PART II: Response to Comments on the Eastern Washington Phase II Municipal Stormwater Permit

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See Part I of the Response to Comments (RTC) for additional comments on the Eastern Washington Phase II permit that also apply to more than one permit.

II-1 S5.B.1 Public Education and Outreach

Permit Reference: S6.B.1.a

II-1.1 Requirement to create stewardship opportunities

Commenters: Association of Washington Cities, Asotin Regional Stormwater Program, Chelan County, Douglas County, Eastern Washington Coordinators Group, City of East Wenatchee, City of Richland, City of Spokane, City of Wenatchee

Summary of the range of comments

Oppose this as a requirement:

- Jurisdictions are too small to take on this expanded requirement.
- Does not serve a useful purpose to the program and goes beyond permit program.

- These are not already in some communities; creating them detracts from meeting other requirements.
- Additional work and cost to Permittees.
- In some communities other agencies are doing this.
- Creating opportunities for citizens involves liability for citizens working in the right-of-way or in riparian areas.

Proposed alternatives:

- Delete the requirement
- Make it optional by replacing "shall" with "may" or "should"
- Have Ecology undertake this responsibility
- Other agencies and organizations already provide stewardship opportunities

Response to the range of comments

- Ecology removed the proposed language to require permittees to create or build on existing stewardship groups, and relies on existing permit language in S5.B.1.a.i "…encouraging participation in local environmental stewardship activities and programs."
- Ecology recognizes that some permittees live in communities that do not have environmental stewardship groups, and encourages these jurisdictions to address this optional education approach by partnering with or building on existing stewardship groups like 4-H, the Conservation District, or WSU Extension in projects or events that increase awareness and encourage individual actions to prevent stormwater pollution.
- Ecology does not agree with the comment that stewardship activities are not useful. In other parts of the state, surveys of residents who participate in environmental stewardship activities have demonstrated improved awareness and adoption of behaviors to prevent pollution from entering stormwater runoff.
- Ecology agrees that stewardship activities must be safe for citizens and protect the jurisdiction from liability. Stewardship activities are not required to be in the right-of-way or in riparian areas, but if they are, the jurisdiction could require waivers of liability and citizen training prior to the event, and should provide responsible oversight.

II-1.2 Measuring changes in behavior or awareness

Permit reference: S5.B.1.b

Commenters: Association of Washington Cities, Asotin Regional Stormwater Program, Chelan County, Douglas County, Eastern Washington Coordinators Group, City of East Wenatchee, Art Jenkins, City of Kennewick, City of Richland City of Spokane, City of Wenatchee

Summary of the range of comments

Oppose this as a requirement:

- Small cities lack the tools, resources, or expertise to take on this task.
- A requirement to conduct "social engineering" is beyond local staffing capacity.
- Requirements to conduct social marketing surveys go beyond operating the MS4 to protect water quality.
- Permittees do not have a way to measure this task meaningfully, consistently, or accurately, and it is likely to produce inconclusive results.
- This requirement is an effectiveness study.
- Delete this requirement.
- Ecology should undertake this requirement on a statewide or regional level. Could be done as a marketing and branding program much like Forest Service with Smokey the Bear.

Response to the range of comments

- Ecology recognizes that the expertise and experience to meet this requirement is not well-developed among eastern Washington permittees, and removed the requirement from the final permit. Ecology will seek funding to conduct training for eastern Washington permittees during the next permit term in preparation for possible requirements to measure and use results of education efforts during the 2019-2024 permit term. The training will address how to scale efforts and costs to small or large communities.
- Permittees can target program resources more effectively when the education programs establish measurable objectives for the activity, measure and evaluate the results, and use the evaluation to improve the program. This approach has been called "social marketing" because it applies techniques commonly used in advertising by large and small businesses and other entities, at scales from neighborhoods and communities to the national level.
- Ecology has posted online stormwater education materials developed by Ecology and from permittees that are available for others to edit, add local logos and use. These can be found at http://www.ecy.wa.gov/programs/wq/stormwater/municipal/public_outreach_resources.html The permit requires individual communities or regional groups to develop material relevant to local audiences and topics, because they are more effective when they address local water bodies, local sources of pollution, and local solutions.

II-1.3 Comments on topics and audiences

Permit reference: S5.B.1.a

Commenters: Chelan County, Douglas County, City of East Wenatchee, Eastern Washington Coordinators Group, Environmental Clinic at Gonzaga University School of Law, City of Richland, City of Wenatchee

Summary of the range of comments

- Education about LID strategies should be available to the general public and businesses, not just engineers and developers.
- It may be premature to require permittees to provide information to engineers, construction contractors, developers, development review staff, and land use planners about LID since Ecology has yet to develop a technical LID manual for Eastern Washington

Response to the range of comments

- Ecology has awarded a Grant of Regional or Statewide Significance (Funding Year 2012) to Spokane County to develop an LID manual for eastern Washington. In addition, there is funding in the 2012 state budget for Ecology to provide LID training for local government and building industry professionals. Spokane County will partner with other eastern Washington permittees for the grant, and will build on results of a previous Ecology grant to Yakima County. The LID manual will address the geography, climate and topography conditions specific to the sub-regions of eastern Washington.
- Ecology added "…when it becomes available" to address the time needed to develop the LID manual and other resources before providing public education on this topic.
- Ecology encourages permittees to provide education on LID to the general public, but did not add it as a specific requirement. Permittees can incorporate LID into information on methods for minimizing or reducing the adverse impacts of stormwater.

II-2 S5.B.2 Public Involvement and Participation

II-2.1 Posting the SWMP online

Additional comments related to the SWMP are in Part I of the RTC under S5.A Stormwater Management Program for Cities, Towns, and Counties

Permit reference: S5.B.2.b

Commenters: Eastern Washington Coordinators Group, City of East Wenatchee, City of Richland, City of Wenatchee

Summary of the range of comments

- Request that Ecology revise this sentence to read as follows, "... make the latest version of the annual report and SWMP available to the public."
- Request that Ecology delete the reference to "SWMPR" consistent with comments on deleting the requirement.

Response to the range of comments

- Ecology revised the requirement to add that the "latest version" of documents must be posted online.
- Refer to comments and Ecology's response on the SWMP Report in Part 1 of this document, S5.A General Comments.

II-3 Illicit Discharge Detection and Elimination (S5.B.3)

Commenters: Chelan County, Douglas County, Eastern Washington Coordinators Group, City of East Wenatchee, City of Richland, City of Spokane, City of Wenatchee, Yakima Area Stormwater Co-Permittees.

II-3.1 Allowable and conditionally allowable discharges

Permit reference: S5.B.3.b

Summary of the range of comments

- "Irrigation water from agricultural sources that is commingled with urban storm water", creates liability for permittees given recent court cases. Replace with, "Irrigation water from agricultural sources that is approved to enter the MS4 by the local jurisdiction."
- Discharges from other permits to municipal stormwater systems should not be an allowable discharge into MS4s, given recent court cases. Replace with, "Non-stormwater discharges authorized by another NPDES permit or state waste discharge permit that is approved to enter the MS4 by the local jurisdiction."
- Delete "spa and hot tub" and "discharges shall be thermally controlled."
- The term "thermally controlled" is ambiguous.
- For potable water sources, the addition of the new words "but not limited to" expands the applicability of the existing requirements and would require an ordinance revision.
- Request that the existing language remain unchanged for the introduction to S5.B.3.b.iii.

- The term "occur during" is a concern for firefighting activity allowable discharges and should be deleted.
- S5.B.3.b.iv - The proposed revision from "SWMP" to "ordinance or other regulatory mechanism" could require an ordinance revision and is contrary to the first permit cycle requirements.
- Added items will require ordinance revision that takes considerable staff time and is costly.

Response to the range of comments

- Ecology did not add "approved" to the allowable discharges. Permittees may adopt ordinances with more restrictive conditions than those in the permit requirements to address discharges into the MS4. Because jurisdictions require approval of any new connection to the MS4, Ecology expects permittees to use that process to approve a new discharge.
- Ecology revised the wording of the introduction to S5.B.3.b.iii for clarity. The revision does not change the meaning.
- Ecology added "but not limited to" to potable water sources to clarify that the requirement does apply to potable water from sources other than those listed. The illicit discharge code adopted during the 2007-2012 permit term required dechlorination for potable water sources from the sources listed, and was not intended to be a comprehensive list.
- Discharges from spas and hot tubs are similar to those from pools. A number of jurisdictions in Washington State and elsewhere have guidance and public education materials available on this. Guidance on BMPs for discharges from pools, spas, hot tubs, and fountains is available in Ecology's updated *Stormwater Management Manual for Western Washington (*2012). Ecology will provide this to eastern Washington permittees as guidance addressing how to implement the dechlorination, pH adjustment, thermal control, reoxygenation and volume/velocity control criteria associated with these conditionally allowed discharges. Ecology will include these BMPs in the SWMMEW in the upcoming update, as well.
- The intent of thermal control is to prevent the discharge from causing or contributing to a violation of temperature water quality standards in the receiving water. Because of the complexities of the standard and practical constraints associated with sampling the receiving water for each pool/spa discharge, Ecology has chosen to use the language "to prevent an increase in temperature of the receiving water" for flexibility. Ecology expects the most common BMP to be used is allowing the pool/spa to sit prior to discharge, to equilibrate with ambient temperatures.
- Refer to the response to comments in Part I, section S2 for the exemption for discharges from emergency fire fighting activities. Ecology has deleted the proposed change**.**
- Ecology retained the revision from "SWMP" to "ordinance or other regulatory mechanism." Ecology does not agree that this is a substantive change to the requirement. It is necessary for the jurisdiction to have the legal authority to address significant sources of pollutants into the MS4 in order to protect waters of the state.

