Part III: Response to Comments on Western Washington Phase II Permit

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See Part I of the Response to Comments (RTC) for additional comments on the Western Washington Phase II permit that also apply to at least one other permit. See Part V of the RTC for Phase I and Western Washington Phase II comments on Appendix I, Low Impact Development (LID), and watershed-based stormwater planning.

III-1 Runoff Controls for New and Re-development and Construction Sites (S5.C.4)

See Part I of the RTC for issues in this permit section related to the timing of implementation of runoff controls, and see Part V for comments related to LID, watershed-based stormwater planning, and Appendix I.

III-1.1 Elimination of the One-Acre Threshold

Permit reference: Western Washington Phase II S5.C.4.a

Commenters: Association of Washington Cities, Norman Baker, City of Battle Ground, City of Bellingham, City of Bremerton, Cary Butler, City of Clyde Hill, Cowlitz County, City of Des Moines, EPA Region 10, EarthJustice, City of Everett, Joyce Hannum, City of Issaquah, City of Kenmore, City of Kelso, City of Lacey, Lake Forest Park Streamkeepers, League of Women Voters Seattle/King County, League of Women Voters of Washington, Lider Engineering, City of Longview, Lower Columbia Contractors Association, Master Builders Association of King and Snohomish Counties, Judy Matchett, Muckleshoot Indian Tribe, North Sound Baykeeper Team, City of Oak Harbor, People for Puget Sound, People for Puget Sound Group Letter, City of Port Angeles, City of Port Orchard, City of Poulsbo, Precautionary Group, Puget Soundkeeper Alliance, Puget Sound Partnership, Jeff Richter, City of Sammamish, Sierra Club Email Campaign, Skagit County, SnoKing Watershed Council, Stewardship Partners & the 12,000 Rain Gardens campaign, Val Stewart, Sustainable Development Task Force of Snohomish County, Sustainable Seattle, U.S. Fish and Wildlife Service, Dan White,

Summary of the range of comments
Support reducing the one-acre threshold:

- To address cumulative effects of development on small projects/parcels to water quality and hydrology.
- Has been the standard in the Ecology manual since 1992.
- Consistency with the Phase I requirements; more equitable, levels playing field.
- To not do so would exempt most development and re-development projects in urban and urbanizing areas, which is on smaller parcels.
- Construction projects on smaller sites need more frequent inspections.
- Provides more equitability among Phase II's, some of which were required to keep previous thresholds in place under the 2007 permit.
- Necessary to bring in compliance with the 2005 manual for equitability of the anti-degradation standard.

Oppose reducing the one-acre threshold

- Cost during times of economic recession
  - Cost to local governments to regulate, inspect, enforce, and keep records for significantly more projects, at a time when local government budgets and resources are significantly cut back.
  - Cost to development community to meet requirements, especially given the need to recover the housing industry. More projects would require professional services. This would stifle the homebuilding industry and impede economic recovery.
  - Increases the standards and costs of public road projects because it applies to more, which impacts ability to maintain streets and other municipal program activities.
  - Especially difficult to do this at the same time as adopting LID standards.
- It is not necessary
  - Phase II's are protecting water quality and hydrology
    - Many Phase II's already regulating at that level (2005 manual)
    - Some Phase II's already regulating at less than one acre to address local conditions in a way that protects water quality and hydrology.
  - Provides little environmental benefit, as small sites generally create minimal off-site impacts.
- Creates negative impacts for stormwater/local government program
  - Phase II local government staff do not have experience and training to review projects at this level. Other impacts to staffing are the fluctuating timing of development and need to have trained staff on hand for those times, because of state laws limiting the allowable review times.
  - Re-opening the ordinances for this requirement will create a contentious and difficult public process and undermine faith in local government processes. Adopting previous (2010) ordinances was difficult and took a lot of resources and effort to reach agreement. The public expected this battle to be resolved.
- Other negative impacts
  - Imposing this on urban areas would push development into rural areas.
  - Takes away from local government efforts to maintain existing infrastructure.
  - Reducing the threshold will drive up permit fees and utility fees for smaller jurisdictions. The additional barriers will limit smaller projects, reducing the ability to fund retrofit projects.
  - Reduces the number of retrofits of smaller sites because requirements would discourage redevelopment of fewer smaller lots.

