United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq*., as amended by the Water Quality Act of 1987, Public Law 100-4 (hereafter CWA), the

Pierce County

(hereinafter "Permittee")

is authorized to discharge from all municipal separate storm sewer system outfalls in the Permit Area described in Part 1.1 to waters of the United States, in accordance with the conditions and requirements set forth herein.

This permit becomes effective on XXXXXXXXX

This permit and the authorization to discharge expires at midnight, XXXXXXXXX.

The Permittee must reapply for permit reissuance on or before XXXXX**,** (180 days before the expiration of this permit), pursuant to Part 8.2 *(Duty to Reapply*), if the Permittee intends to continue its operational control and management of discharges from the MS4 beyond the term of this Permit.

Signed this day of

DRAFT

Mat Martinson, Branch Chief
Permits, Drinking Water, and
Infrastructure Branch, Water Division

CONTENTS

SCHEDULE OF SUBMISSIONS

Submittal	Due Date
Notification of Relevant Ordinances and other Regulatory Mechanisms Part 2.2.3	Within 3 months of adoption or completion
Notification of Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation Notification Part 2.3.4	Within 90 days of any transfer or change
Website Part 3.2.3	May 31st of each year
Written Notification of Violation of Water Quality Standards Part 4	Within 30 days from when the Permittee becomes aware
Adaptive Management Response Report Part 4.3	Within 60 days of receiving notification from EPA
Quality Assurance Project Plan Part 5.2	Within 1 year of the Effective Date
Annual Report Part 6.2	March 31st of each year
Stormwater Monitoring Report Part 6.3	March 31st of each year
Notification of Anticipated Noncompliance or Bypass Part 7.8 and Part 7.10.2.1	As soon as the Permittee becomes aware
Twenty-Four-Hour Notice of Noncompliance Part 7.9	Within 24-hours from when the Permittee becomes aware
Written Submission after a 24-hour Notice of Noncompliance Part 7.9.1	Within 5 business days of when the Permittee becomes aware
Renewal Application Part 8.2	180 days prior to permit expiration date

ACRONYMS

BMP	Best Management Practice
CFR	Code of Federal Regulations
CWA	Clean Water Act
EPA	United States Environmental Protection Agency
GIS	Geographic Information System
IDDE	Illicit Discharge Detection and Elimination
LID	Low Impact Development
µg/L	Micrograms per Liter
mg/L	Milligrams per Liter
MDL	Method Detection Limit
ML	Minimum Level
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
QA/QC	Quality Assurance / Quality Control
QAPP	Quality Assurance Project Plan
SWMMWW	Stormwater Management Manual for Western Washington
SWMP	Stormwater Management Program
SWPPP	Stormwater Pollution Prevention Plan
U.S.	United States
U.S.C.	United States Code
WAC	Washington Administrative Code

1 APPLICABILITY

1.1 Permit Area

This permit covers the municipal separate storm sewer systems (MS4s) owned and/or operated by the Permittee that discharge to receiving waters located in Puyallup Tribal trust lands within the 1873 survey area of the Puyallup Reservation (the Permit Area).

1.2 Authorized Discharges

During the effective dates of this permit, the Permittee is authorized to discharge stormwater to waters of the United States from all portions of its MS4 located within the boundaries of the Permit Area described in Part 1.1 (*Permit Area)*, subject to the conditions set forth herein. This permit also conditionally authorizes the discharge of flows categorized as allowable non-stormwater discharges in Part 1.2.1 of this permit.

1.2.1 The Permittee is authorized to discharge non-stormwater from the MS4, only if such discharges satisfy one of the following conditions:

1.2.1.1 The non-stormwater discharges are in compliance with a separate National Pollutant Discharge Elimination System (NPDES) permit;

1.2.1.2 The non-stormwater discharges originate from emergency firefighting activities during the emergency only, not the subsequent clean-up;

1.2.1.3 The non-stormwater discharges result from a spill and/or are the result of an unusual and severe weather event where reasonable and prudent measures have been taken to minimize the impact of such discharges;

1.2.1.4 The non-stormwater discharges result from a spill and consist of emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to minimize the impact of such discharges; or

1.2.1.5 The discharges are from an illicit or non-stormwater discharge that is managed by the Permittee as provided in Part 3.3 (*Illicit Discharge Detection and Elimination*).

1.3 Discharges Threatening Water Quality

The Permittee is not authorized to discharge stormwater that will cause, or have the reasonable potential to cause or contribute to, an exceedance above the applicable water quality standards. The required response to such exceedances of these standards is defined in Part 4 (*ADAPTIVE MANAGEMENT RESPONSE*).

1.4 Snow Disposal to Receiving Waters

The Permittee is not authorized to dispose of snow directly to waters of the United States or directly to the MS4(s). Discharges from Permittee-owned and/or operated snow disposal sites, and the Permittee's snow management practices, are

authorized under this permit when such sites/practices are operated using Best Management Practices (BMPs) as required in Part 3.7 (*Municipal Operations & Maintenance*). Such BMPs must be designed to prevent pollutants in the runoff and prevent violations of the applicable water quality standards.

1.5 Stormwater Discharges Associated with Industrial / Construction Activity

The Permittee is not authorized to discharge stormwater associated with industrial activity (as defined in 40 CFR §122.26(b)(14)), and/or stormwater associated with construction activity (as defined in 40 CFR §122.26(b)(14)(x) and (b)(15)), unless such discharges are otherwise authorized under another appropriate NPDES permit

2 PERMITTEE RESPONSIBILITIES

2.1 Shared Implementation with Outside Entities

A Permittee may share or delegate implementation of one or more of the stormwater management control measures to another entity. The Permittee remains responsible for compliance with the permit obligations if the other entity fails to implement the control measure(s) (or component thereof). A Permittee may rely on another entity if:

2.1.1 The other entity, in fact, implements the control measure;

2.1.2 The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement;

2.1.3 The other entity agrees to implement the control measure on the Permittee's behalf; and

2.1.4 The Permittee and outside entity maintain a written and binding agreement between the parties. Any previously signed agreement may be updated, as necessary, to comply with this requirement. The written agreement must:

2.1.4.1 Describe each organization's respective roles and responsibilities related to this permit;

2.1.4.2 Identify all aspects of stormwater management where the entities will share or delegate implementation responsibility;

2.1.4.3 Be described in the Permittee's Stormwater Management Program (SWMP) Document, and

2.1.4.4 Be submitted with the next Annual Report.

2.2 Maintain Adequate Legal Authority

The Permittee must maintain relevant ordinances or other regulatory mechanisms sufficient to control pollutant discharges into and from its MS4 to meet the requirements of this permit. The SWMP Document required by Part 2.3.1 (*SWMP Document*) must summarize all the Permittee's legal authorities or regulatory mechanisms that satisfy the seven criteria listed below in Part 2.2.1.

2.2.1 To the extent allowable, pursuant to the respective authority granted the Permittee under applicable law, the Permittee must:

2.2.1.1 Control through statue, ordinance, policy, permit, contract, court or administrative order, or other similar means, the contribution of pollutants to MS4s owned and/or operated by the Permittee from stormwater discharges associated with industrial activity, and control the quality of stormwater discharged from sites of industrial activity;

2.2.1.2 Prohibit and eliminate, through statute, ordinance, policy, permit, contract, court or administrative order, or other similar means, illicit discharges to the MS4;

2.2.1.3 Control, through statute, ordinance, policy, permit, contract, court or administrative order, or other similar means, the discharge to the MS4 of spills, dumping or disposal of materials other than stormwater, pursuant to Part 3.3 (*Illicit Discharge Detection and Elimination*);

2.2.1.4 Control the discharge of stormwater and pollutants from land disturbance and development, both during the construction phase and after site stabilization has been achieved, consistent with Part 3.4 (*New Development, Redevelopment, and Construction Site Runoff*)

2.2.1.5 Control through interagency agreements as necessary or appropriate, the contribution of pollutants from one MS4 to another interconnected MS4;

2.2.1.6 Require compliance with conditions in ordinances, permits, contracts or orders; and

2.2.1.7 Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with these permit conditions, including the prohibition of illicit discharges to the MS4.