- The final permit retained language in S5.B.3.b.vii for permittees to review and, if needed, update the ordinance by February 2, 2018. Ecology believes this is a reasonable timeline for reviewing and updating the ordinances adopted in 2009.

II-3.2 Compliance strategy

Permit reference: S5.B3.b.vi

Summary of the range of comments

- Permittees are already doing informal enforcement.
- Removes the enforceability of the existing IDDE ordinances by creating the opening for violators to argue that they weren't afforded adequate opportunity for "informal compliance actions."
- The reference to the "compliance strategy" should be deleted.

Response to the range of comments

- Ecology retained the language for a "compliance strategy" to acknowledge the importance of using, when appropriate, informal compliance measures prior to formal enforcement.
- A compliance strategy includes both informal compliance and formal enforcement actions. Based on experience under the 2007 permits, Ecology included this to clarify that permittees may use informal compliance actions when they can achieve necessary IDDE program outcomes.
- Ecology expects jurisdictions to define in procedures the role of public education and technical assistance within the escalating steps that may lead to formal enforcement. Jurisdictions routinely use these steps and rely on formal enforcement for willfull, egregious, or repeated violations, or where earlier steps have not eliminated the violation.

II-3.3 Field Screening

Permit reference: S5.B.3.c (i), (ii), and (iii)

Summary of the range of comments

Oppose the field screening requirements:

- It is a substantial additional requirement that will require increased staff (and/or staff time).
- Creates additional long-term work and cost for local jurisdictions.
- This language is an excessive burden upon the local jurisdiction.
- This requirement should be eliminated or at a minimum, reduced to specific areas of concern.

- EPA recommends that MS4 operators identify priority areas (i.e., problem areas) for more detailed screening.
- Delete "shall include field screening."
- If "inspect" is meant by the term "assess", we suggest that this section is duplicative of requirements in Municipal Operations and Maintenance to inspect and maintain the stormwater collection and conveyance system.
- Suggest that Ecology remove the requirements associated with i and iii and rely on S5.B.6 Good Housekeeping Pollution Prevention activities, which appears to overlap the field assessments required in section iii.

Response to the range of comments

- Ecology acknowledges that it would be challenging for Phase II permittees to screen 40 percent of their MS4 by February 2, 2016. Therefore, in addition to the extra year delay in the permit's effective date, Ecology extended the deadline to December 31, 2018. Ecology also recognizes that screening 20 percent of an MS4 within a given year may also be challenging. For this permit cycle, Ecology adjusted the performance target to require screening of, on average, 12 percent of the MS4 every year (following the initial 40 percent target). Permittees are expected to screen approximately one-quarter of their system every two years following the initial deadline.
- Ecology did not use the 2007 Phase II performance targets to screen priority waterbodies or other priority areas. The previous permit did not make it clear what constituted a waterbody, in particular in terms of scale. The approach for this permit will allow for a more straightforward and equitable determination of compliance.
- Ecology agrees that Permittees have flexibility in prioritizing and selecting areas of the MS4 for screening each year and thus Ecology did not specify a rescreening frequency. As field screening methods improve, Ecology expects that areas will be rescreened and that eventually 100% of the MS4 area will have been screened.
- Ecology does not agree that the new screening approach requires that a much larger part of the MS4 be screened or that it will require additional resources. Permittees may continue to screen their MS4 using outfall reconnaissance techniques required under the 2007 permit.
- Ecology deleted the term "conveyances" from this section. Ecology did not intend that both outfalls and conveyances must be involved in field screening in all jurisdictions and acknowledges that this created confusion.
- The requirements in S5.B.6 to inspect, clean and maintain the stormwater collection and conveyance system may be coordinated with IDDE field activities for cost efficiency. However, the two program elements differ in purpose and scope. Operation and maintenance activities for the conveyance system are not a substitute for the federally required IDDE program element. IDDE field screening requires staff to document the field assessment, to follow specific procedures if a potential illicit discharge is detected, and to conduct further

investigation to address or eliminate the discharge when it is confirmed to be illicit. Jurisdictions that choose to combine some of the activities from these two program elements must ensure that staff document the different actions and results for each purpose, and conduct follow up activities according to the requirements of each program.

II-3.4 Municipal field staff training

Permit reference: S5.B.3.c.v

Summary of the range of comments

- There are too many employees for a "training program" for all City field staff.
- Ongoing training should be at the discretion of the Phase II jurisdictions.
- Training plan is already included in the O&M Plan.
- Suggest adding clarity by replacing “ongoing training program” with “annual.”

Response to the range of comments

- Ecology retained the requirement to train all municipal field staff. Ecology appreciates that it is a challenge to train municipal field staff, given the variety of schedules and other priorities. However, given the enormous benefits of such a program that many local governments have already reported, Ecology believes that the training effort should continue.
- Ecology separated the requirement to train all municipal field staff from the requirement to train the IDDE program staff to emphasize that it is not an intensive training. The municipal field staff training requirement is less detailed. The primary purpose is for municipal field staff to be able to identify a suspected illicit discharge and report it to the appropriate internal department for follow up.
- Field staff other than O&M staff that should be included in this training might include the sewer and water system staff, planners who conduct site visits, fire and public safety staff, and building inspectors. The training for operations and maintenance activities is different from the IDDE training. In a small jurisdiction, these activities may be conducted by the same staff, but the purposes and procedures for IDDE are different from operations and maintenance.
- Ecology did not replace “ongoing training program” with “annual” but instead provided flexibility for jurisdictions to determine the necessary frequency for follow up training.

II-3.5 Public information

Permit reference: S5.B.3.c.vi

Summary of the range of comments

- This section on public education duplicates requirements of the public education and outreach program. Suggest deletion.
- Creates an open and continual possibility for third party litigation.
- This broad public outreach campaign would be very costly and staff intensive.

Response to the range of comments

- Ecology considered moving this permit activity to S5.B.1 Public Education and Outreach but determined that because building citizen awareness on this topic is essential and valuable rather than an optional topic, the permit should continue to require it for each jurisdiction as part of S5.B.3 IDDE.
- Ecology offered flexibility regarding how the permittee communicates this information (e.g., via website, utility insert, flyer, or any other means available to communicate with residents and businesses). This requirement does not require a broad public outreach campaign.

II-3.6 Procedures for addressing illicit discharges

Permit reference: S5.B.3.d.iv

Summary of the range of comments

- The word "immediately" is not sufficiently defined.
- Revise to state "any credible complaints, reports, or monitoring" and "any credible report or discovery."
- Suggest "All reasonable measures shall be taken to eliminate illicit connections to the MS4 within six months."
- “All illicit connections to the MS4 shall be eliminated" is an impossible task. We request that this language be deleted.

Response to the range of comments

- Ecology intends for the procedure requirements to contain enough flexibility while protecting water quality. Ecology does not intend the language to require an immediate containment of all discharges, except where they have been determined to constitute a threat to human health, welfare or the environment. The intent is that, when the illicit discharge is found, permittees will evaluate whether or not the discharge should be immediately contained and, if not, how the discharge would be addressed according to procedures for investigating it further and addressing it.

- Ecology did not add language regarding "credible" complaints. Local government procedures include assessing any complaint or report of an illicit discharge under S5.B.3.d.i to characterize the nature of and potential threat of any illicit discharges found by or reported to the permittee. If the initial assessment shows that there is no "credible" illicit discharge, then that assessment satisfies the requirement in the second bullet of S5.B.3.d.iv.
- Ecology agreed and revised the final permit to state that "all known illicit connections to the MS4 shall be eliminated."

II-4 Construction Site Runoff Controls (S5.B.4)

Comments related to the timing of implementation of runoff controls for construction sites are in Part I of the RTC.

II-4.1 General Comments

Commenters: River Network/American Rivers, City of Spokane

Summary of the range of comments

- Suggest harmonizing with Western Washington Phase II Permit by combining Construction and Post-construction sections into one section and eliminating the one-acre threshold.
- Ecology should update the *Stormwater Management Manual for Eastern Washington (SWMMEW)* in 2012 and then provide resources to local governments like Spokane to update their regional stormwater manuals.

Response to the range of comments

- Ecology did not change the organization of the permit components to combine Construction with Post-construction runoff controls (S5.B.4 and S5.B.5). This structure follows the "six minimum measures" in the federal rule that were used as the basis for developing the *Model Municipal Stormwater Program for Eastern Washington (2003)*. The requirements would not be different if they were combined. The permit allows jurisdictions to develop their ordinances and plan review, inspection and enforcement procedures for S5.B.4 and S5.B.5 jointly or independently.
- Ecology retained the one-acre threshold (except smaller sites in a larger, common plan of development or sale). Ecology acknowledges that there are differences between eastern and western Washington stormwater management requirements. This is due in part to a distinct difference in climate, geology, soils, and topography across the state as well as across different regions of eastern Washington. Many eastern Washington permittees

regulate stormwater at sites smaller than one acre, and Ecology will continue to provide flexibility for each jurisdiction or region to tailor requirements to local conditions. Ecology plans to update the SWMMEW during the upcoming permit term. After the Ecology-funded LID Manual is developed, Ecology will seek funding to update the SWMMEW to add LID and to address other new information, technology and regulations.