    - In Phase II county permitted areas, would affect development of a 20' x 250' driveway (not unusual in rural county), requiring permeable pavement and delaying a project. This is a burden on individual homeowners and leads to poorly maintained driveways and roads and more pollution from sediment.
- Not feasible to implement because:
    - Would require small projects to submit a construction SWPPP, which is a large document, which is unreasonable as it may not apply to smaller sites, and beyond the knowledge of individual homeowners putting in a patio or shed.
    - Smaller projects are less able to meet the "one-size-fits-all" mitigations.
    - The number of projects the requirements would apply to in some urban areas would increase significantly.
    - Rural county does not have staff or professionals locally with technical capacity (engineering, geotechnical, and erosion control services) nor qualified contractors to, for example, write a SWPPP for a demolition job downtown.
- Statutory issues raised in comments
    - Under 19.85.030(1)(a) RCW, the Regulatory Fairness Act, Ecology should prepare a small business economic impact statement if a proposed rule will impose more than minor costs on businesses in an industry.
    - Goes beyond the threshold in the EPA federal rule for Phase II stormwater.
    - If Ecology does this for the municipal permit, it should also do so with the Construction Stormwater permit, in order that Ecology understand how difficult it is for cities to find extra funds and staff to manage the extra permitting workload.
- Suggest alternative approaches.
    - Retain the current 1-acre threshold.
    - Adopt thresholds that provide comparable protection to receiving waters and are tailored to local circumstances, as approved by Ecology on a case-by-case basis.
    - Postpone this change until the economy recovers.
    - Keep threshold at 1-acre for the first three years of the permit cycle, then lower it to give jurisdictions time to adjust gradually and prepare.
    - Suggest researching and reviewing existing thresholds to see if they are working before lowering them. How does Ecology know the proposed thresholds will lead to better results than those now being used?
    - Leave it in place for smaller Phase II jurisdictions to allow some development.
    - Apply lesser standards to smaller projects. For example, require the smaller projects to meet the 1992 manual standards, which encourages redevelopment that brings water quality and quantity benefits.
    - Do not apply LID to small projects and retrofits, allow greater flexibility for projects subject to MRs #1-5.
    - Drop the SWPPP requirement for small projects.

Response to the range of comments

Establishing threshold and timelines

- The final permit retained the draft permit condition to apply the requirements of S5.C.5 to sites smaller than one acre that meet the minimum thresholds of Appendix 1. Ecology considers this necessary to protect water quality and aquatic habitat from the cumulative impacts of development on sites smaller than one acre, especially in the primarily urban and urbanizing areas covered by this permit. The thresholds of less than one acre in the 2005 SWMMWW were established in 1992 and are considered Best Available Science and, under the Phase I permit, as MEP and AKART for stormwater management.
- The Clean Water Act provides a one-acre threshold as a national standard. State delegated authorities can impose more restrictive requirements, and are expected to do so when necessary to protect water quality. The permits must also satisfy AKART to meet state law (Chapter 90.48 RCW), as required by special condition S3 of the permit.
- Ecology established a schedule for implementing the requirement to reduce the one-acre threshold as directed by RCW 90.48.260 in 2012 legislation. The deadline for permittees is extended from December 31, 2015 in the draft permit to a final permit deadline of December 31, 2016, except for permittees that have a later deadline for updates under the Growth Management Act (RCW 36.70A.130(5)). This applies to Lewis and Cowlitz counties, with a deadline of June 30, 2017, and to the City of Aberdeen, with a deadline of June 30, 2018.

Costs

- Ecology acknowledges that there are costs associated with this requirement in communities not already regulating at this level, for both local governments and contractors. The final permit included more flexibility for local governments in adopting and administering the new requirement. Detailed responses below also explain additional flexibility in the final permit for builders and contractors to comply with the requirement.
- Ecology balanced this cost against the long-term costs of water quality pollution, habitat loss and damage to public and private property from the cumulative effects of unmanaged stormwater of smaller projects. Preventing these problems as urban areas develop is less costly than recovering ecosystem functions later. Federal, state, and local governments and many other entities are currently making substantial funding investments for stormwater retrofits and habitat restoration, as well as TMDL studies and actions to address water quality impairments previously developed areas. Reducing the one-acre threshold helps limit those future costs.
- Ecology's reissuance of municipal stormwater permits is not subject to the provisions of RCW 19.85.030 because it is not a rule-making activity under Chapter 34.05 RCW.

