5.a – Construction and Post-construction Runoff Controls

96. Yakima County supports the proposed modification that construction and post-construction ordinances be effective no later than four years after the effective date of the permit as reducing confusion and potential conflict in the permit language.

Response to comment:

Comment noted.

Comments on Delaying Interim Deadlines and Reducing Costs

General comments

97. The mayor, city supervisor, stormwater manager, Chamber of Commerce, and several citizens from the City of Pullman request that all the deadlines in the permit be delayed by two years to reduce the financial burden and allow the city to postpone its recently adopted utility fee. Another citizen requests that Ecology enforce the existing deadlines for Pullman to protect water quality and address water quality standard violations in the South Fork Palouse River.
98. Earth Justice opposes extending the deadlines in the Phase II permits as inappropriate because of the delay in initially issuing the permit, the costs of non-compliance, and the ability of local governments to fund the programs through utility fees and permit fees.

Response to the range of comments:

When Ecology solicited comments on extending interim deadlines, the March 18, 2009 Fact Sheet stated that Ecology did not intend to extend permit deadlines beyond the end of this permit term. The permit modification clarifies that while the adoption date for the ordinances to control runoff for construction and post-construction is February 2010, the effective date is February 2011. This allows for a year between the adoption and effective dates to hire and train staff, prepare procedures, and educate the local development community. Ecology's decision is intended to provide time for full implementation no later than 180 days before the end of the permit term, in accordance with permit condition S5.A.2. Modifications to specific requirements to reduce costs are listed in sections below.

S5.B.4 and S5.B.5 Construction Site Stormwater Control and Post-construction Stormwater Management for New Development and Redevelopment

99. A commenter for Asotin County and the cities of Asotin and Clarkston requests that Ecology extend the deadline to adopt ordinances to control runoff for construction and post-construction until the end of the permit term (2012).

Response to Comments

June 17, 2009

100. Walla Walla County suggests shifting the deadline for adopting construction and post-construction ordinances to February 2011.

Response to the range of comments:

Ecology clarified that while the adoption date for the ordinances to control runoff for construction and post-construction is February 2010, the effective date is February 2011. Additionally, Ecology has reduced the level of effort for compliance with construction site inspections during this permit term from 95% to 80%. The modified language requires permittees to develop a plan and recordkeeping program that is designed to inspect all sites, but during this permit term Ecology will determine compliance with the plan at a 80% inspection rate. This modification does not reduce the standards that apply to construction sites.

S5.B.6 Pollution Prevention and Good Housekeeping for Municipal Operations

101. A commenter for Asotin County and the cities of Clarkston and Asotin requests that Ecology extend the deadline for implementing Operation and Maintenance plans for municipal facilities. The comment cites the need for time to develop facility pollution prevention plans, implement best management practices, and identify and schedule the additional maintenance work.
102. Walla Walla County suggests that Ecology modify the requirement in S5.6.a.(ii) to require inspection of 50% instead of 95% of known storm drainage facilities every two years, with problem facilities identified during initial inspections to be inspected more frequently.
103. The City of Pullman requests that Ecology reduce the requirement to maintain facilities twice during this permit cycle as burdensome and costly due to staff and equipment needs.

Response to the range of comments:

Ecology has delayed the interim deadline in condition S5.B.6.a for developing and beginning to implement an operation and maintenance program from three years to four years after the effective date of the permit. Ecology is not changing the operation and maintenance requirements in this permit element that require the program be fully implemented no later than 180 days before the permit expiration date. However, by extending the interim deadline for developing and beginning implementation from February 16, 2010 to February 16, 2011, Ecology intends to reduce costs for the near term and to provide more flexibility for stormwater managers to schedule implementation.

Ecology reduced the level of effort for assessing flood management projects for impacts to water quality and site hydrology (S5.B.6.a). Permit language regarding existing projects is consistent with the federal rule language that “encourages operators of MS4s to consider...” the water quality impacts of such projects. In Washington State, all projects are subject to evaluating water quality impacts under the State Environmental Policy Act (SEPA). The projects will also be subject to permit requirements for stormwater practices to protect water quality during construction and post-construction.

Ecology reduced the level of effort in S5.B.6.a.ii for inspection of municipal stormwater facilities from twice during this permit term to once. The reduced frequency during this permit term is intended to provide for more gradual and flexible implementation of the operation and maintenance plan. Permittees should conduct more frequent inspections for facilities where the initial inspection indicates there is a problem.

S8. Stormwater Monitoring

104. Walla Walla County suggests removing the requirement for monitoring reports in S8.C from this permit cycle and asks that Ecology consider taking responsibility for sampling and monitoring on a whole-watershed basis similar to that used for TMDLs. This would target monitoring where most needed, ensure consistency and qualified monitoring, and reduce duplicative efforts.

Response to comment:

Ecology has revised monitoring requirements to reduce the level of effort required to select potential sites for monitoring stormwater discharges (S8.C.1.a.v). The requirement now limits the required information to a description of potential sites that can be prepared by local government staff such as a stormwater engineer or a water resources planner.

Ecology has also included language in section S8.C.1.c Runoff Treatment BMP Effectiveness Monitoring to clarify that BMPs for monitoring must be “...*designed in accordance with the Stormwater Management Manual for Eastern Washington or an approved equivalent....*” Ecology intends for monitoring to provide information on the effectiveness of BMPs adopted under the permit requirements, and the existing language could result in permittees identifying sites that would be unacceptable for monitoring.

Ecology has extended the deadline from December 31, 2010 to December 31, 2011 in this section in order to delay the requirement until after the February 16, 2011 effective date of ordinances requiring BMPs constructed to the manual. The delay allows for BMPs to be designed and built under the updated standards prior to selecting sites for monitoring. Ecology also has delayed the deadline for submitting the monitoring report for S8.C.1.c from the fourth to the fifth annual report. If a permittee’s jurisdiction has no BMPs built in accordance with the permit requirements by December 31, 2011, Ecology expects the permittee to submit documentation explaining the reasons and describing the status of identification of such sites.

S9 and S5.A.3 Annual Reporting requirements

105. Walla Walla County suggests that Ecology change the requirement for submitting annual reports and updated Stormwater Management Program documents from annually to every two years to reduce costs.

Response to comment:

No change. The federal stormwater rules (40 CFR 122.42(c)) require municipal stormwater permittees to submit annual reports.