II-4.2 Clarify construction phase stormwater control requirements

Commenters: River Network/American Rivers, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Because local government construction permits duplicate the requirements for an Ecology construction stormwater general permit, these requirements should be removed from the permit. The EPA federal rules for Phase II provide an option for Ecology to recognize existing programs to avoid this duplication, and reduce the resulting costs to the developer.
- Clarify why the Erosivity Waiver is still in place at S5.B.4.b(i) when it has been removed from the Western Washington Phase II permit.
- Add the following at the end of footnote 21: "Note that S5.B.4 may apply to site clearing activities even if S5.B.5. does not apply."

Response to the range of comments

- There are overlapping regulatory requirements for construction sites as a consequence of federal law. The federal rules also include an option for the state to approve local government programs. This allows construction site operators to meet the state's construction general permit requirements by complying with local construction site permit programs. In Washington State, that option would require making changes to state law. In 2007, Ecology invited interested parties to help examine this alternative. The outcome was that local governments decided they were not prepared to assume the workload and legal responsibility for a Clean Water Act program, and that Ecology is the appropriate agency to administer the federally mandated construction stormwater permits.
- Appendix 1, Core Element #2, states that an Ecology-approved construction site Stormwater Pollution Prevent Plan can be submitted to meet the local government requirement. However, as clarified in Core Element #2, this does not relieve the local government from the responsibility to inspect and, if needed, enforce the Appendix 1 requirements. Ecology and most local government construction inspectors work together in a complementary approach to protecting water quality from pollution resulting from construction activities. When Ecology updates the *Stormwater Management Manual for*

Eastern Washington during the upcoming permit term, it will align the requirements in Core Element #2 to more closely match the revisions in the most recent version of the Construction Stormwater General Permit.

- Ecology retains the Erosivity Waiver because it could be applied for the soils and rainfall conditions in a number of areas of eastern Washington. Ecology removed it from the western Washington permits because it does not address the rainfall and soils of western Washington.
- Ecology did not make the suggested addition to footnote 21. Footnote 21 applies to situations where a project is proposed and reviewed by the local government. Simply clearing a site does not represent the start of construction and is not a "project" as described in footnote 21.

II-4.3 Clarifications and edits

Commenters: Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Provide a standard for "adequate training". Suggest annual training to address frequency of training. Who decides what "adequate" means with respect to quality of training?
- Suggest adding clarity by replacing the following language:
  - Replace "implement and enforce a program" with "enforce ordinances."
  - Replace "shall implement an ongoing program for ensuring" with "shall ensure."
  - Replace "shall implement an enforcement strategy and the enforcement provisions of" with "shall enforce."
  - Replace "shall implement procedures for site plan review" with "shall review site plans."
  - Replace "shall implement procedures for site inspection" with "shall inspect sites."
- The term "qualified personnel" appears subjective.

Response to the range of comments

- Ecology did not define a minimum training standard for local government site plan reviewers and inspectors, and expects jurisdictions to use professional planning and engineering judgment on this requirement. Ecology held training workshops for site plan review during the 2007-2012 permit term. For construction site inspector training, a number of organizations provide training for Certified Erosion and Sediment Control Leads using Ecology-approved curriculum, a required training for a project site lead at construction sites under Core Element #2 of Appendix 1. (See information on Ecology website at http://www.ecy.wa.gov/programs/wq/stormwater/cescl.html) Local

government staff generally attend advanced courses in these programs. Individual jurisdictions also provide staff training related to local conditions, code language, enforcement procedures and enforcement strategies. The frequency of required follow-up training may depend on changes in regulations or procedures, staff turnover, and the introduction of new techniques.

- Ecology retains permit language that requires permittees to implement programs and procedures as required in the permits. In referring to broader programs, Ecology recognizes that code structures vary for each jurisdiction, and may meet the requirements in different sections of codes, and various program organizational structures, administrative procedures, and enforcement and compliance strategies.
- The response to comments on "qualified personnel" is in the Definitions section in Part I of this document.

II-5 Post-Construction Runoff Controls (S5.B.5)

Comments on the timing of implementation of runoff controls for new development and redevelopment are in Part 1 of this RTC.

II-5.1 Comments on post-construction BMPs in Appendix I

Commenters: Cheryl Morgan, River Network/American Rivers, Yakima Area Stormwater Co-Permittees.

Summary of the range of comments

- Clarify that on-site earthen detention ponds are not scientifically designed for water quality treatment systems.
- Clarify how to address soils of high clay content that are easily re-suspended and carried off-site along with fecal coliform and other pollutants that adhere to the clay particles.
- Clarify the responsibility for maintenance of on-site detention ponds to prevent resuspended sediment from entering streams.
- Suggest that on-site retention ponds and/or stormwater treatment plants be mandated within the South Fork Prairie Creek watershed.

Response to the range of comments

- Ecology has not approved detention ponds as water quality treatment facilities; they are flow control facilities. Runoff treatment is included in Core Element #5 of Appendix 1. Water

quality treatment facilities must be installed either upstream or downstream of the detention pond in addition to the detention pond for flow control.

- Ecology recommends using BMPs that rely more on filtration than on settling for clay soils that are easily re-suspended. These BMPs can be found in Chapter 5, Runoff Treatment, of the SWMMEW.
- Final permit requires in S5.B.5.a.(ii) and (iii) that local government programs include provisions to ensure long-term maintenance either by local government inspections or annual certification by a qualified third party. Requirements in S5.B.5.c require the local government to implement procedures for inspection and enforcement of long-term maintenance requirements.
- Ecology has worked with the City of Pullman, Washington State University, and the local community to develop a TMDL to address fecal coliform pollution in South Fork Prairie Creek. There are new requirements in Appendix 2 *Total Maximum Daily Load Requirements* for focused illicit discharge screening, public education, and to conduct monitoring and develop action plans to address the problem. Ecology, local governments, the university and interested members of the community will review the monitoring data and select the actions necessary to address the problems identified through monitoring. Depending on the results, actions could include more specific requirements for managing stormwater at new development projects or infrastructure retrofits.

II-5.2 Clarify training requirements

Comments related to training requirements are in section S5.B.4 Construction Site Runoff Controls of this document.

II-5.3 Low Impact Development (LID)

Permit reference: S5.B.5.a.ii

Commenters: Asotin County, Association of Washington Cities, Columbia Riverkeeper, Douglas County, Eastern Washington Coordinators Group, Environmental Clinic at Gonzaga University School of Law, Art Jenkins, City of Kennewick, North Central Homebuilders Association, Richard Rodgers, City of Richland, River Network/American Rivers, City of Spokane, Walla Walla County, City of Wenatchee, Yakima Area Stormwater Co-Permittees.

Summary of the range of comments

Support or strengthen LID requirements

- Support the standard for retention of 95% of stormwater.

- Appreciate the flexibility in the permit that allows jurisdictions to develop their own feasibility criteria for determining whether LID is appropriate in a particular context.

Accelerate the timelines

- Ecology recently significantly increased the availability of Columbia River water to serve growing urban areas in eastern Washington, and should not delay implementing LID.
- Concern there is a "double standard" for eastern Washington Phase II MS4s as requirements are considerable weaker than those for western Washington (one more year for implementation and no implementation for new permittees). Recommend the same requirements for eastern Washington as in the Western Washington Phase II permit and on the same timelines.
- If, as the Fact Sheet states, conditions are more favorable for LID in EWA, the timeline for adoption is too long and should be shorter.
- Permits should create incentives to encourage completion of LID projects by permittees within the permit term and within specific time limits.
- While feasibility criteria specific to jurisdictions is appropriate, Ecology should not delay implementing the criteria until the next permit term.

Strengthen the feasibility requirements

- Flexibility to address site conditions is good, but it should not be an excuse to not do LID. Each site should use the BMP that is most appropriate given the circumstances.
- Too much flexibility in the requirements will undercut the effectiveness of LID, and makes it voluntary. Ecology should revise requirements to make it more restrictive.
- The standard for infeasibility of a project should be as narrowly construed as possible so it is applied as a rare exception.
- Removing barriers to LID does not go far enough; it should be mandatory in all projects.
- The permit should include more emphasis on maintaining native soils and vegetation, including restoring vegetation and soil disrupted by construction.
- LID projects should be required in areas where sites have been found to contribute to pollution of a water body. Wherever BMPs are mentioned in the permit, such as in S4, the permit should state that LID techniques are the preferred BMP.
- Feasibility criteria should clarify the need to demonstrate, document and determine feasibility, and should include oversight by Ecology to prevent them from being used as easy off-ramps.

<u>Delete or delay LID requirements</u>

Lack of technical resources and experience

- There are currently no LID guidance or technical manuals for eastern Washington. We do not know what practices are acceptable, or who will decide what is acceptable, and who will pay for failures.
- This requirement calls for an update to the *SWMMEW* as well as the *Spokane Regional Stormwater Manual* before implementing the new requirements.
- Pervious pavement is an example of a western Washington BMP that is not very suitable for eastern Washington because of our freeze/thaw challenges that exist in the Wenatchee area.
- LID requirements should be suspended until we know what is effective for eastern WA, and in particular some of the arid areas like Asotin County.
- Although the Fact Sheet is correct that eastern Washington has less mean annual precipitation than western Washington, rainfall intensities can be greater, especially in summer thunderstorms. The peak storm flow rates are not necessarily smaller or more appropriate for LID practices. Soils may be less favorable in large areas of shallow basalt and/or loess such as that found on the Palouse.
- Local governments and the development industry do not have the experience and understanding for these requirements.
- LID standards, including criteria for selection, installation and maintenance of LID practices, are not available to the permittees or the development community. It is too soon for such a permit requirement in its current form.
- Request that Ecology provide more opportunities for training before the requirement goes into effect.