2.2.2 If existing legal authority is not sufficient to meet the criteria, the Permittee must adopt new ordinances or regulatory mechanisms no later than 30 months after the effective date of the permit, that provide it with adequate legal authority as allowed and authorized pursuant to applicable law.

2.2.3 All relevant ordinances and other regulatory mechanisms required by this permit must be submitted to the Environmental Protection Agency (EPA) and Puyallup Tribe of Indians within 3 months of adoption or completion.

2.3 Stormwater Management Program

2.3.1 SWMP Document

The Permittee must maintain a written SWMP Document, or documents, to describe in detail how the Permittee complies with the required control measures in this permit.

The Permittee has an existing SWMP document as required under Washington Department of Ecology's Phase I Municipal Stormwater General Permit (WAR044002). The Permittee may add to and update their existing SWMP document to meet the requirements of this Permit.

2.3.1.1 At a minimum, the SWMP Document must summarize the Permittee's implementation of requirements in Part 2 (PERMITTEE RESPONSIBILITIES) and Part 3 (*STORMWATER MANAGEMENT PROGRAM CONTROL MEASURES*).

2.3.1.2 The Permittee's SWMP Document must be updated annually and describe all interim schedule(s) for implementation of any control measure components to be developed and accomplished during the term of this permit.

2.3.1.3 The Permittee's SWMP Document must be completed and available through the website required in Part 3.2 (*Public Involvement/Participation*).

2.3.1.4 The Permittee must submit an updated SWMP Document, including all figures, maps, appendices, and any recent updates to the document with each Annual Report and with the Permit Renewal as required by Part 8.2 (*Duty to Reapply*).

2.3.2 SWMP Information and Statistics

The Permittee must maintain a method of gathering, tracking, and using SWMP information to set priorities and assess permit compliance. Permittees must track activities and document program outcomes as stipulated by the respective SWMP control measure and must cite relevant information and statistics, reflecting the specific reporting period, in each Annual Report.

2.3.3 SWMP Resources

The Permittee must provide adequate finances, staff, equipment and other support capabilities to implement the SWMP actions and activities and other requirements outlined in this permit.

2.3.3.1 Consistent with Part 2.3.2 (*SWMP Information and Statistics*), the Permittee must summarize estimated SWMP implementation costs over the relevant reporting period in each Annual Report.

2.3.4 Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation

No later than one year after the transfer of ownership, operational authority, or responsibility, the Permittee must implement the required control measures of this permit in all new areas added or transferred to the Permittee's MS4 (or for which a Permittee becomes responsible for implementation of stormwater quality controls).

2.3.4.1 EPA and Puyallup Tribe of Indians must be notified in writing of any additions and schedules of implementation within 90 days of the transfer.

2.3.4.2 Any additions and schedules for implementation must be documented in the next SWMP Document update and Annual Report following the transfer.

3 STORMWATER MANAGEMENT PROGRAM CONTROL MEASURES

3.1 Education and Outreach

The Permittee must conduct or participate in public education and outreach activities designed to reduce or eliminate behaviors and practices that cause or contribute to adverse stormwater impacts and encourage the public to participate in stewardship activities. The program must include the following components:

3.1.1 SWMP Document

The Permittee must describe the specific education program goals, lessons learned, and track and maintain records of public education and outreach activities in the SWMP Document.

3.1.2 Program Design

The education and outreach activities must be designed to educate target audiences about stormwater and its impacts, and provide specific actions they can follow to minimize those impacts.

3.1.2.1 The Permittee must implement the education and outreach program for the area served by the MS4.

3.1.2.2 The program design must be based on local water quality information and target audience characteristics to identify high priority target audiences, subject areas, and/or BMPs.

3.1.2.3 The Permittee should consider delivering its selected messages in language(s) other than English, as appropriate for the target audience.

3.1.3 Target Audiences

The Permittee must target its education and outreach program activities to reach the following audiences:

3.1.3.1 General Public including school-age children and overburdened communities;

3.1.3.2 Businesses including home-based and mobile businesses;

3.1.3.3 Engineers, contractors, developers, and land-use planners;

3.1.3.4 Residents;

3.1.3.5 Landscapers;

3.1.3.6 Property Managers/Owners;

3.1.4 Topics

The Permittee must select from the following topics to build general

awareness and effect behavior change through its education and outreach activities:

3.1.4.1 General impacts of stormwater on local surface waters;
3.1.4.2 Impacts from impervious surfaces;
3.1.4.3 Hazards associated with illicit discharges and improper disposal of waste;
3.1.4.4 LID principles and LID BMPs;
3.1.4.5 Technical standards for stormwater site and erosion control plans;
3.1.4.6 Stormwater treatment and flow control BMPs/facilities;
3.1.4.7 Use and storage of automotive chemicals, hazardous cleaning supplies, carwash soaps, and other hazardous materials;
3.1.4.8 Prevention of illicit discharges;
3.1.4.9 Appropriate yard care techniques for protecting water quality;
3.1.4.10 Use and storage of pesticides and fertilizers and other household chemicals;
3.1.4.11 Carpet cleaning;
3.1.4.12 Repair and maintenance BMPs for vehicles, equipment, and/or home buildings;
3.1.4.13 Proper pet waste management and disposal;
3.1.4.14 Stormwater facility maintenance, including LID facilities;
3.1.4.15 Dumpster and trash compactor maintenance;
3.1.4.16 Litter and debris prevention;
3.1.4.17 Source Control BMPs;
3.1.4.18 Locally important, stormwater-related subject area; and/or
3.1.4.19 Benefits of commute reduction and/or alternative commuting methods.

3.1.5 Program Evaluation

Throughout the permit term, the Permittee must measure and document the understanding and adoption of the targeted behavior(s) for at least one audience in at least one of the topics listed above. The resulting measurements must be used to direct future education and outreach resources most effectively through the remainder of the permit term.

3.1.6 Annual Report

In each Annual Report, the Permittee must summarize assessment activities, conducted during the reporting period, resulting in changes in adoption of the targeted behavior(s).

3.2 Public Involvement/Participation

The Permittee must implement a program designed to encourage public

involvement and participation in the Permittee's SWMP and implementation priorities. The program must include the following components:

3.2.1 SWMP Document

The Permittee must describe the specific public involvement and participation activity goals, and track and maintain records of such activities in the SWMP Document.

3.2.2 Program Design

The Permittee must create opportunities for the public, including overburdened communities, to participate in the decision-making process involving the development, implementation, and update of the Permittee's SWMP.

3.2.2.1 The Permittee must comply with applicable federal, tribal, state, and local public notice requirements when conducting the public involvement and participation activities associated with this permit.

3.2.3 Website

The Permittee must make the SWMP Document required by Part 2.3.1 and Annual Reports required by Part 6.2 available to the public on the Permittee's website no later than May 31st of each year. All other submittals required by this Permit must be available to the public as specified in Part 6.5.

3.2.4 Annual Report

In each Annual Report, the Permittee must summarize its public involvement and participation activities sponsored during the reporting period.