Increased flexibility

- Ecology revised requirements of S5.C.4.c to limit the inspection and long-term maintenance responsibilities for smaller projects by using the term "stormwater treatment and flow control BMPs/facilities." These smaller projects generally do not require stormwater BMPs that help meet treatment and flow control requirements. In the final permit, long-term maintenance applies only to facilities of projects in MR#5 that help meet MR #6 (treatment), #7 (flow control), or both.
- Ecology also included provisions in MR#5 (see Part 1, Appendix 1) to reduce the burden of LID requirements for projects that are not required to meet treatment and flow control requirements.
- Ecology also included provisions in MR#2 to allow for preparation of an abbreviated SWPPP format to meet the SWPPP requirement under this permit for project sites that will disturb less than one acre.
- Ecology acknowledges that rural driveways 20 feet wide and 250 feet in length would trigger a site plan review by meeting the threshold in Appendix I of 5000 square feet. The LID requirements for projects of this size in the final permit allow the homeowner to select full dispersion in lieu of permeable pavement. Most rural driveways of that length serving one home will be able to achieve full dispersion. See LID section for more information.
- The final permit allows permittees to develop and use an abbreviated format for construction SWPPPs for sites that are less than one acre.

Training

- Ecology agrees that training is needed for local governments and contractors in communities not already regulating new and redevelopment on smaller project sites, and plans to provide similar training to prepare communities to meet new requirements. Ecology also encourages permittees to organize joint training workshops to share costs with neighboring permittees and local building contractors.

III-1.2 Clarify responsibilities for maintenance of facilities on private property

Permit reference: S5.C.4.a.iii, S5.C.4.b, and S4.C.4.c

Commenters: City of Edmonds, City of Everett, City of Shoreline, City of Vancouver, and City of Woodinville.

Summary of the range of comments

- S5.C.4.a.iii; S5.C.4.b.i and ii - The permit should clarify that private property owners are responsible for their drainage system, not the permittee. These facilities are not part of the

MS4, and are outside the Clean Water Act NPDES permit. Delete "…and enforce maintenance standards for all…"

- S5.C.4.a.iii and S4.C.4.c.i – These two draft permit requirements seem to conflict and are confusing. Clarify whether permittees are responsible for inspecting and enforcing maintenance standards on all private stormwater facilities "that discharge into the MS4" or is limited to "annual inspections of all stormwater treatment and flow control BMPs/facilities permitted by the permittee." Does this apply to all privately maintained systems or only ones with a discharge to the MS4?
- S5.C.4.c.iii- Clarify who is responsible for stormwater facility maintenance on private property if the owner fails to maintain it.
    - Is the City responsible to do this and be financially responsible?
    - Should the City leverage fines against businesses that do not maintain at standards in the SWMMWW?
- Is the City required to inspect all privately owned BMPs within the City regardless of when they were installed or improved? This would increase the cost of the City's program substantially.
- S5.C.4.a.iii and S5.C.4.c.i - After a project is completed and permit is closed out these requirements to inspect and enforce maintenance standards for all private stormwater facilities will compel the property owner/permit applicant to record against the property a document granting this right to the City, so that all parties in the future are aware of their responsibilities and obligations.
- Annual inspection (S5.C.4.c.i) – Concern regarding the rights of the permittee to go onto private property to inspect a privately owned facility without permission of the property owner and without a clear record the City has established a right to do so.
- SS.C.4.c.i – Please clarify whether the required inspection of facilities permitted under the permit first issued by Ecology in 2007 includes facilities permitted from February 16, 2007, through July 31, 2012, which were below the 1-acre threshold.