Conflicts with other land use regulations

- The requirements go beyond the Clean Water Act and extend Ecology's authority into land use, which is not in Ecology's authority to regulate.
- It will push development out of urban areas to rural areas where the requirements do not apply.
- This would require LID in the public right-of-way before we have the expertise and equipment to maintain it. We object to requiring it in the right-of-way.
- The LID research and LID manual funded by Ecology should come first, before including a requirement in the permit.
- The retention standard may conflict with local government comprehensive plans, including plans for construction of regional facilities and conveyance and treatment systems. A regional management approach saves costs on long-term maintenance and allows more urban land to be more efficiently developed, consistent with GMA.
- The requirements are moving beyond the scope of stormwater management and into GMA. Ecology needs to understand the limitations of local governments, in which stormwater and land use are managed by different local government departments.

Requirements are too burdensome to adopt, meet, or maintain

- Updates to ordinances and procedures are not possible given our staff and budget reductions, without detracting from managing our current program.
- The requirement to "develop and implement criteria…" calls for an ordinance to be developed and adopted. This is staff intensive and costly to the jurisdiction, and we suggest it be deleted.
- The cost of development for LID on every site will be too high. This is too much of "one size fits all."
- Homebuilders are concerned with a prescriptive approach and prefer voluntary, incentive-based solutions.
- Requiring multiple small stormwater systems will be a cost burden to local governments and private property owners responsible for long-term maintenance.
- The requirements to verify long-term maintenance seem difficult to meet in terms of tracking and enforcing them, and requiring these measures of homeowners associations that lack expertise.
- Clarify the need to monitor these facilities if they are designed to work, and who is responsible if they fail.
- These requirements will discourage lenders from financing projects.
- Permittees need to include developers in the process of incorporating LID strategies.

Clarify the LID Requirements

Requirement to retain flows on site

- The retention standard conflicts with the Spokane Regional Stormwater Manual which has a number of different flow control standards for different purposes and types of facilities. These will meet the requirement if Ecology will revise the requirement to state "…at a minimum, the 10-year, 24-hour rainfall event or local equivalent."
- Regional drainage facilities are used in some areas to manage stormwater flows and this is incorporated into the Spokane Regional Stormwater Manual. In some natural systems runoff is not detained within parcel boundaries but flows to these regional facilities. Suggest Ecology revise to read "...to retain runoff generated on-*site."*
- Conflicts with City of Richland requirement to retain stormwater runoff onsite only for commercial projects. This will expand to residential and invalidate the city's existing stormwater management plan using basin planning and a regional process.
- Suggest revising to allow exceptions for parcels draining to regional stormwater facilities planned by a jurisdiction.
- Ecology needs to clarify that permittees already requiring onsite retention of stormwater at a higher standard, such as the 25-year, 24-hour storm, may retain existing regulations without modification.

Feasibility criteria

- For a jurisdiction that already requires onsite retention of the 10 or 25 year event, developing feasibility criteria may mean there is backsliding. Currently, only development appropriate for the site is allowed. Infeasibility criteria should be either a) a local option only for those jurisdictions where on-site retention is problematic rather than be used as a requirement for all permittees; or b) a requirement for those permittees that do not currently have on-site retention criteria.
- Please provide examples of "areas prone to erosion" and explain why they should be exempt from the requirement to retain stormwater on-site.
- LID has been practiced in eastern Washington for years but it's called other things like a swale.

Requirement to allow non-structural actions

- The permit proposes to require non-structural actions such as LID but does not provide a definition for what this means or how it protects water quality.
- Language requiring Permittees ("shall") to encourage project proponents to use natural drainage should be change to: "Permittees shall require project proponents to maintain natural drainages to the maximum extent possible, particularly where clearly defined by swales, channels, gullies and draws." Modification of natural drainages due to development has created many problematic flooding problems in some areas. Also, the Stormwater Management Manual for Eastern Washington (SWMMEW) specifies an order of preference for dealing with flow control, including use of natural drainages. Compliance with the SWMMEW is already a permit requirement via Appendix I.

Response to the range of comments

Timelines for implementing LID requirements

- The December 31, 2017 timeline in the final permit for implementing LID requirements are based on a permit effective date of August 1, 2014, as directed by RCW 98.40.260. Ecology also set this timeline in consideration of the need to complete an LID Manual and incorporate it into an update of the SWMMEW, and for training and implementation tools.
- Ecology has established the LID requirements for eastern Washington in steps similar to those for western Washington, although on a later timeline. The history, experience and funding opportunities in eastern Washington are not comparable to those in western Washington. Western Washington stormwater managers have had an LID technical manual, research and conferences, and many demonstration projects, training courses, and public education projects on LID over the past 15 years. During the 2007-2012 permit term, Western Washington Phase II permittees were required to "allow" LID and develop reports on barriers to LID and identify BMPs appropriate for their jurisdictions.

Ecology conducted a one-year LID advisory process in western Washington to take input on technical and implementation issues from a broad spectrum of interests. The Puget Sound LID Technical Manual was revised in coordination with an update of Ecology's stormwater manual for western Washington. This level of activities has not occurred in eastern Washington. Ecology believes the eastern Washington requirements are reasonable and achievable for this permit term, with support in the form of training, education, technical resources, and funding for demonstration projects.

- Ecology believes it would be counter-productive to require eastern Washington permittees to move prematurely into full LID implementation without technical and implementation tools in place similar to the foundation that has been laid in western Washington.
- Ecology did not delay feasibility criteria, but required permittees that are not already implementing the LID retention standard to adopt such criteria on the same timeline of December 31, 2017.

Technical resources and experience

- Ecology expects to work with the Washington Stormwater Center, WSU Pullman and others to conduct research into the performance of LID BMPs in eastern Washington conditions. This research would address concerns identified by commenters related to the selection of and performance of BMPs for conditions of freeze-thaw, vegetation appropriate to bioretention and other LID BMPs in an arid climate, issues of snow cover and snow melt, BMPs for fine-grained loess soils or shallow basalt, and a better understanding of the nature of short, intense rainfall events and impacts to natural drainage systems and non-structural stormwater facilities.
- Ecology expects to support LID training and guidance for topics such as selecting, designing and constructing projects, site plan review, and inspections and long-term maintenance. The training would target both local government staff and members of the building industry.
- If the legislature continues to provide funding for structural stormwater retrofit projects, it can serve as an incentive for demonstration projects to provide information on the performance of BMPs under local conditions, as well as to provide education opportunities.

Conflicts with local government regulations, structures, and budgets

- Ecology acknowledges that LID projects require that local government reviewers and developers incorporate stormwater design in the up-front phases of site planning. Although this may appear to move stormwater management closer to land use planning than previously, stormwater management has always been integrally linked to and part of land use development. Incorporating stormwater planning into initial site planning rather than doing it at the end of the process not only protects hydrologic processes and water quality, but often saves costs, as well.

- The Pollution Control Hearings Board (PCHB) rulings on LID in western Washington directed Ecology that LID requirements can harmonize with and complement the GMA. The GMA requires that critical areas be protected both inside and outside of the UGA. LID in new and redevelopment has some limitations in ultra-urban areas, but is feasible in many parts of eastern Washington UGAs.
- Ecology did not require LID in the right-of-way. The final permit requires permittees to "allow" LID and to retain the 95th percentile of rainfall (or local equivalent) either onsite or in regional facilities. Jurisdictions can address concerns regarding LID in the right-of-way in the feasibility criteria, for example, compatibility with public safety, or other uses of the right-of-way under local zoning.
- Ecology revised the final permit to reduce the requirement for many permittees to update ordinances, as suggested by several commenters. If permittees are already meeting the runoff retention requirement, including with a "local equivalent" or using regional facilities, they need not update ordinances. Ecology expects that by December 31, 2017 they will have the time to budget resources, or use the "Capacity Grants" provided by Ecology, to make the necessary code changes. More information is provided in the responses below.
- Local governments currently coordinate between planning and engineering divisions to review and approve new and re-development stormwater site plans and facilities. Ecology will provide guidance for administrative tools and procedures to help local governments adapt to coordinating these functions for LID projects.

Feasibility criteria requirement

- Ecology recognizes that not all LID techniques are feasible on all project sites. For this reason, the final permit retained the requirement to develop feasibility criteria for those not already implementing or exceeding the LID retention standard. Because of the variability of local conditions in different areas of eastern Washington, and because there may be little experience and research on specific BMPs for some of these areas, Ecology allows local jurisdictions to develop local feasibility criteria during this permit term.
- Ecology recognizes that some permittees in eastern Washington are already meeting the runoff retention standard in existing ordinances, and clarified in the final permit that they may rely on the feasibility criteria they are now using rather than amending their ordinances. Ecology also added language to the final permit to allow permittees to meet this requirement by adopting the feasibility criteria developed for the eastern Washington LID Manual.
- For those jurisdictions with unique conditions and problems, Ecology suggests building on the feasibility criteria developed for the eastern Washington LID Manual to address those local conditions. Ecology expects that during this permit cycle permittees, members of the building industry, researchers, Ecology staff and other interested parties will

acquire considerable information that will help inform LID permit requirements in subsequent permit terms.