3.3 Illicit Discharge Detection and Elimination

The Permittee must implement an on-going program to prevent, detect, characterize, trace, and eliminate illicit connections and illicit discharges into the MS4. The Permittee must include a written description of the program in the SWMP Document. No later than 180 days prior to the permit expiration date, the Permittee must implement an illicit discharge detection and elimination (IDDE) program which fully addresses each of the following components:

3.3.1 SWMP Document

The Permittee must describe the specific IDDE program, program goals, lessons learned, and track and maintain records of activities in the SWMP Document.

3.3.2 Map of MS4

No later than 1 year after the permit effective date, the Permittee must update and maintain maps of the MS4 located within the Permit Area. At a minimum, the MS4 map must include the following information:

3.3.2.1 Location of all inlets, catch basins, outfalls, and discharge points;

3.3.2.2 Receiving surface waters;

3.3.2.3 Stormwater treatment and flow control BMPs/facilities owned and/or operated by the Permittee, including information about type, design capacity, connections to tributary conveyances, and all associated emergency overflows;

3.3.2.4 Geographic areas served by the Permittee's MS4 that do not discharge stormwater to surface waters;

3.3.2.5 Tributary conveyances for all known MS4 outfalls. The following attributes must be mapped for all known outfalls: tributary conveyances (type, material and size where known); associated drainage areas, and land uses;

3.3.2.6 Points at which the Permittee's MS4 is interconnected with other MS4s or other storm/surface water conveyances;

3.3.2.7 Owned and/or operated parking lots and roads located within the Permit Area;

3.3.2.8 Locations of all Permittee owned and/or operated industrial facilities, maintenance/storage facilities, and snow disposal sites that discharge directly to the Permittee's MS4, and/or waters of the US; and

3.3.2.9 Jurisdictional boundaries.

3.3.3 Legal Authority

The Permittee must prohibit all illicit discharges into the MS4 through enforcement of an ordinance or other regulatory mechanism under the legal authorities of the Permittee. No later than 30 months after the effective date of the permit, the Permittee must adopt or amend an ordinance or other regulatory mechanism to comply with this Permit.

3.3.3.1 All relevant ordinances and other regulatory mechanisms required by this Part must be submitted to EPA and Puyallup Tribe of Indians within 3 months of adoption or completion.

3.3.3.2 The Permittee must implement appropriate enforcement procedures and actions associated with the ordinance or regulatory mechanism, including a written policy of enforcement escalation procedures for recalcitrant or repeat offenders.

3.3.3.3 Conditionally Allowable Discharges: The ordinance or regulatory mechanism may allow the following categories of non-stormwater discharges, only if the stated conditions are met:

3.3.3.3.1 Discharges from potable water sources, including but not limited to water line flushing, hyper-chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water:

Planned discharges must be dechlorinated to a total residual chlorine concentration of 0.1 parts per million (ppm) or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4;

3.3.3.3.2 Discharges from lawn watering and other irrigation runoff: These discharges must be minimized through public education activities required by Part 3.1, and water conservation efforts;

3.3.3.3.3 Dechlorinated swimming pool, spa, and hot tub discharges: The discharges must be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, re-oxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. Discharges must be thermally controlled to prevent an increase in temperature of the receiving waters. Swimming pool cleaning wastewater and filter backwash must not be discharged to the MS4;

3.3.3.3.4 Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents: The Permittee must reduce these discharges through public education activities required through Part 3.1 and/or water conservation efforts. To avoid washing pollutants into the MS4, the Permittee must minimize the amount of street wash and dust control water used. At active construction sites, street sweeping must be performed prior to washing the street; and

3.3.3.3.5 Other non-stormwater discharges. The discharges must be in compliance with the requirements of a pollution prevention plan reviewed by the Permittee which addresses control of such discharges.

3.3.3.4 Allowable Discharges: The regulatory mechanism does not need to prohibit the following discharges:

3.3.3.4.1 Diverted stream flows;

3.3.3.4.2 Rising ground waters;

3.3.3.4.3 Uncontaminated ground water infiltration (as defined at 40 CFR §35.2005(20));

3.3.3.4.4 Uncontaminated pumped ground water;

3.3.3.4.5 Foundation drains;

3.3.3.4.6 Air conditioning condensation;

3.3.3.4.7 Irrigation water from agricultural sources that is commingled with urban stormwater;

3.3.3.4.8 Springs;

3.3.3.4.9 Uncontaminated water from crawl space pumps;

3.3.3.4.10 Footing drains;

3.3.3.4.11 Flows from riparian habitats and wetlands;

3.3.3.4.12 Non-stormwater discharges authorized by another NPDES or State Waste Discharge permit; and

3.3.3.4.13 Discharges from emergency firefighting activities in accordance with Part 1.2.

3.3.4 **Detection and Elimination**

The Permittee must implement an on-going program to detect and eliminate non-stormwater discharges, spills, and illicit connections into their MS4. This program must include:

3.3.4.1 Procedures for locating priority areas likely to have illicit discharges, including areas where complaints have been recorded in the past, and areas with storage of large quantities of materials that could result in spills;

3.3.4.2 Field assessment activities, including visual inspection of outfalls draining priority areas during dry weather and for the purposes of verifying outfall locations, identifying previously unknown outfalls, and detecting illicit discharges.

3.3.4.2.1 The dry weather screening activities may include field tests of parameters selected by the Permittee as being indicators of discharge sources. The Permittee may utilize less expensive “field test kits,” and test methods not approved by EPA under 40 CFR Part 136, provided the manufacturer’s published detection ranges are adequate for the illicit discharge detection purposes;

3.3.4.2.2 No later than 1 year after the effective date of the permit, the Permittee must begin dry weather field screening for non-stormwater flows from stormwater outfalls in the Permit Area.

3.3.4.2.3 No later than 180 days prior to the permit expiration date, the Permittee must complete field screening of all MS4 outfalls located within the Permit Area;

3.3.4.2.4 Screening for illicit connections must be conducted in an effective manner as described in

Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments, Center for Watershed Protection, October 2004, or another methodology of comparable effectiveness;

3.3.4.3 Procedures for characterizing the nature of, and potential public or environmental threat posed by, any illicit discharges that are found by or reported to the Permittee. Procedures must address the evaluation of whether the discharge must be immediately contained and steps to be taken for containment of the discharge; Compliance with this provision will be achieved by:

3.3.4.3.1 Immediately responding to all illicit discharges including spills which are determined to constitute a threat to human health or the environment;

3.3.4.3.2 Investigating (or referring to the appropriate agency), within seven (7) days, any complaints, reports or monitoring information that indicates a potential illicit discharge, including spills; and

3.3.4.3.3 Immediately investigating (or referring) problems and violations determined to be emergencies or otherwise judged to be urgent or severe;

3.3.4.4 Procedures for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, collecting and analyzing water samples, and/or other detailed inspection procedures; and,

3.3.4.5 Procedures for eliminating the discharge; including notification of appropriate owners or operators of interconnected MS4s; notification of the property owner; technical assistance; follow-up inspections; and escalating enforcement and legal actions if the discharge is not eliminated; compliance with this provision will be achieved by initiating an investigation:

3.3.4.5.1 Within twenty-one (21) days of a report or discovery of a suspected illicit connection to determine the source of the connection, the nature and volume of discharge through the connection, and the party responsible for the connection; and

3.3.4.5.2 Within 6 months of the confirmation of an illicit connection, the Permittee must take action to eliminate the illicit connection and must document the effort as part of the Annual Report. All known illicit connections to the MS4 must be eliminated.

3.3.5 Telephone Hotline

The Permittee must list and publicize a telephone hotline or other local means for the public and Permittee personnel to report spills and other illicit discharges for investigation.

3.3.5.1 The hotline must be answered during normal business hours and have an answering service or system in place to record incoming calls/reports after hours.

3.3.5.2 The Permittee must respond to and investigate all complaints or reports of illicit discharges no later than within two working days.