Response to the range of comments

- Ecology agrees that draft permit language in S5.C.4.a.iii would require permittees to establish the legal authority to inspect and enforce maintenance standards for all private stormwater facilities that discharge to the MS4. The final permit clarifies that this applies to all private stormwater facilities "…approved under the provisions of this section," or consistent with the requirements of S5.C.4.
- Ecology also included in the final permit conditions (now in S5.C.4.c.i and ii) that were deleted in the draft permit. Under these conditions, permittees must require identification of the party responsible for maintenance as a condition of project approval. Together with the edit to S5.C.4.a.iii (above), this language establishes the legal authority and

administrative tools to inspect and enforce maintenance standards for private stormwater facilities approved under S5.C.4.

- The revision of S5.C.4.c.i (above) clarifies that access to private property is required of project proponents as part of the approval process. Jurisdictions vary in the extent to which they assume maintenance for private facilities under agreements with a project proponent or homeowners association. Jurisdictions have administrative procedures for notifying and obtaining permission for access to inspect or, where applicable, perform maintenance. Local codes may require that maintenance responsibilities for stormwater facilities be recorded against the title of the property to clarify the obligations of future property owners. The permit does not stipulate the administrative mechanisms necessary to meet this requirement, but provides flexibility to jurisdictions to determine methods of implementation and the role of the local government in private stormwater facility maintenance.
- Local government enforcement procedures required in S5.C.5.c.i often include fines and may include provisions for local governments to conduct the maintenance if it is not performed as required, and to recover the costs from the responsible party.
- Special condition S2 of the permit, which authorizes discharges from the MS4 in the geographic area served by the MS4, apply to the permit as a whole. The permittee controls discharges *from* the MS4 primarily by controlling discharges *into* the MS4.
- Ecology expects permittees to annually inspect facilities approved under the 2007-2012 permit to facilities approved according to the thresholds that applied in that permit, which may be projects disturbing one acre or more of land or smaller projects in a larger, common plan of development or sale.

III-1.3 Clarify requirements for long-term inspection and maintenance

Permit reference: S5.C.4.c

Commenter: City of Bellevue, City of Bellingham, Kitsap County, City of Monroe

Summary of the range of comments

- S5.C.4.c.i – Does the term "stormwater treatment and flow control BMPs/facilities" include MR5, MR7, or both? Clarify how the annual inspection applies to LID facilities, especially for single family residences.
- S5.C.4.c.ii - Using a 80% completion rate as the benchmark (versus 95%) to reduce municipal workload does not help permittees. If the code or design standard requires a local government review or inspection, the local government is legally bound to do so or face negligence issues should the project result in a substandard result. A better

alternative to lessen cost would be to expand the time between required inspections or reduce the total number of inspections.

- S5.C.4.c.iii - Clarify the purpose of language regarding construction of less than $25,000 as well as the category for circumstances beyond the Permittee's control.

Response to the range of comments

- The term "stormwater treatment and flow control BMPs/facilities" is intended to include the BMPs that contribute to meeting either MR #6 (treatment) or MR #7 (flow control), or both. Because Ecology has revised MR#5 to include LID measures that help meet those requirements, it will also cover some LID facilities in MR #5. Ecology listed the specific types of facilities in the definition of this term. Permittees must inspect these facilities annually.
- The requirements for single family residences in Appendix 1 will generally be limited to List #1 in MR#5, which includes BMPs which do not require annual inspection. However, in the final permit, Appendix 1 allowed projects required only to meet MRs #1-5 to meet the LID performance standard as an alternative to applying List #1. Although Ecology expects limited use of this alternative, where it is selected, permittees must inspect the stormwater facilities annually to ensure they continue to function to meet the performance standard.
- Ecology agrees that the local government goal is to achieve 95% of scheduled inspections. The 80% minimum compliance measure provides flexibility for permittees with regard to permit compliance if stormwater facility inspections exceed the annual schedule, or if uncompleted development projects are not inspected every 6 months as required. Ecology established the 80% compliance measure in the 2009 permit modification in response to permittee requests for flexibility during the economic downturn. Ecology did not extend the timelines for performing maintenance of facilities that exceed maintenance standards.
- Ecology provided a timeline of two years for capital construction costs of greater than $25,000 because it is anticipated that those projects need additional planning or implementation time compared to other maintenance projects. For larger, more expensive projects, Ecology recognizes the permittee may need to go through capital planning, with timeframes that could extend beyond the term of this permit. Circumstances beyond the control of the permittee may also result in failure to meet the designated timelines. Permittees must document the circumstances and how they were beyond the Permittee's control. The permit provides a list of circumstances that would justify a delay beyond the timelines in the permit.