- Ecology includes "areas prone to erosion" in the feasibility criteria for sites that are not suitable for infiltration due to reasonable concerns about erosion, especially on or near a slope. A geotechnical evaluation can identify project sites with highly erodible soils that could experience accelerated erosion with additional saturation from infiltration.

Clarify the LID requirements

- Ecology recognizes that regional facilities for stormwater management can provide significant benefits, especially in urbanized areas. Some jurisdictions are implementing long-term plans at a significant community investment to manage stormwater using regional facilities. Ecology revised the LID requirement to retain runoff on site as follows:
    - Changed "retain runoff on-site" to "retain runoff generated on-site" to allow for retention and infiltration or evaporation in regional facilities.
    - Added a statement allowing permittees to meet the requirement using regional facilities. Water quality can be protected if the runoff is retained and infiltrated or evaporated in a regional facility so that it does not reach surface receiving waters.
- The 2007-2012 permit required permittees to define a specific hydrologic method for implementing flow control in new and redevelopment. Some permittees met this requirement at volumes greater than the retention standard proposed. Ecology recognizes that the LID runoff retention standard may be met (or exceeded) using another hydrologic method, but with equivalent or better hydrologic benefits, and added to the requirement "…or a local equivalent." Jurisdictions that meet or exceed the requirement in current regulations do not need to revise ordinances for this purpose.
- The description of non-structural preventative actions and source reduction approaches such as LID refers to on-site stormwater management using natural features and conservation when possible. The Definitions section includes a definition for LID consistent with this approach that "mimics pre-disturbance hydrology" in part by "use of on-site natural features."
- Ecology did not revise the language as recommended for S5.B.5.a.ii to require project proponents to maintain natural drainages and reduce impervious surfaces. The commenter is correct that the SWMMEW establishes a preference for protecting natural drainages, and Ecology relies on this requirement in Appendix I rather than revising the permit language. Ecology also retained the intent of "encouraging" project proponents to limit the total impervious surface created by new development and redevelopment projects as an appropriate advance of these techniques during this permit term.

II-6 Operations and Maintenance (S5.B.6)

II-6.1 Revising the O&M Plan to add topics

Permit reference: S5.B.6.a

Commenters: Asotin Regional Stormwater Program, Douglas County, Eastern Washington Coordinators Group, City of East Wenatchee, Environmental Clinic at Gonzaga University School of Law, City of Kennewick, City of Richland, City of Wenatchee, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- The new requirements to include dumpster maintenance and pet waste management will result in additional costs to jurisdictions.
- Additional time is needed to fully realize the benefits of the current O & M Plans before requiring changes.
- The new requirements should be deleted.
- The proposed new language, "and runoff from snow storage areas" and "... repair, and fueling ..." will result in additional costs.
- What is Ecology's expectation for how permittees are to "address" pet waste?
- This will require jurisdictions to update their just completed O & M Plans
- These requirements are already being met in our O & M activities.
- Delete the requirement regarding the Construction and Industrial Stormwater Permits, as a failure would result in a violation under more than one permit.
- LID should be required and incorporated into the O & M Plans by including LID retrofit projects for existing facilities and timelines for completing these projects.
- The requirement contained in the second sentence for vehicle fleets precludes the need for a plan required in the first sentence.

Response to the range of comments

- Ecology clarified the requirement for an update of the O&M Plan to require it, "if needed." The final permit also set a deadline of August 1, 2017, to allow time for permittees to address the new topics. The language "if needed" also clarified that for jurisdictions that have O&M Plans that already cover these activities, no additional action is required. This is a six-year interval from adoption of the plan under the 2007-2012 permit, which is a reasonable timeframe for jurisdictions to evaluate plan effectiveness and update the plan if needed.
- Ecology retained the draft permit topics in the O&M Plan. The revisions do not significantly expand permittee responsibilities, but clarify that permittees' O&M Plans should address

these topics on municipally owned and operated lands. The O&M Plan should already include procedures to implement BMPs to protect the MS4 from leaking fuel in repair areas, dumpster leaks, snow disposal area runoff, and pet waste pollution on municipal lands. Such BMPs may be structural BMPs such as cement berms around fueling area, location of snow disposal areas, or moving a dumpster under cover, or non-structural BMPs such as staff training to prevent illicit discharges, filling pet waste bag dispensers in parks, and availability of a spill response kit. The requirement does not obligate permittees to develop pet waste education programs or move dumpsters, but rather to document staff procedures to prevent or respond to potential pollutants on municipal lands and facilities. Guidance for these topics is available on Ecology's website, including examples of O&M procedures from other permittees.

- Ecology retains the requirement to obtain Construction and Industrial stormwater permits for municipal projects and facilities, to clarify that the permittee's obligation to comply with other stormwater permits is not changed by municipal stormwater permit requirements for stormwater discharges to the MS4 from municipal lands.
- Ecology does not add a requirement to retrofit existing facilities to LID. The federal rule does not require, and this permit does not include, a program element for structural controls or retrofits for Phase II permittees. LID facilities on municipal lands are subject to maintenance requirements under existing requirements.
- Vehicle fleet procedures in the O&M Plan should be addressed in greater detail than the general statement in the second sentence. The plan would include, for example, procedures related to spill kits, staff training, and disposal of contaminated or hazardous wastes.

II-6.2 Clarify municipal system maintenance requirements

Commenters: Chelan County, Eastern Washington Coordinators Group, City of East Wenatchee, City of Richland, City of Spokane, City of Wenatchee

Summary of the range of comments

Municipal facility inspection frequency

- The proposed language for inspection frequency every two years will increase costs.
- A three year timeframe is more reasonable than the proposed two year timeframe.
- The timeframe for inspections should be determined by each permittee's O & M Plan.
- Define "problem facilities" and provide specific criteria so permittees know which facilities are subject to increased inspection.
- Remove the term "more frequently" regarding inspection. If 95% of facilities must be inspected every two years, would more frequently mean annually?

Major storm event size

- Request including the size of the major storm event as it provides a threshold for compliance and clear expectations of when the requirement applies.
- Keep the major storm event size but delete "or snowmelt" from the major storm event size as there is not available data for snowmelt frequency or recurrence.
- Remove "as soon as practicable". Suggest Ecology provide a timeframe, such as 90 days, with a requirement to notify Ecology if repairs will take longer,

Response to the range of comments

Municipal facility inspection frequency

- Ecology limited the two year inspection frequency requirement to municipally owned or operated facilities that are not catch basins, in order to reduce the level of effort. Ecology also added language allowing the permittee to reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency or a written statement submitted with the annual report. Jurisdictions inspected these facilities once during the 2007-2012 permit term, and will do so again early in the 2014-2019 permit term. If records from those two inspections justify a lower frequency than every two years, permittees can reduce the frequency accordingly.
- Ecology extended the timeline for catch basins to be inspected and, if needed, cleaned "…at least once by December 31, 2018 and every two years thereafter." This will result in at least one round of cleaning during this permit term. Records from that inspection and from the inspection during the previous permit term could then suffice to justify a different frequency than every two years in future permit terms.
- Ecology added two other alternatives to the standard approach of inspecting and, if needed, cleaning catch basins every two years. These alternatives provide flexibility and can also reduce the level of effort. Ecology recognizes that different approaches may be more effective in one area of the MS4 than another. Permittees are encouraged to apply these alternatives to all or portions of their MS4 based on local knowledge, to minimize unnecessary inspections and maximize effectiveness in implementing the inspection program.
    - The first alternative approach recognizes that sediment accumulation may vary significantly within the MS4. Ecology adds the definition of a "circuit" to the Definitions section to address this variability based on factors such as size and configuration of the catch basins, traffic volumes and land use. Permittees must select a minimum of 25% of the catch basins within a circuit to be inspected under this alternative. If the circuit terminates at a single outfall, the catch basin immediately upstream of that outfall must be inspected.
    - The second alternative approach of cleaning all pipes, ditches, catch basins and inlets within a circuit once during the permit term has been shown to address legacy

contaminants in the MS4. Circuits selected for this alternative must drain to a single point to prevent recontamination from discharges that might otherwise be present in upstream portions of the circuit.

- Ecology relies on the professional judgment of local government staff to identify what constitutes a "problem facility," since there a variety of problems that could require more frequent maintenance checks. A "problem facility" could be one that, when inspected, significantly exceeds the maintenance standard and/or is functioning inadequately for reasons that could be corrected with more frequent inspection and maintenance. Determining the need for a more frequent inspection depends on the cause and is also a matter of professional judgment applied to the specific situation.

Major storm event size

- Ecology included the size of the major storm event in the final permit to clarify a threshold for compliance, but removed the reference to "snowmelt."
- Ecology retained "as soon as practicable" and did not define a timeframe because the nature of the repair may require delays for a variety of reasons, such as waiting until summer weather, until funding is available for repair, or other reasons.