3.3.6 Training

The Permittee must ensure that all staff responsible for the investigation, identification, elimination, clean up and reporting of illicit discharges, including spills and illicit connections, are trained to conduct these activities. Orientation and training concerning the Permittee's SWMP must be accomplished within the first 180 days of employment for new staff who work directly on stormwater management issues. Follow-up training must be provided as necessary to address changes in procedures, techniques, or requirements.

3.3.7 Annual Report

The Permittee must include in each Annual Report for the relevant reporting period:

3.3.7.1 A copy of the completed MS4 map as an electronic file via Arc GIS compatible format;

3.3.7.2 Number and type of illicit discharges identified;

3.3.7.3 Dry weather screening efforts;

3.3.7.4 Locations and efforts to address identified illicit discharges;

3.3.7.5 Record of calls received and follow-up actions taken, and

3.3.7.6 Records of relevant training provided or obtained, and the staff members trained.

3.4 New Development, Redevelopment, and Construction Site Runoff

The Permittee must implement and enforce a program to reduce pollutants in stormwater runoff to the MS4 from new development, redevelopment, and construction project site activities. The program must include the following components:

3.4.1 SWMP Document

The Permittee must include a written description of the new development, redevelopment, and construction site runoff control program in the SWMP Document, including the list of policies and procedures used to implement these measures. Refer to APPENDIX C for a list of approved manuals and ordinances.

3.4.2 Oversight

The Permittee must provide adequate direction and oversight to ensure that entities responsible for "regulated construction activities" and "regulated industrial activities," as defined in Part 9 (*DEFINITIONS*), occurring within the Permit Area obtain authorization to discharge under the appropriate stormwater permits as required by Part 1.5.

3.4.3 Legal Authority

The Permittee must use an ordinance or other regulatory mechanism available under the legal authorities of the Permittee to address runoff from new development, redevelopment, and construction site projects in the Permit Area as identified below:

3.4.3.1 The Permittee's enforceable mechanism must include minimum requirements, thresholds, and definitions of the most up to date version of the documents listed in APPENDIX C for new development, redevelopment, and construction sites. Adjustment and variance criteria equivalent to those in APPENDIX C must be included.

3.4.3.2 The Permittee's enforceable mechanism must include the following when implementing the minimum requirements found in the most up to date version of the documents listed in APPENDIX C:

- 3.4.3.2.1 Site planning requirements;
- 3.4.3.2.2 BMP selection criteria;
- 3.4.3.2.3 BMP design criteria;
- 3.4.3.2.4 BMP infeasibility criteria;
- 3.4.3.2.5 Low Impact Development (LID) competing needs criteria, and
- 3.4.3.2.6 BMP limitations

3.4.3.3 The Permittee's enforceable mechanism must include the legal authority to inspect private stormwater facilities and enforce maintenance standards for all new development and redevelopment approved under the provisions of this part.

3.4.3.4 No later than 30 months after the effective date of the permit, the Permittee must adopt or amend an ordinance or other regulatory mechanism to comply with the Permit.

3.4.3.5 All relevant ordinances and other regulatory mechanisms required by this part must be submitted to EPA and Puyallup Tribe of Indians within 3 months of adoption or completion.

3.4.4 Site Plan Review, Inspection and Corrective Action

The program must include site plan review, site inspection, and enforcement capability sufficient to meet the standards listed in Parts 3.4.4.1 through 3.4.4.8 below, for both private and public projects.

This program will be applied to all sites that meet the thresholds adopted pursuant to Part 3.4.3, above:

3.4.4.1 Review of all stormwater site plans for proposed development activities that meet the minimum thresholds adopted pursuant to Part 3.4.3 above;

3.4.4.2 Inspect, prior to clearing and construction, all development sites that meet the minimum thresholds adopted pursuant to Part 3.4.3, above.

3.4.4.3 Inspect all development sites, that meet the minimum thresholds adopted pursuant to Part 3.4.3, above, during construction to verify proper installation and maintenance of required erosion and sediment controls. Enforce as necessary based on the inspection.

3.4.4.4 Manage maintenance activities to inspect all permanent stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every six 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.

3.4.4.5 Inspect all development sites, that meet the minimum thresholds adopted pursuant to Part 3.4.3, above, upon completion of construction and prior to final approval or occupancy to ensure proper installation of permanent stormwater facilities. Verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater treatment and flow control BMPs/facilities. Enforce as necessary based on inspection.

3.4.4.6 Compliance with the inspection requirements above, shall be determined by the presence and records of an established inspection program designed to inspect all sites, that meet the minimum thresholds adopted pursuant to Part 3.4.3, above.

3.4.4.6.1 Compliance during this permit term shall be determined by achieving at least 80% of scheduled inspections.

3.4.4.7 The program must include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities must be maintained.

3.4.4.8 The program must include an enforcement strategy to respond to issues of non-compliance.

3.4.5 **Training**

The Permittee must ensure that all staff whose primary job duties are

implementing the new development, redevelopment, and construction site runoff program, including plan review, construction site inspections, and enforcement, are trained to conduct these activities. Orientation and training concerning the Permittee's stormwater management program must be accomplished within the first six months of employment for new staff who work directly on stormwater management issues. Follow-up training must be provided as necessary to address changes in procedures, techniques, requirements, or staffing. Permittees must document and maintain records of the training provided and the staff trained.

3.4.6 Annual Report

The Permittee must summarize in each Annual Report for the relevant reporting period:

3.4.6.1 Any corrective actions taken at construction sites during the previous reporting period;

3.4.6.2 Number of site plans reviewed; site inspections conducted by the Permittee, including the location and total number of such inspections and result/response;

3.4.6.3 Any follow-up action(s) conducted by the Permittee, any subsequent enforcement actions, and/or any referrals to different departments or agencies;

3.4.6.4 Records of relevant training provided or obtained, and the staff members trained, and

3.4.6.5 The specific BMPs that were selected and implemented for reducing pollutants in stormwater runoff from new development, redevelopment, and construction project sites.

3.5 Structural Stormwater Controls

The Permittee must implement a program that considers structural stormwater controls to prevent or reduce impacts to receiving waters caused by discharges from the MS4. The program must address impacts from disturbances to watershed hydrology and stormwater pollutant discharges and include the following components:

3.5.1 SWMP Document

The Permittee's SWMP Document must describe the Structural Stormwater Control Program including the following:

3.5.1.1 The Structural Stormwater Control Program goals; and

3.5.1.2 The planning process used to develop the Structural Stormwater Control Program, including the items found in Sections 3.5.2.1 - 3.5.2.7.

3.5.2 Program Design

The program must consider impacts caused by stormwater discharges from areas of existing development, including runoff from highways, streets and roads owned and/or operated by the Permittee, and areas

of new development, where impacts are anticipated as development occurs. When planning structural stormwater control projects, the permittee must consider:

3.5.2.1 The geographic scale of the planning process;
3.5.2.2 Issues and regulations addressed;
3.5.2.3 Steps in the planning process;
3.5.2.4 Types of characterization information considered;
3.5.2.5 Amount budgeted for implementation;
3.5.2.6 The public involvement process; and,
3.5.2.7 A description of the prioritization process, procedures and criteria used to select the Structural Stormwater Control projects.

3.5.3 **Projects**

The program must address impacts that are not adequately controlled by other required actions of the SWMP.

3.5.3.1 The program must consider the following projects:
- 3.5.3.1.1 New flow control facilities;
- 3.5.3.1.2 New treatment (or treatment and flow control) facilities;
- 3.5.3.1.3 Retrofit of existing treatment and/or flow control facilities;
- 3.5.3.1.4 Property acquisition for water quality and/or flow control benefits (not associated with future facilities), and
- 3.5.3.1.5 Maintenance with capital construction costs ≥ $25,000.