III-1.4 Inspection requirements until 90% lots are constructed

Permit reference: S5.C.4.c

Commenters: Association of Washington Cities, City of Anacortes, City of Bainbridge Island, City of Bellingham, City of Bremerton, City of Des Moines, City of Everett, City of Kenmore, Kitsap County, City of Longview, Master Builders of King & Snohomish Counties, North Sound Baykeeper Team, City of Port Orchard, City of Poulsbo, Regional Road Maintenance Forum, City of Sammamish, City of Sedro Woolley, City of SeaTac, City of Shoreline, Thurston County

Summary of range of comments

Oppose the proposed change in this requirement:

- Please retain the language of the 2007 Phase II permit, "every 6 months during heaviest house construction (i.e 1-2 years)."
- Delete this provision for inspection every six months.
- Increases the amount of staff time for inspections.
- It is not clear that cities have the (staff) capacity to meet the added inspections required by the permits, or that enforcement would be equally applied.
- During the economic downturn jurisdictions would use already limited staff to perform inspections on developments with little hope of forward movement for quite some time. This is staff time that would be better served meeting other areas of the permit or addressing citizen comments within a jurisdiction.
- How does this requirement apply to Master Site Plans?
- Ecology does not define the term "lot."
- Many developments are constructed over many years. There does not seem to be much value in these inspections during periods when no development activities are underway.

Support for proposed language

- Provision requiring six month inspections until 90% of the lots are constructed. When individual lots are sold in a large development there is no overall effort to manage stormwater for the whole development.

Recommendations and alternatives proposed in comments

- Some rewording of this section could address the issue of long term uncompleted developments.
- This language should be changed to be limited to residential construction.
- Decrease to 80% for bi-annual inspections during construction.
- Add that owner is responsible for drainage system, not permittee.
- *"Inspections of all new stormwater treatment and flow control BMPs/facilities and catch basins for permanent residential developments every 6 months during the period of*

heaviest construction (i.e. 1 to 2 years following subdivision approval) to identify maintenance needs and enforce compliance with maintenance standards as needed."

- Every 6 months for the first 3 years or until 90% of lots are constructed.
- Even incomplete subdivisions can be moved to the standard procedure for annual maintenance inspections. In the case of subdivisions, many lots may remain unconstructed or vacant for many years or even decades.
- Update language for this inspection requirement so inspections will not be required for fully stabilized sites where construction has stopped and no activity is occurring: "*…every 6 months, until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized) to identify maintenance needs and enforce compliance with maintenance standards as needed*."
- *"Each Permittee shall inspect all stormwater facilities regulated by the Permittee that are located in new residential developments no less frequently than every 12 months during active development and construction to identify the need for and enforce performance of any necessary maintenance. For purposes of this subsection, active development and construction shall be deemed to cease either when homes have been constructed on at least 90% of the residential lots within the development, or when the developer's maintenance security device for the drainage facilities expires, whichever occurs first."*

Response to the range of comments

- Ecology added language to clarify that construction phase inspections for permanent residential developments must occur every six months until 90% of the lots are constructed, or until construction has stopped and the site is fully stabilized. This provides a clear performance measure for meeting the requirement. Ecology acknowledges that residential developments may occur over a long time frame as individual lots are built out. This is also a time when the potential for polluted runoff is high if temporary erosion and sediment control BMPs are not properly implemented and maintained. Permittees are not required to complete these inspections if the site is dormant for an extended period of time, provided it is fully stabilized.
- Ecology's use of the term "lot" in this section was intended to be consistent with definition and use of the term in RCW 58.17.020.
- Ecology does not agree to link this requirement with release or expiration of a developer's maintenance security device. Conditions at the development dictate the potential for polluted runoff. The release or expiration of a security device will often coincide with final stabilization of the site.