II-7 Monitoring and Assessment (S8)

II-7.1 Keep, increase, reduce, or delete the proposed monitoring requirements

Commenters: Asotin County, Asotin Regional Stormwater Program, Chelan County, Columbia Riverkeeper, Douglas County, Eastern Washington Coordinators Group, Environmental Clinic at Gonzaga University School of Law, City of Kennewick, City of Richland, Richard Rogers, River Network/American Rivers, City of Spokane, Walla Walla County, City of Wenatchee, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Delete the proposed monitoring requirements
- The proposed monitoring is too costly
    - Permittees are concerned about costs of proposed monitoring. Local jurisdictions are stretched to a breaking point, do not currently have technical staff qualified to undertake the required monitoring. Funding and qualified staff are not available to implement and sustain new monitoring requirements.
    - A regional, collective approach to monitoring may not necessarily minimize diversion of resources from other activities.
    - Substantial time and effort is required to work with other jurisdictions
    - The cost to do Phase I monitoring is prohibitive

  - Spending on projects and programs that have a direct link to water quality improvement is in the public's interest and is a more beneficial use of limited local funds.
- The proposed monitoring will not produce meaningful information
  - The outcome of regional monitoring may not necessarily be beneficial to all permittees
  - Phase I monitoring has not produced beneficial and actionable data
  - Monitoring will not work given the lack of consistent precipitation and infrequent outfall discharges. Results would be skewed and unreliable, and the process difficult and expensive during these economic times.
  - Monitoring a single outfall is not a very cost-effective program.
  - Having numerous permittees performing monitoring/testing at various levels of expertise will provide inconsistent and useless data.
  - The effectiveness studies will produce minimally defendable answers and will likely fall short of producing locally beneficial and actionable data.
  - EPA language states that jurisdictions should evaluate "appropriateness" of BMPs rather than "effectiveness." The permit already requires all known, available, and reasonable methods of prevention, control and treatment (AKART) to prevent and control pollution of waters of the State of Washington.
  - The effectiveness of a BMP at a specific location will in fact be site specific, and based on proper engineering design for the flow, geology, location and use, quality of construction, sufficiency of materials used, and maintenance. No two sites are the same, even within the same jurisdiction. We will not gain regionally applicable new data from BMP effectiveness studies.
  - Many of the BMPs in the manual have been subject to both regional and national study and are known to consistently reduce levels of stormwater pollutants when sited, designed, installed and maintained properly. Additional "BMP effectiveness studies" on already known effective BMPs is not necessary and would not produce new and regionally beneficial results. No further BMP effectiveness monitoring is necessary within the Phase II permits.
  - Stormwater sampling is not a good means of determining the success or failure of stormwater management programs. Stormwater is highly episodic, heterogeneous and difficult to sample regularly. Obtaining useful samples of stormwater that shed light on how effective a specific BMP may be at a specific location is very difficult and costly.
  - Effectiveness monitoring of our current SW program will provide better and more legitimate information.
- The proposed monitoring goes beyond EPA's rules and regulations
  - The following passages are quoted from the Phase II [preamble] (Federal Register, Vol. 64, No. 235, December 8, 1999, page 68769): *"In the second and*

> *subsequent permit terms, EPA expects that some limited ambient monitoring might be appropriately required for perhaps half of the regulated small MS4s. EPA expects that such monitoring will only be done in identified locations for relatively few pollutants of concern…[EPA] encourages participation in group monitoring programs that can take advantage of existing monitoring programs undertaken by a variety of governmental and nongovernmental entities…EPA expects that many types of entities will have a role in supporting group monitoring activities-including federal agencies, State agencies, the public, and various classes or categories of point source discharges…Some regulated small MS4s might be required to contribute to such monitoring efforts, EPA expects, however, that their participation in monitoring activities will be relatively limited…EPA recommends that, in general, NPDES permits for small MS4s should not require the conduct of any additional monitoring beyond monitoring that the small MS4 may be already performing…Operators of regulated small MS4s are required to evaluate the appropriateness of their identified BMPs and progress towards achieving their identified measurable goals…EPA does not anticipate 'end-of-pipe' monitoring requirements for regulated small MS4s."*

- Stormwater discharge monitoring is not justified under federal requirements.
- Collaborative monitoring forces expenditures outside permittees' jurisdictions.
- Keep/strengthen the proposed monitoring requirements
    - Give higher priority to collaborative effectiveness monitoring
    - Use effectiveness monitoring to demonstrate that the permit system is actually reducing and preventing polluted discharges to local water bodies
    - Demonstrate to the public that permittees are complying with the Clean Water Act, and provide interested persons and organizations with important data regarding the impact of stormwater on water bodies.
    - The permit falls short of imposing meaningful, timely monitoring requirements.
- Any monitoring requirements should fall under TMDL compliance section of the permit.

Response to the range of comments

- Ecology understands permittees' concerns about costs and appreciates the helpful comments on this section. Getting meaningful information about stormwater management program activities that are of most concern to the permittees should make their programs more cost-effective in the long term. The public is entitled to this adaptive management information. The final permit delays implementation of effectiveness studies and gives local jurisdictions considerably more flexibility and control over selection and design of the studies. Although each individual study will not benefit every permittee, the collective set of studies, if selected thoughtfully, should benefit all permittees.

- Ecology understands permittees' and other interested parties' concerns about getting meaningful information. Selecting and implementing studies of stormwater management program activities that are of most concern to the permittees should ensure that the results of the studies are meaningful, useful, and beneficial to the permittees. Stormwater discharge monitoring is not included in the final permit as an opt-out alternative to participating in these studies, as was proposed in the formal draft permit.
- Ecology believes that EPA guidance supports our approach to monitoring and notes that the commenters referenced the Phase II preamble, not the rule. The Phase II preamble (from 64 FR 68769) highlights EPA's stance regarding appropriate monitoring for Phase II regulated MS4s: "EPA encourages permitting authorities to carefully examine existing ambient water quality and assess data needs. Permitting authorities should consider a combination of physical, chemical, and biological monitoring or the use of other environmental indicators such as exceedance frequencies of water quality standards, impacted dry weather flows, and increased flooding frequency."
- Ecology agrees that the monitoring priority for this permit term, given our current state of knowledge, is getting good information about effectiveness of stormwater management program (SWMP) activities. Stormwater management program activities may include specific BMPs but individual BMPs are not Ecology's intended focus for Eastern Washington Stormwater Management Program planning efforts. In launching this new collaborative process, Ecology encourages Permittees to look more broadly at SWMP activities and questions about how to make them more environmentally protective and/or cost-effective.
- Ecology proposes to work outside of the permit structure during this permit term to assess what is known about stormwater impacts to receiving waters in eastern Washington and design a monitoring program for future permits. The final permit for this cycle includes neither stormwater discharge monitoring nor receiving water monitoring. Stormwater discharge monitoring was proposed in the formal draft permit only as an "opt-out" alternative to participating in regional collaborative effectiveness studies.
- Relevant TMDL monitoring applies only to four city and county jurisdictions in eastern Washington. Ecology encourages these jurisdictions to propose effectiveness studies that complement their required TMDL monitoring.

II-7.2 Reduce the scope of proposed stormwater discharge monitoring

Commenters: Douglas County, Eastern Washington Coordinators Group, City of Kennewick, City of Richland, City of Spokane, Walla Walla County, City of Wenatchee, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- The proposed stormwater discharge monitoring is not a feasible option for most permittees in Eastern Washington due to the high cost of equipment, specialized technical skills, staff time, additional FTEs required, and laboratory analysis. This option should be reduced in scope and cost, and analytes should be chosen for specific regional concerns.
- The Phase I level monitoring described in Appendix 8 is excessive and unreasonable for Phase II communities. It is inappropriate to copy one set of monitoring requirements to another region without making adjustments for objectives, parameters sampled, types of sampling, number of samples required, and site conditions.
- Stormwater discharge monitoring is disproportionately arduous and costly compared to participating in regional collaborative effectiveness studies. Ecology should propose equivalent options.
- The required monitoring appears to far exceed the level of detail and effort required "to characterize stormwater runoff quantity and quality at a limited number of locations in a manner that allows analysis of loadings and changes in conditions over time and generalization across the permittee's jurisdiction." (Draft E WA Phase II Municipal Stormwater General Permit, Appendix 8, page 1, lines 2-4). We suggest that monitoring be driven by the goal or question to be answered and the degree of variability in the samples. Quality Assurance Project Plans (QAPPs) are the appropriate tool to address methodology for a given monitoring effort.
- Allow a permittee to monitor a single outfall that encompasses a majority of the MS4 system and covers multiple land uses.
- Even one outfall is too many for jurisdictions with only a handful of outfalls.
- Do not require every Permittee to develop a QAPP. Allow permittees to use a QAPP developed by Ecology for municipalities to follow in order to reduce costs and continue to ensure usable data.

Response to the range of comments

- Appendix 8 of the draft permit, and the associated optional requirement to conduct stormwater discharge monitoring as an alternative to participating in regional collaborative effectiveness studies, are not included in the final permit. All city and county permittees (except new permittees) are required to participate in final permit S8.B effectiveness studies; there is no "opt-out" available.

II-7.3 Allow grab sampling instead of flow-weighted composite stormwater discharge monitoring

Commenters: Douglas County, Eastern Washington Coordinators Group, City of Richland, City of Spokane, Walla Walla County

Summary of the range of comments

- Flow-weighted composite sampling is not the only way to obtain meaningful data. The monitoring requirements in the Phase II stormwater permits issued by EPA include grab samples taken without specialized equipment and analysis for a narrower suite of contaminants.
- Revise stormwater discharge monitoring to be consistent with EPA's Preliminary Draft NPDES Permit for the City of Moscow, March 2011, which allows for grab samples 4 times a year for five parameters (flow, fecal coliform, temperature, TSS, phosphorus). The timing of sample collection would be based on appropriate rainfall and flow events. This level of monitoring would be much more reasonable and cost effective for Phase II jurisdictions.
- Spokane has data from the late 1990's available for one outfall, which can be compared to newly collected data.