3.5.3.2 The Permittee should consider other projects to address impacts, such as:
- 3.5.3.2.1 Restoration of riparian buffers;
- 3.5.3.2.2 Restoration of forest cover;
- 3.5.3.2.3 Floodplain reconnection projects;
- 3.5.3.2.4 Permanent removal of impervious surfaces, and
- 3.5.3.2.5 Other actions to address stormwater runoff into or from the MS4 not otherwise required in Part 3.

3.5.3.3 The Permittee may not use in-stream culvert replacement or channel restoration projects for compliance with this requirement.

3.5.3.4 The Structural Stormwater Control program may also include a program designed to implement small scale projects that are not planned in advance.

3.5.4 Annual Report

The Permittee must provide a list of current planned projects that are scheduled for implementation and a status update for any ongoing projects in each Annual Report.

3.6 Source Control for Existing Development

The Permittee must implement a program to reduce pollutants in runoff from areas that discharge to the MS4 owned and/or operated by the Permittee in the Permit Area. The program must include the following components:

3.6.1 SWMP Document

The Permittee must include a written description of the Source Control Program in the SWMP Document including descriptions of the identification, inspection and enforcement procedures used to control sources of stormwater pollution.

3.6.2 Legal Authority

The Permittee must enforce ordinance(s), or other enforceable documents, requiring the application of source control BMPs, or treatment BMPs/facilities, or both, for pollutant generating sources associated with existing land uses and activities.

3.6.2.1 The Permittee must update and make effective the ordinance(s), or other enforceable documents, as necessary to meet the requirements of this section no later than 30 months after receiving authorization to discharge.

3.6.2.2 All relevant ordinances and other regulatory mechanisms required by this part must be submitted to EPA and Puyallup Tribe of Indians within 3 months of adoption or completion.

3.6.3 Program Design

3.6.3.1 The requirements of this subsection are met by using source control BMPs in Volume IV of the 2012 Stormwater Management Manual for Western Washington as amended in December 2014 (SWMMWW) or those found in the most up to date version of the documents listed in APPENDIX C.

3.6.3.2 Applicable operational source control BMPs must be required for all pollutant generating sources. Structural source control BMPs, or treatment BMPs/facilities, or both, must be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, ground water, or

sediment management standards because of inadequate stormwater controls.

3.6.3.3 Implementation of source control requirements may be done through education and technical assistance programs, provided that formal enforcement authority is available to the Permittee and is used as determined necessary by the Permittee, in accordance with Part 3.6.6, below.

3.6.4 Identification

The Permittee must implement a program to identify publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the Permittee's MS4. The program must include a source control inventory which lists:

3.6.4.1 Businesses and/or properties identified based on the presence of activities that are pollutant generating.

3.6.4.2 Other pollutant generating sources, such as mobile or home-based businesses and multifamily properties, which are identified based on complaint response.

3.6.4.3 Application of operational and structural source control BMPs, and, if necessary, treatment BMPs/facilities to pollution generating sources associated with existing land uses and activities.

3.6.4.4 The Permittee must update the inventory annually.

3.6.5 Inspection

The Permittee must implement an inspection program for sites identified in Part 3.6.4.

3.6.5.1 All identified sites with a business address must be provided, by mail, telephone, electronic communications, or in person, information about activities that may generate pollutants and the source control requirements applicable to those activities. This information may be provided all at one time or spread out over the permit term to allow for some tailoring and distribution of the information during site inspections.

3.6.5.2 The Permittee must annually complete the number of inspections equal to 20% of the businesses and/or properties listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements.

3.6.5.2.1 The Permittee may count follow up compliance inspections at the same site toward the 20% inspection rate.

3.6.5.2.2 The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period.

3.6.5.2.3 Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.

3.6.5.3 The Permittee must inspect 100% of sites identified through legitimate complaints.

3.6.5.4 The Permittee may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.

3.6.6 Enforcement

The Permittee must enforce its ordinance or regulatory mechanism at sites, identified pursuant to Part 3.6.4, including sites with discharges authorized by a separate NPDES permit.

The Permittee must implement an escalating enforcement policy to require sites to come into compliance with stormwater requirements within a reasonable time period as specified below:

3.6.6.1 If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee must take appropriate follow-up action(s) which may include phone calls, letters, emails or follow-up inspections.

3.6.6.2 When the Permittee determines that a facility has failed to adequately implement BMPs after a follow-up inspection, the Permittee must take enforcement action as established through authority in its municipal code or ordinances, or through the judicial system.

3.6.6.3 The Permittee must maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring facilities into compliance. The Permittee must also maintain records of sites that are not inspected because the property owner denies entry.

3.6.6.4 The Permittee may refer non-emergency violations of local ordinances to EPA and Puyallup Tribe of Indians, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee's enforcement effort must include documentation of inspections and warning letters or notices of violation.

3.6.7 Additional Controls

If stormwater discharges from areas of existing development are not adequately controlled by operational source controls alone and other required actions of the SWMP, and are resulting in illicit discharges or violations of water quality standards, the Permittee must implement a

structural stormwater control program that includes projects identified in Parts 3.5.3.1 and 3.5.3.2.

3.6.8 Pesticides, Herbicides and Fertilizers

This program must include practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizers discharging into MS4s owned and/or operated by the Permittee (See Part 3.7 for more information on required O&M procedures).

3.6.9 Training

The Permittee must train staff who are responsible for implementing the source control program to conduct these activities within the first six months of employment. The ongoing training program must cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement procedures. Follow-up training must be provided as needed to address changes in procedures, techniques, requirements, or staff. The Permittee must document and maintain records of the training provided and the staff trained.

3.6.10 Annual Report

The Permittee must include in each Annual Report for the relevant reporting period:

3.6.10.1 Records of all source control inspections, follow up actions taken, enforcement actions taken and circumstances beyond the Permittee's control that prevent an inspection from occurring;

3.6.10.2 An updated source control inventory including those sources identified by complaints (sources identified by complaints must be noted as such in the inventory), and

3.6.10.3 Records of relevant training provided or obtained, and the staff members trained.

3.7 Municipal Operations & Maintenance

The Permittee must update and implement its Operation & Maintenance (O&M) program to regulate and conduct O&M activities to prevent or reduce stormwater impacts. The O&M program must address each of the following program components:

3.7.1 SWMP Document

The Permittee must include a written description of the O&M Program in the SWMP Document including a list of regulated and owned and/or operated stormwater facilities. The Permittee must include maintenance schedules and the date of most recent inspection or maintenance conducted for each facility.

3.7.2 Maintenance Standards

The Permittee must establish maintenance standards that are as

protective, or more protective, of facility function than those specified in the SWMMWW or those found in the most up to date version of the documents listed in APPENDIX C. The Permittee must perform appropriate maintenance upon becoming aware that the maintenance standard is not being met as follows:

3.7.2.1 Within 1 year for typical maintenance of facilities, except catch basins;

3.7.2.2 Within 6 months for catch basins; and/or

3.7.2.3 Within 2 years for maintenance that requires capital construction of less than $25,000.

3.7.3 Legal Authority

The Permittee must enforce an ordinance or other regulatory mechanism requiring maintenance of all permanent stormwater treatment and flow control BMPs/facilities regulated by the Permittee, including catch basins that are part of the facilities regulated by the Permittee (See Part 3.7.4).

3.7.3.1 The Permittee's ordinance or regulatory mechanism must meet the maintenance standards described in Part 3.7.2.

3.7.3.2 The Permittee must update and make effective the ordinance(s), or other enforceable documents, as necessary to meet the requirements of this section no later than 30 months after receiving authorization to discharge.