III-2 Municipal Operations and Maintenance (S5.C.5)

See Part I of the RTC for additional comments on the Western Washington Phase II Operations and Maintenance requirements that also apply to the Phase I permit.

III-2.1 Frequency of catch basin inspections

Permit Reference: Western Washington Phase II – S5.C.5.d

Commenters: City of Anacortes, City of Auburn, City of Bothell, City of Bremerton, Celeste Johanson, City of Des Moines, City of Everett, City of Issaquah, City of Kelso, City of Kenmore, City of Kent, Kitsap County, City of Longview, City of Marysville, City of Newcastle, City of Olympia, City of Port Orchard, City of Poulsbo, Regional Forum Permit Committee, Robert Dashiell, City of Renton, City of Sammamish, City of SeaTac, City of Sedro Woolley, City of Snohomish, Thurston County, City of Woodinville

Summary of the range of comments
Concerns about proposed language:

- Current economics do not allow for the increases necessary to meet this requirement.
- Increased costs - Current level of service is to inspect and clean all catch basins every three years; therefore, the permit requirements mean that the maintenance costs for this effort would increase by 50%.
- Staffing issue – not enough staff for increased inspections/ maintenance

Technical or scientific basis for increased inspection & cleaning

- No science or technical basis for two-year inspections and cleaning and is an unjustified expense.
- Ecology needs to demonstrate that the additional inspection and cleaning frequency provides a significant water quality benefit increase to justify the additional cost of the requirement (cost-benefit analysis is needed).
- Inspection schedule of two years is too frequent and does not recognize the fact that sediment accumulation is not constant throughout a MS4. Operators know where in the system requires more frequent cleaning.

Support for proposed language or increased frequency:

- Most critical catch basins should be inspected and, if needed, cleaned three times a year. Label and number storm drains to identify. Catch basins need tighter mandatory inspection and cleaning, and allow less flexibility to reduce the frequency. Consider requiring fiber filters and adding rodent guards for outfalls of a certain size.

- Support a requirement that permittees inspect and, as needed, clean catch basins annually.

Recommendations and alternatives proposed in comments (see related comments below clarifying alternatives):

- Change the inspection frequency back to five years. A two year inspection standard of all catch basins is unattainable for most Phase II's, especially given these economic times.
- Return to 2007 language – once per permit term or 20% per year.
- The variables of MS4 size and configuration, funding, and staffing are unique to each jurisdiction. Allow individual schedules.
- Recommend catch basin inspection and cleaning if needed every three years.
- Each permittee does a study to determine maintenance and inspection frequency need for system.
- The permit should allow for flexibility in attaining the two-year service requirement. The flexibility should give credit to jurisdictions that have a proactive storm response program in place. The credit could take the form of an extra year added onto the two-year service requirement to accommodate years in which there are significant weather events.

Response to the range of comments

- Ecology acknowledges that inspecting catch basins every two years will be challenging for Phase II permittees. Ecology considered comments and legislative direction in extending the requirement to inspect catch basins to once by August 1, 2017 and every two years thereafter. City of Aberdeen requirements extend to once by June 30, 2018 and every two years thereafter, consistent with 2012 legislation.
- Ecology found several studies on catch basin effectiveness suggesting an inspection/cleaning frequency of annually or twice annually maintains effectiveness in sediment removal. Catch basin size and configuration, along with variability in contributions from the associated drainage areas has a significant effect on the rate of accumulation. Ecology selected a default standard of inspection every two years and provided alternatives to acknowledge this variability.
- Three alternatives to the standard approach of catch basin inspection are available in the final permit. The alternatives may be applied to all or portions of the MS4. Permittees now have four years, in addition to the five years under the previous permit, to document actual inspection and maintenance experiences that may be used to justify a less frequent inspection schedule than every two years.