Response to the range of comments

- The final permit does not include stormwater discharge monitoring. Ecology believes that while grab sampling can be helpful to identify illicit discharges and other sources of pollution, grab samples do not provide adequate adaptive management information to improve stormwater management programs and practices. Permittees are encouraged to conduct grab sampling as appropriate and helpful to support illicit discharge detection and elimination requirements in S5.B.3. Permittees should consider analysis for a broader range of pollutants known to be present in stormwater across the country and at levels that are harmful to biota, for example: metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, phthalates, pesticides, and herbicides.

II-7.4 Add, or substitute, receiving water monitoring

Commenters: Eastern Washington Coordinators Group, City of Richland, River Network/American Rivers, City of Wenatchee

Summary of the range of comments

- In the absence of status and trends monitoring, require at least annual receiving water monitoring, summarized in annual reports, to better understand whether the quality of the waters is improving or deteriorating.

- Allow permittees to conduct ambient receiving water monitoring as an alternative to stormwater discharge monitoring.
- At the end of each Permit cycle it seems reasonable to that there is some level of watershed health assessment. In lieu of requiring Permittees to do effectiveness studies Ecology should conduct an independent overall watershed health analysis at the end of the second Permit cycle to begin to assess overall watershed health.

Response to the range of comments

- Neither receiving water monitoring nor stormwater discharge monitoring is included in the final permit. Ecology proposes to work outside of the permit structure during this permit term to assess what is known about stormwater impacts to receiving waters in eastern Washington and design a monitoring program for future permits.

II-7.5 Allow more time to develop a monitoring program and increase local control and flexibility

Commenters: Association of Washington Cities, Asotin County, Asotin Regional Stormwater Program, Columbia Riverkeeper, Douglas County, City of East Wenatchee, Eastern Washington Coordinators Group, Environmental Clinic at Gonzaga University School of Law, City of Richland, Richard Rogers, City of Spokane, Walla Walla County, City of Wenatchee, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Instead of prescribing a monitoring approach in this permit, take the time necessary to develop a proposal that is cost effective, tailored to the climate, and that will generate the sort of information that can truly determine whether we are making progress or not.
- Timing is too slow/too aggressive
    - 2014 is too soon to effectively develop a multi-regional monitoring program. Permittees need more time to form partnerships, secure necessary agreements and contracts, develop monitoring and implementation plans, and work with Ecology to develop plans for Eastern Washington for implementation within the third permit cycle similar to the opportunity extended to the Western Washington Phase II permittees.
    - The permit falls short of imposing meaningful, timely monitoring requirements.
    - Why is monitoring not beginning until after permittees' programs are up and running?
- Simplify the process
    - Allow Eastern WA permittees to develop a monitoring program within four years of issuance of this permit. The monitoring program should include identifying data

collection that will provide information on the effectiveness of the BMPs used to meet permit requirements, methods to improve the effectiveness of the BMPs if they are not satisfactory, partnerships between permittees where data collection can be conducted efficiently and effectively, and a method to report the results of this data collection. Deadlines can be included as milestones for the group to develop the program.

- Delete the proposed sub-regions:
    - Allow Eastern WA permittees to work together as a cohesive, large group rather than three smaller sub-region groups as proposed.
    - Since the proposal allows permittees to enter cooperative agreements with just a small number of other permittees in their sub-region or even work outside of their sub-region, and Ecology is willing to allow other arrangements, delete the sub-regions and instead require permittees to "Enter into a collaborative agreement with other permittees to select, develop, and conduct Ecology-approved effectiveness studies. Pursuant to the agreement, permittees will collaboratively propose studies to assess effectiveness of required stormwater management program activities and best management practices."
        - Revise the approach to allow permittees to develop partnerships rather than defining them in the permit. We have developed successful partnerships to implement permit requirements, but adding more parties to this type of arrangement will be problematic and require more travel time for meetings.
    - How does Ecology propose to incorporate the stakeholder process established by each entity during the first permit cycle to be continued on a sub-regional basis?
    - Allow municipalities to monitor themselves. As long as it is an effective monitoring system, it can be a regional focus. What is important is that we have an effective monitoring system.
    - Clarify the number of proposals/QAPPs Ecology will approve
        - How many proposals will multiple Permittee groups working within a sub-region submit?
        - What if all eastern Washington Permittees want to collaborate on one large regional proposal?
        - State how many proposals each Permittee be responsible for, and preferably no more than two proposals.
        - Ecology will have to approve the proposals suggested by each Permittee anyway.

Response to the range of comments

- Ecology appreciates the helpful comments on this section. The final permit delays implementation of effectiveness studies to the final months of this 5-year permit cycle, which per Legislative direction is delayed by two years, and gives local jurisdictions more

flexibility and control over their selection and design. This should provide ample time for a process to select and design effectiveness studies that address stormwater management program activities that are of most concern to the Permittees. It also ensures that a plan for ongoing effectiveness studies is in place for the next permit cycle.

- Ecology will approve only between eight (8) and twelve (12) Quality Assurance Project Plans (QAPPs) that are submitted on behalf of all of the permittee groups that are formed to comply with this requirement. Ecology will not approve QAPPs for studies that are not included in the list of proposals collectively submitted by eastern Washington permittees, and for which lead entities and participating permittees are clearly identified. Ecology expects a mix of groupings of permittees (from local groups to all or most of eastern Washington) to participate in the various proposals. Stakeholder involvement process will vary from proposal to proposal as necessary.
- Permittees are required to participate in the collective process to identify, rank, and select collaborative regional proposals but they are not required to participate in individual studies, and there is no set minimum or maximum number of studies for which a single permittee can serve as lead entity. Ecology is allowing the permittees this opportunity to work together to form their own partnerships and collaborative arrangements, and it is up to the Permittees to ensure that the resulting information will be useful. Ecology believes that the Eastern Washington Stormwater Coordinators Group will be helpful in facilitating the collective ranking process for all of eastern Washington. Ecology encourages Permittees to use on-line surveys and other methods requiring minimum travel time for meetings to conduct the collective process.

II-7.6 Clarify full compliance with permit requirements

Commenters: Walla Walla County, City of Wenatchee

Summary of the range of comments

- We have concerns about liability from third-party lawsuits. The consortium approach requires collaboration, but the permit explicitly states a permittee is still responsible for meeting all permit deadlines when partnering with another entity. We request a clear statement within the Permit that a permittee is in full compliance with Permit requirements as long as good faith efforts are made to collaboratively conduct effectiveness studies.
- If one entity does not participate, is the entire sub-region required to “select" stormwater discharge monitoring?

Response to the range of comments

- Ecology understands permittees' concerns about compliance with permit requirements. New permit section S8.C requires all city and county permittees (except new permittees) to report on their participation in Eastern Washington Stormwater Management Program planning efforts and related outcomes. The final permit does not provide an alternative to this required participation in collaborative regional monitoring. Ecology understands that small jurisdictions will have less capacity than large jurisdictions to participate in developing regionally- or sub-regionally-defined study proposals. However, even the smallest jurisdictions should provide the ideas they have and participate in the ranking and selection process. The largest jurisdictions are expected (but not required) to volunteer to serve as lead entities for one or more studies.

II-7.7 Concerns about process and equity

Commenters: Asotin Regional Stormwater Program, Association of Washington Cities, Douglas County, River Network/American Rivers, City of Spokane, Walla Walla County, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Permittees in Western Washington were given several years to develop a monitoring plan specific to their region and monitoring needs. Eastern Washington, composed of smaller Phase II communities, has not been given this opportunity and is expected to duplicate large Western Washington municipalities' activities which do not correlate with either the budget available or the analytes of concern in Eastern Washington.
- Ecology's focus on the RSMP in western Washington disadvantages the MS4s in eastern Washington. For equity purposes, Ecology needs to provide the same regional pay-in option to accomplish Effectiveness Studies and Source Identification and Diagnostic Monitoring in eastern Washington.
- Per earlier conversations with Ecology, Permittees were surprised to see the proposal in the draft permit with an aggressive schedule for monitoring. This permit cycle should provide a process and forum for discussions that would end with a monitoring plan. The proposed plan hasn't been informed by the level of conversation and analysis that will be necessary to develop a successful program in the unique eastern Washington context.
- During several meetings, Ecology assured us that they are not interested in water quality sampling as it will not provide accurate information about the permit and will be expensive to develop and implement. Incorporation of the "option" of providing stormwater discharge monitoring was not discussed with permittees prior to issuance of the draft permit.
- In a letter dated February 15, 2011, Ecology Director Ted Sturdevant supported the idea of permittees participating in development of a monitoring program. "The participation of local

governments in permit decisions around such aspects as low-impact development (LID), compliance thresholds, areas of geographic coverage and monitoring is critical."

- Under the current permit, the smallest jurisdictions are excluded from Stormwater Monitoring and Runoff Treatment BMP Effectiveness Monitoring. As such, we did not include them in our long-term budgets and plans.

Response to the range of comments

- The final permit provides an extended timeline and more local control and flexibility for implementation of regional collaborative effectiveness studies. Neither receiving water monitoring nor stormwater discharge monitoring is included in the final permit. Ecology proposes to work outside of the permit structure during this permit term to assess what is known about stormwater impacts to receiving waters in eastern Washington and design a monitoring program for future permits. Permittees and others may, in the end, propose a pay-in structure for conducting monitoring appropriate to eastern Washington, or they might not. As long as the most important and meaningful information is collected, Ecology will not impose an administrative structure on Eastern Washington Permittees.