3.7.3.3 All relevant ordinances and other regulatory mechanisms required by this part must be submitted to EPA and Puyallup Tribe of Indians within 3 months of adoption or completion.

3.7.4 Regulated Stormwater Facilities

The Permittee must implement a program designed to annually inspect all stormwater treatment and flow control BMPs/facilities regulated by the Permittee to enforce compliance with adopted maintenance standards as needed based on inspection.

3.7.4.1 The inspection program is limited to facilities to which the Permittee can legally gain access, provided the Permittee must seek access to all stormwater treatment and flow control BMPs/facilities regulated by the Permittee.

3.7.4.2 The Permittee may reduce the inspection frequency in accordance with Part 3.7.5.1.

3.7.4.3 Compliance with the inspection requirements in Part 3.7.4 will be determined by the presence of an established inspection program designed to inspect all sites, and achieving inspection of 80% of all sites.

3.7.4.4 The Permittee must require cleaning of catch basins regulated by the Permittee if they are found to be out of compliance with established maintenance standards in the

course of inspections conducted at facilities under the requirements of Parts 3.3 and 3.6, or if the catch basins are part of the stormwater facilities inspected under the requirements of this Part.

3.7.5 Permittee Owned or Operated Stormwater Facilities

The Permittee's O&M program must include annual inspection of all Permittee owned and/or operated permanent stormwater facilities used for flow control and treatment, other than catch basins. The Permittee must take appropriate maintenance actions in accordance with its adopted maintenance standards.

3.7.5.1 The Permittee may reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a specific less frequent inspection schedule. Written statements must be based on actual inspection and maintenance experience and must be included within the SWMP Document and certified in accordance with 8.5 (Signatory Requirements). The Permittee cannot reduce the inspection frequency to less than once per permit term (once per five years).

3.7.5.2 The Permittee must conduct spot checks of potentially damaged permanent stormwater control facilities (other than catch basins) after major storm events. For the purposes of this permit, a major storm event is rainfall greater than the 24-hour, 10-year recurrence interval. The Permittee must conduct repairs or take appropriate maintenance action in accordance with maintenance standards established above, based on the results of the spot check inspections.

3.7.5.3 Compliance with the inspection requirements in Part 3.7.5 will be determined by evaluating Permittee records of an established stormwater facility inspection program. The Permittee must have a program designed to inspect all sites and achieving inspection of at least 95% of the total universe

of identified permanent stormwater facilities used for flow control and treatment annually.

3.7.6 Permittee Owned or Operated Catch Basins

3.7.6.1 The Permittee's O&M program must include inspection of all catch basins and inlets owned and/or operated by the Permittee at least once before the end of the permit term.

3.7.6.2 Catch basins must be cleaned as determined by the maintenance standard as stated in Part 3.7.2.

3.7.6.3 The disposal of decant water must be in accordance with the requirements in APPENDIX D.

3.7.6.4 Compliance with the inspection requirements in Part 3.7.6 will be determined by evaluating Permittee records of an established stormwater facility inspection program. The Permittee must have a program designed to inspect all catch basins and inlets and achieving at least 95% of required inspections prior to the permit expiration date.

3.7.7 Other Maintenance Practices

The Permittee must document and implement maintenance practices to reduce stormwater impacts associated with runoff from all lands owned or maintained by the Permittee, and road maintenance activities under the functional control of the Permittee. The Permittee must ensure that the following activities are conducted in a manner that is protective of receiving water quality:

3.7.7.1 Pipe cleaning;
3.7.7.2 Cleaning of culverts that convey stormwater in ditch systems;
3.7.7.3 Ditch maintenance;
3.7.7.4 Street cleaning;
3.7.7.5 Road repair and resurfacing, including pavement grinding;
3.7.7.6 Snow and ice control;
3.7.7.7 Utility installation;
3.7.7.8 Maintaining roadside areas, including vegetation management;
3.7.7.9 Dust control;
3.7.7.10 Pavement striping maintenance;
3.7.7.11 Application of fertilizer, pesticides, and herbicides, including the development of nutrient management and integrated pest management plans;
3.7.7.12 Sediment and erosion control;
3.7.7.13 Landscape maintenance and vegetation disposal;
3.7.7.14 Trash and pet waste management; and
3.7.7.15 Building exterior cleaning and maintenance.

3.7.8 Stormwater Pollution Prevention Plan

No later than two years after the effective date of this permit, the Permittee must develop and implement Stormwater Pollution Prevention Plans (SWPPP) for all heavy equipment maintenance or storage yards, and/or material storage facilities owned and/or operated by the Permittee within the Permit Area, which are not already regulated under another appropriate NPDES permit.

3.7.8.1 The Permittee may use generic SWPPPs that can be tailored to multiple similar activity sites to comply with this requirement.
3.7.8.2 Implementation of non-structural BMPs must begin immediately after the SWPPP is developed.
3.7.8.3 A schedule for installation of any necessary structural BMPs must be included in the SWPPP.
3.7.8.4 The SWPPP(s) must include a summary of BMPs expected to be utilized at the site and periodic visual observation of discharges from the facility by responsible staff to verify the effectiveness of BMPs used to reduce pollutants in runoff.

3.7.9 Training

The Permittee must develop and implement an on-going training program for the Permittee's facility maintenance staff, contracted companies, environmental project officers, or other staff whose construction, operations or maintenance job functions may impact stormwater quality.

The training program must address the importance of protecting water quality; the requirements of this permit; O&M standards; inspection procedures; selection of appropriate BMPs as required in this Part; ways to perform their job activities to prevent or minimize impacts to water quality; and procedures for reporting water quality concerns, including potential illicit discharges.

Orientation and training concerning the Permittee's stormwater management program must be accomplished within the first 180 days of employment for new staff who work directly on stormwater management issues. Follow-up training must be provided as needed to address changes in procedures, techniques, or requirements.

3.7.10 **Annual Report**

The Permittee must include in each Annual Report for the relevant reporting period:

3.7.10.1 Records of all permanent stormwater facility inspections, catch basin inspections, maintenance or repair activities conducted by the Permittee, and those circumstances beyond the Permittee's control that prevent a maintenance activity from occurring.

3.7.10.2 Where circumstances beyond the Permittee's control prevent the maintenance activity, as described in Part 3.7.2, from occurring, the Permittee must document the circumstances and how they were outside the Permittee's control.

3.7.10.3 The total number of Permittee-owned and/or operated permanent stormwater facilities used for flow control and treatment to be inspected in compliance with this Part.

3.7.10.3.1 Subsequent Annual Reports must document and summarize the Permittee's inspection and maintenance of those permanent stormwater facilities.

3.7.10.4 The total number of Permittee-owned and/or operated catch basins to be inspected annually in compliance with this Part.

3.7.10.4.1 Subsequent Annual Reports must document the Permittee's progress toward inspecting and maintaining all catch basins prior to the permit expiration date.

3.7.10.5 Records of relevant training provided or obtained, and the staff members trained.

4 ADAPTIVE MANAGEMENT RESPONSE

The Permittee must notify EPA and the Puyallup Tribe of Indians in writing at the addresses listed in Part 6.1.1 (*Addresses*) within 30 days of becoming aware that, based on credible site-specific information, a discharge from the Permittee's MS4 is

causing or contributing to a known, likely, on-going, and/or continuing violation of water quality standards in the receiving water.

4.1 Written Notification

Written notification provided under this Part must, identify the source of the site-specific information; describe the location, nature and extent of the known or likely water quality standard violation in the receiving water; and explain the reasons why the MS4 discharge is believed to be causing or contributing to the problem. This notification must document any prior response activities the Permittee may have conducted pursuant to Part 7.9 (*Twenty-Four-Hour Notice of Noncompliance Reporting*).