III-2.2 Clarify compliance measures

Permit reference: Western Washington Phase II Permit – S5.C.5.a.ii

Commenters: City of Bellevue, City of Bellingham, City of Kenmore, and City of Kent

Summary of the range of comments

- S5.C5.a.ii - Include a metric for compliance with timelines for completing maintenance after an inspection identifies an exceedence of the maintenance standard. For example, a 95% completion rate will achieve compliance with the condition.
- S5.C.5.a.ii: Identify a timeline for addressing maintenance that requires capital construction of greater than $25,000.
- S5.C.4.c.i – Clarify whether LID BMPs are subject to annual inspection. Concerns include multiple facilities on a single family home site which increase inspection costs for these parcels

Response to the range of comments

- Ecology did not add a metric for compliance with timelines for completing maintenance under S5.C.5.a.ii. This requirement applies only to facilities owned or operated by the permittee. A provision is already included for extending the timelines under circumstances beyond the Permittee's control.
- Ecology did not add a timeline to maintenance that requires construction of greater than $25,000. Permittees may address these larger projects through capital planning and variable timelines that may extend beyond the term of this permit.
- LID BMPs used to help meet MR #6, MR #7, or both in Appendix 1 are included in the definition of stormwater treatment and flow control facilities/BMPs that require annual inspection. LID BMPs used only to meet minimum requirement #5 are not included in this definition, except when a project uses the LID performance standard in lieu of List #1. (See also the RTC for S5.C.4.c in Part III, above, and the RTC on implementation of LID on smaller projects in Part V).

III-2.3 Adjust deadlines for updating maintenance standards

Permit reference: Western Washington Phase II – S5.C.5.a

Commenter: Cowlitz County

Summary of the range of comments

- Move updating maintenance standards to 2016 to better balance workloads and deadlines with other 2015 requirements.
- The BMPs required in any stormwater ordinance a jurisdiction passes, will be included in the maintenance standards being updated by that jurisdiction. Placing the same deadline on both

the ordinance adoption and the maintenance standards could waste time when staff writes maintenance standards for BMPs that are removed from the ordinance during the public comment period. We recommend moving the due date for maintenance standards to December 31, 2016.

Response to the range of comments

- Ecology established deadlines for adopting maintenance standards that coincide with requirements for stormwater code updates, since both involve adopting a stormwater manual. Consistent with legislative direction, Ecology extended the deadline for updating maintenance standards in S5.C.5.a to December 31, 2016, except the deadline for permittees in Cowlitz and Lewis counties is June 30, 2017. The City of Aberdeen's deadline was extended to June 30, 2018.

III-2.4 Clarify inspection requirements for "stormwater treatment and flow control BMPs/facilities"

Permit reference: S5.C.5

Commenters: City Bellevue, City of Des Moines, City of Everett, City of Kent

Summary of the range of comments

- The city has over 400 of these facilities and, until the records are established, requiring increased frequency of inspection will divert resources from areas that are known to need more frequent maintenance. A more realistic timeline would be to require inspection and maintenance of all stormwater treatment and flow control facilities one time during the five-year permit term.
- Existing inspection and maintenance requirements were implemented over the course of the original five year permit. Existing staffing and resources will need to be substantially increased to meet the escalated frequencies of inspection required under the draft permit. Under the City's current code, private facilities are required to be maintained and staff is in the process of inspecting all privately owned facilities. Requiring and tracking inspections by private property owners can be problematic and time consuming for both the City and private property owners.
- For these facilities: Does this include MR5, MR7, or both? Does this require permittees to enforce maintenance on single family rain gardens?
- The annual inspection section has been revised to remove "other than catch basins". Removing the catch basin exception could cause confusion because catch basin

inspection is not required annually as described in S5.C.5.d. The City requests that the "other than catch basins" language be retained.

Response to the range of comments

- Annual inspection of municipally owned or operated permanent stormwater treatment and flow control facilities/BMPs was required by the third year of the 2007 Phase II permit. Ecology did not increase this requirement. Permittees retain the option of documenting the need for a less frequent inspection frequency.
- Ecology clarifies that Phase II permittees are only required to inspect private facilities permitted according to S5.C.4.b of this and the 2007 Permit. The Phase II permit does not require inspection of private facilities constructed before these requirements were effective.
- Ecology clarified that catch basins are not included in the definition of stormwater treatment and flow control BMPs/facilities and therefore not part of the annual inspection requirements in S5.C.5.b.