II-7.8 Monitoring is the State's responsibility

Commenters: Chelan County, Douglas County, Eastern Washington Coordinators Group, City of Richland, City of Spokane, Walla Walla County, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- While we appreciate Ecology's efforts to propose a lower-cost method of assessing the effectiveness of our stormwater management program, Permittees should not be required to evaluate the effectiveness of Ecology's requirements. Ecology should take the lead to determine the effectiveness of costly requirements in reducing pollution prior to including them in permits.
- The proposal places the initial development and financial burden of creating a functioning monitoring plan for all of Eastern Washington on the shoulders of Phase II jurisdictions.
- The permit should continue to focus on Ecology's monitoring of ambient water quality.
- Ecology has access or can gain access to existing waterbody monitoring data performed by other agencies. This data should be utilized to determine what if any issues or concerns need to be addressed.

Response to the range of comments

- Ecology believes that monitoring is a shared responsibility of local, state, and federal government. Getting good information about stormwater management program activities that

are of most concern to the permittees should make their programs more cost-effective in the long term. The final permit delays implementation of effectiveness studies and gives local jurisdictions more flexibility and control over their selection and design to ensure that the most important questions are answered and the public is provided with good information. Neither receiving water monitoring nor stormwater discharge monitoring is included in the final permit. Ecology proposes to work outside of the permit structure during this permit term to assess what is known about stormwater impacts to receiving waters in eastern Washington and design a monitoring program for future permits.

II-7.9 Utilize Washington Stormwater Center

Commenters: Douglas County, Eastern Washington Coordinators Group, City of Richland

Summary of range of comments

- Rather than requiring permittees to provide final results of the studies to Ecology, and to all other cities and counties covered under the permit, we suggest that the permittee provide the final results to Ecology or the Washington Stormwater Center who in turn makes the information available to all other permittees. The Washington Stormwater Center was funded and intended to serve as a stormwater resource for all interested parties.
- If additional study of BMPs currently listed within the Storm water Management Manual for Eastern WA (or other approved document) is necessary then that research and study should be facilitated by the Washington Stormwater Center, in coordination with Washington State University and the University of Washington.

Response to the range of comments

- Permittees are encouraged to enlist the assistance of the Washington Stormwater Center in developing and ranking the list(s) of regional, collaborative effectiveness studies and in designing and implementing the studies as well, if desired. The Washington Stormwater Center can also provide a communication tool for reporting the results of studies.

II-7.10 The reporting requirement is too broad

Commenters: Chelan County, Eastern Washington Coordinators Group, City of East Wenatchee, City of Richland

Summary of the range of comments

- S8.B in the formal draft permit requires local jurisdictions to submit and/or report outside entities' monitoring efforts that may or may not be valid for any number of reasons,

including potentially substantiating efforts that aren't scientifically valid or accurate. The phrase "or if stormwater-related investigation conducted by other entities were reported to the Permittee" should be deleted.

Response to the range of comments

- Section S8.B in the draft permit is section S8.A in the final permit. Ecology understands Permittees' concerns about being required to report information of dubious quality or credibility that is provided to the Permittee by outside entities. Permittees need only include in their annual reports information that is specifically relevant to the Permittee's MS4 and receiving waters, and Permittees need only list the source and a brief description of the information provided. If the information warranted action by the Permittee, that should be indicated as well.

II-7.11 Editorial Comments

Commenters: City of Spokane: Douglas County, City of Richland, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- Correction: The referenced section S.5.C.8 does not exist in this document.
- For clarity:
    - Specifically list each jurisdiction (City and County) subject to the E WA Phase II Permit and group them accordingly so there is no mention of Counties who aren't Permittees.
    - Identify how many discharge locations will be required to be tested
    - Delete "relevant" -- all data should be properly defined in a QAPP
    - Replace "as part of conducting" with "for"
    - Delete "to implement" since the task is to notify which option the Permittee is choosing.
    - "Begin full implementation" is vague and subjective, could mean that a consultant has been hired; or that data has been collected. What is Ecology's specific expectation so Permittees can be sure they are compliant with the terms of the permit? Suggested language: "Perform actions in accordance with roles, responsibilities and schedule identified in the approved QAPP."
    - Delete "targeted"
    - Replace "sub-region" with "Permittee group" and delete "sub-regional"
    - Delete "implementation": "Describe interim results and status of the study in annual reports throughout the duration of the study."

- Add the word "written" between "Ecology's" and "approval" so Permittees and Ecology have a documented date and timeline in which QAPPs must be submitted.

Response to the range of comments

- Thank you for these helpful comments. Changes were made as appropriate.
- Not all data collected that is relevant to a study can be entered into Ecology's Environmental Information Management (EIM) database. The purpose of the permit requirement is to ensure that all data that can be entered into EIM is entered by the permittees. In final permit section S8.B.9 "relevant" is replaced with "applicable" to make this clearer

II-8 Appendix 1 – Minimum Technical Requirements

Comments related to Appendix 1, Minimum Technical Requirements are in S5.B.4 Construction Site Stormwater Runoff Controls, and S5.B.5 Post-construction Stormwater Management for New and Redevelopment, in Part II, above.

II-9 Appendix 2 – Total Maximum Daily Load Requirements

Permit reference: Spokane River TMDL
Commenters: Eastern Washington Coordinators Group, City of Spokane

Summary of the range of comments

- The basins named for the City of Spokane (North Driscoll Residential Basin, North Division Commercial Basin, and West Trent Industrial Basin) are not appropriate basins to study for this TMDL. Delete these requirements as these basins will be studied separate from the permit.
- The timelines for Spokane County are too aggressive to meet in addition to all the other deadlines in this permit due to the County's reduced budget. Request that the deadlines be extended by one year. This will align the results of the action plan to be ready to go in the next permit after 2018.

Response to the range of comments

- Ecology agrees and replaced the basins named in the draft permit with the Cochrane Basin, because a study of this larger basin is not already planned.
- Ecology delayed the permit effective date by one additional year as directed by RCW 90.48.260, which meets the request of the commenter.

II-10 Appendix 3 – Annual Report for Cities, Towns and Counties

Comments related to Appendix 3 are in S9 Reporting and Recordkeeping in Part I.

II-11 Appendix 4 – Annual Report for Secondary Permittees

Comments related to Appendix 4 are in S9 Reporting and Recordkeeping in Part I.

II-12 Appendix 6 – Street Waste Disposal

Commenters: Asotin Regional Stormwater Program, Douglas County, Eastern Washington Coordinators Group, City of Richland, City of Spokane, Yakima Area Stormwater Co-Permittees

Summary of the range of comments

- The decant facility requirements should be phased in over time.
- These requirements are unnecessary and should be deleted as they are already required in the O & M plans.
- The preferred method for disposal of decant liquid should be through evaporation rather than discharge to a sanitary sewer.
- Explain how "non-toxic under circumstances of use" is determined for flocculants. What information must a Permittee collect to receive approval in advance from Ecology?
- Since option #3 for disposal is the last of three sequential preferences, a statement that the second preferred alternative disposal method (Stormwater Treatment BMP) is also not available needs to follow this statement regarding "the" preferred disposal method to sanitary sewer.
- Street waste solids are not referenced in this section, despite the title on line 30. The subject of the statement is contaminated soils, and implies, but does not state, that street waste solids are contaminated. Please clarify the relationship between street waste solids, contaminated soils, solid waste, and hazardous waste so Permittees know, or are provided enough information to determine, what the correct disposal method is for street waste solids.
- If Ecology will not generally require a waste discharge permit for discharge of decant water to sanitary sewers and stormwater treatment BMPs, please describe in what circumstances Ecology would or has required a waste discharge permit.
- Correct the incorrect reference to the MS4 instead of the sanitary sewer in #1.

Response to the range of comments

- Disposal of street waste appropriately is not a new requirement. Ecology added Appendix 6 to the permit to clarify the sequence of options for disposal. Ecology did not delete Appendix 6, because this permit regulates discharges from the Permittee's MS4. Reintroduction of decant water into the MS4 from catch basin or other maintenance is fully within the purview of this permit, as is proper management of waste materials generated by actions required under this permit. Ecology grants awarded in 2012 are funding construction of three decant facilities in eastern Washington.
- Evaporation of decant liquids is allowable as a method of Basic Treatment (see Chapter 5 of the SWMMEW) under option two of Appendix 6, but the preferred option is discharge to a Public Owned Treatment Works (POTW).
- Ecology determines whether flocculants are "non-toxic under the circumstances of use" through a review of the technology to approve it for use under the Technology Assessment Protocal – Ecology (TAPE) program. Approved technologies are listed on Ecology's website at http://www.ecy.wa.gov/programs/wq/stormwater/newtech/index.html
- Ecology removed the statement that the option for disposal to the sanitary sewer is not available. Because these are clearly listed as options in the order of preference, further clarification is not needed.
- Ecology agrees that all street waste solids are not contaminated, and revised the Street Waste Solids section accordingly. Ecology refers permittees to local regulations that govern whether solid waste may be reclaimed, recycled, or reused or to determine the appropriate method of disposal. The section cites Chapter 173-350 WAC for further information on identifying and disposing of contaminated waste.
- Ecology may require a waste discharge permit for discharges of stormwater decant to sanitary sewer or stormwater treatment BMPs, but only in site-specific situations where there is a known pollution problem and disposal at a POTW is not an available option. These conditions would be known as part of an ongoing process to address the pollution problem, and the waste discharge permit would be specific to the situation.
- Ecology corrects the incorrect reference to the MS4 to restore it to "municipal sanitary sewer."