4.2 EPA Review

In the event that EPA determines, based on a notification from the Permittee as provided under this Part or through any other means, that a discharge from the MS4 owned or operated by the Permittee is causing or contributing to an ongoing and/or continuous violation of water quality standards in a receiving water, EPA will notify the Permittee in writing that an adaptive management response is required as outlined below in Part 4.3 (*Adaptive Management Response*).

4.2.1 EPA may elect not to require an adaptive management response from the Permittee if EPA determines that the violation of water quality standards is already being addressed by a Total Maximum Daily Load (TMDL) implementation plan or other enforceable water quality cleanup plan; or, EPA concludes the MS4 contribution to the violation will be eliminated through implementation of other permit requirements, regulatory requirements, or Permittee actions.

4.3 Adaptive Management Response Report

Within 60 days of receiving a notification pursuant to Part 4.2 (*EPA Review*), or by an alternative date established by EPA, the Permittee must review its Stormwater Management Program and submit a report to EPA and Puyallup Tribe of Indians. The Adaptive Management Response Report must include:

4.3.1 A description of the operational and/or structural BMPs that are currently being implemented at the location to prevent or reduce any pollutants that are causing or contributing to the violation of water quality standards, including a qualitative assessment of the effectiveness of each BMP.

4.3.2 A description of potential additional operational and/or structural BMPs that will or may be implemented in order to prevent or reduce any pollutants that are causing or contributing to the violation of water quality standards.

4.3.3 A description of the potential monitoring or other assessment and evaluation efforts that will or may be implemented to monitor, assess, or evaluate the effectiveness of the additional BMPs.

4.3.4 A schedule for implementing the additional BMPs including, as appropriate: funding, training, purchasing, construction, monitoring, and other assessment and evaluation components of implementation.

4.4 Implementation

EPA will, in writing, acknowledge receipt of the Adaptive Management Response Report within a reasonable time and notify the Permittee when it expects to complete its review of the report. EPA will either approve the additional BMPs and implementation schedule or require the Permittee to modify the report as needed. If modifications are required, EPA will specify a reasonable time frame in which the Permittee must submit and EPA will review the revised report.

4.4.1 The Permittee must implement the additional BMPs, pursuant to the schedule approved by EPA, immediately upon receipt of written notification of approval.

4.4.2 The Permittee must include with each subsequent Annual Report a summary of the status of implementation and the results of any monitoring, assessment or evaluation efforts conducted during the reporting period. If, based on the information provided under this Part, EPA determines that modification of the BMPs or a specific implementation schedule is necessary EPA will notify the Permittee in accordance with Part 8.1 (*Permit Actions*).

4.4.3 If EPA notifies the Permittee that changes to the SWMP are necessary pursuant to Part 4.4.2, the notification will offer the Permittee an opportunity to propose alternative program changes to meet the objectives of the requested modification. Following this opportunity, the Permittee must implement any required changes according to the schedule set by EPA.

4.5 Modifications

Any formal modifications to the requirements of this permit will be accomplished according to Part 8.1 *(Permit Actions*).

5 MONITORING REQUIREMENTS

5.1 Stormwater Monitoring

The Permittee must implement a stormwater monitoring program no later than two years after the effective date of the Permit. The stormwater monitoring program is intended to characterize stormwater runoff quantity and quality in a manner that allows analysis of loadings and changes in conditions over time.

5.1.1 Discharge Monitoring Locations

The Permittee must meet the requirements of this section by monitoring one outfall, within the Permit Area, discharging to the Puyallup River.

5.1.1.1 The Permittee must fully map the tributary conveyance systems and drainage areas of the discharge monitoring location.

5.1.1.2 The discharge monitoring location must be evaluated for a rainfall to runoff relationship in order to ensure that the discharge monitoring location will receive enough runoff for sufficient sample volume. This rainfall to runoff relationship will also assist in programming the automatic sampling equipment. In order to establish the rainfall to runoff relationship, one year of continuous flow recording (including base flow and all storm events) is necessary.

5.1.2 Sample Frequency

Sample the discharge monitoring location according to the following frequency:

5.1.2.1 The Permittee must sample and analyze a minimum of eleven (11) qualifying storm events per water year. Qualifying storm event sampling must be distributed throughout the year, approximately reflecting the distribution of rainfall between the wet and dry seasons (with a goal of 60-80% of the samples collected during the wet season and a goal of 20-40% of the samples collected in the dry season).

5.1.2.2 EPA and Puyallup Tribe of Indians may approve a reduced sampling frequency if the Permittee provides a statistical analysis demonstrating that monitoring goals can be met with fewer samples.

5.1.3 Qualifying Storm Event Criteria

The wet season is from October 1 through April 30. A qualifying wet season storm event is defined as follows:

- Rainfall volume: 0.20” minimum, no fixed maximum
- Rainfall duration: No fixed minimum or maximum

- Antecedent dry period: Less than or equal to 0.05” rain in the previous 6 hours, unless more time is needed to return to baseflow at the sampling point
- Inter-event dry period: 6 hours

The dry season is from May 1 through September 30. A qualifying dry season storm event is defined as follows:

- Rainfall volume: 0.20” minimum, no fixed maximum
- Rainfall duration: No fixed minimum or maximum
- Antecedent dry period: less than or equal to 0.02” rain in the previous 24 hours
- Inter-event dry period: 6 hours

5.1.4 **Sample Type**

Storm events must be sampled using flow-weighted composite sampling techniques. Automatic samplers must be programmed to begin sampling as early in the runoff event as practical and to continue sampling past the longest estimated time of concentration for the tributary area.

5.1.4.1 For storm events lasting less than 24 hours, samples shall be collected for at least seventy-five percent (75%) of the storm event hydrograph. For storm events lasting longer than 24 hours, samples shall be collected for at least seventy-five percent (75%) of the hydrograph of the first 24 hours of the storm.

5.1.4.2 Each composite sample must consist of at least 10 aliquots. Composite samples with 7 to 9 aliquots are acceptable if they meet the other sampling criteria and help achieve a representative balance of wet season/dry season events and storm sizes.

5.1.4.3 Continuous flow recording of all storm events (not just sampled storm events) is necessary for at least one year to establish a baseline rainfall/runoff relationship. Ongoing continuous flow monitoring is required for each of the sampled storm events as necessary to properly conduct the flow-weighted composite sampling. Precipitation data must

be collected from the nearest rain gauge reporting at least hourly rainfall amounts.

5.1.4.4 Grab samples are necessary for some parameters (*See* Part 5.1.5.4). Grab samples must be collected early in the storm event.

5.1.4.5 For all effluent monitoring the Permittee must use sufficiently sensitive analytical methods which meet the following:

5.1.4.5.1 The Permittee must use a method that detects and quantifies the level of the pollutant, or

5.1.4.5.2 The Permittee must use a method that can achieve a maximum minimum level (ML) less than or equal to those specified in APPENDIX E.

5.1.5 **Parameters**

5.1.5.1 Flow weighted composite samples must be analyzed for the following parameters utilizing an Ecology- or EPA-accredited laboratory and the methods and reporting limits as provided in Table 1 found in APPENDIX E or otherwise approved by EPA:

- Conventional parameters
- Methylene blue activating substances (MBAS)
- Nutrients
- Metals
- Organics:
  - Polycyclic aromatic hydrocarbons (PAHs)
  - Pesticides
  - Phthalates

5.1.5.2 Analyte Priority. If the volume of stormwater sample collected from a qualifying storm is insufficient to allow analysis for all parameters listed above, the sample shall be analyzed for as many parameters as possible in the following priority order: (1) metals and hardness; (2) conductivity; (3) TSS; (4) nutrients; (5) organics: PAHs, phthalates, insecticide, and herbicides; (6) BOD_5; and (7) remaining conventional parameters. If insufficient sample exists to run the next highest priority pollutant, that analysis should be bypassed and analyses run on lower priority pollutants in accordance with the remaining priority order to the extent possible.

5.1.5.3 Parameters that are below reporting limits after two years of data may be dropped from the analysis.

5.1.5.4 Grab samples must be analyzed for the following constituents/parameters utilizing an Ecology- or EPA-

accredited laboratory and reporting limits listed in Table 1 found in APPENDIX E:

- Fecal coliform bacteria
- Total petroleum hydrocarbons – diesel fraction

5.1.6 **Stormwater Solids Samples**

Stormwater solids samples must be collected twice per water year at each stormwater discharge monitoring location, or in the vicinity of each stormwater monitoring location, according to the following:

5.1.6.1 EPA may approve reducing this requirement to a once per year frequency if the Permittee provides evidence demonstrating that insufficient material is present in the conveyance.

5.1.6.2 Use of in-line traps or similar collection system is needed for stormwater solids sampling.

5.1.6.3 Stormwater solids samples must be analyzed for the following parameters utilizing an Ecology- or EPA-accredited laboratory and the methods and reporting limits listed in Table 2 found in APPENDIX E or otherwise approved by EPA:

- Conventional parameters
- Metals
- Organics:
  - Pesticides
  - PAHs
  - Phthalates
  - Phenolics
  - Polychlorinated biphenyls (PCBs)
  - Polybrominated diphenyl ethers (PBDEs)
  - Total petroleum hydrocarbon – diesel fraction (TPH-Dx)

5.1.6.4 Analyte Priority. If the stormwater solids sample volume is insufficient to analyze for all of the parameters listed below, the sample must be analyzed for as many parameters as possible in the following priority order: (1) conventional parameters; (2) metals; (3) TPH-Dx; (4) Phenolics; (5) PAHs and phthalates; (6) pesticides; (7) PBDEs; and (8) PCBs. If insufficient sample exists to run the next highest priority pollutant, that analysis may be bypassed and analyses run on lower priority pollutants in accordance with the remaining priority order to the extent possible. Additional samples must

be collected if insufficient sample exists from a single sample to run all of the organic pollutants listed above.

5.1.6.5 A visual, qualitative determination of grain size must be reported for all stormwater solids samples (in addition to the quantitative analysis for all samples with sufficient volume).

5.1.6.6 Parameters that are below reporting limits after two years of data may be dropped from the analysis.

5.2 Quality Assurance Project Plan

The Permittee must develop a Quality Assurance Project Plan (QAPP) for all monitoring required by this Permit. Any existing QAPPs may be modified to meet the requirements of this section.

No later than 1 year from the effective date of this permit, the Permittee must submit written notice to EPA and Puyallup Tribe of Indians that the QAPP has been developed and implemented. The QAPP is subject to approval by EPA and Puyallup Tribe of Indians. The QAPP must meet the following requirements:

5.2.1 Purpose

The QAPP must be designed to assist in planning for the collection and analysis of effluent samples in support of the permit and in explaining data anomalies when they occur.

5.2.2 Format

Throughout all sample collection and analysis activities, the Permittee must use EPA-approved QA/QC and chain-of-custody procedures described in *EPA Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAPP must be prepared in the format that is specified in these documents.

5.2.3 QAPP Requirements

At a minimum, The QAPP must contain the following:

5.2.3.1 Details on the number of samples, type of sample containers, sample preservation methods, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements;

5.2.3.2 Specifications for the collection and analysis of quality assurance samples for each sampling event, including

matrix spiked and duplicate samples, and analysis of field transfer blanks (sample blanks);

5.2.3.3 Map(s) indicating the location of the sampling point and associated drainage basins with known land uses;

5.2.3.4 Description of each stormwater monitoring location and associated drainage basin in detail. The QAPP must describe the size of the drainage basin, and the percentage of area in the drainage basin representing the following land uses: high density residential, low density residential, commercial, industrial, agriculture, and transportation right-of-way. The QAPP must contain definitions for each land use;

5.2.3.5 Sampling approach for each sampling site used to collect stormwater solids samples;

5.2.3.6 Qualification and training of personnel, and

5.2.3.7 Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the Permittee.

5.2.4 Modifications

The Permittee must amend the QAPP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAPP.

5.2.5 Retention

Copies of the QAPP must be retained on site and made available to EPA and Puyallup Tribe of Indians upon request.

5.3 Representative Sampling

Samples and measurements taken to meet the requirements of this permit must be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

5.4 Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

5.5 Additional Monitoring

If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the Permittee must include the results of this monitoring in the calculation and reporting of the data submitted in each Annual Report.

Upon request by EPA or Puyallup Tribe of Indians, the Permittee must submit results of any other sampling, regardless of the test method used.

5.6 Records Contents

Records of monitoring information must include:

5.6.1 The date, exact place, and time of sampling or measurements;

5.6.2 The name(s) of the individual(s) who performed the sampling or measurements;

5.6.3 The date(s) analyses were performed;

5.6.4 The names of the individual(s) who performed the analyses;

5.6.5 The analytical techniques or methods used; and

5.6.6 The results of such analyses.

6 REPORTING REQUIREMENTS

6.1 Submission Process

The Permittee must submit reports and/or documents required by this Permit to EPA and the Puyallup Tribe of Indians in an electronic portable document format (PDF) that is saved and stored on a compact disc or other portable electronic storage device. Any monitoring results must be submitted as an attachment to the corresponding Annual Report. The Permittee must sign and certify all electronic submittals as required by Part 8.5 (*Signatory Requirements*).

6.1.1 Addresses

All documents, including but not limited to, plans, agreements, notifications, annual reports, monitoring reports, compliance reports, monitoring data, and renewal applications must be mailed to:

U.S. EPA Region 10
Enforcement & Compliance Assurance Division
1200 6th Avenue, Suite 155
Mail Code 20-C04
Seattle, WA 98101

All documents, including, but not limited to, plans, agreements, notifications, annual reports, monitoring reports, compliance reports, monitoring data, and renewal applications must be provided to Char Naylor at the Puyallup Tribe of Indians. Digital copies are preferred and sent to char.naylor@puyalluptribe-nsn.gov or:

Puyallup Tribe, c/o Char Naylor, Environmental
3009 East Portland Avenue
Tacoma, WA 98404

6.1.2 NetDMR

Prior to the Permit expiration date, EPA may provide the Permittees with instructions for submitting required Annual Reports and/or other documents electronically using NetDMR. The Permittees may then

use NetDMR for this Permit only after requesting and receiving permission from EPA Region 10. After the Permittee begins using NetDMR, the Permittee is no longer required to submit such materials to EPA and the Puyallup Tribe of Indians via paper submittal.

6.2 Annual Report

No later than March 31st, of each year beginning in 2023 the Permittee must submit an Annual Report to EPA and Puyallup Tribe of Indians, an example format is provided in APPENDIX A. The reporting period for each Annual Report is described below:

Annual Report	Reporting Period	Due Date
1st Year	Permit Effective Date – Dec 31, 2022	March 31, 2023
2nd Year	Jan 1 – Dec 31, 2023	March 31, 2024
3rd Year	Jan 1 – Dec 31, 2024	March 31, 2025
4th Year	Jan 1 – Dec 31, 2025	March 31, 2026
5th Year	Jan 1 – Dec 31, 2026	March 31, 2027

6.3 Stormwater Monitoring Reports

An “Annual Stormwater Monitoring Report” must be submitted with each Annual Report beginning in 2023. Each report must summarize all monitoring data collected during the preceding water year (October 1 – September 30). The first annual monitoring report submitted will include data from a partial water year. Each report must integrate data from earlier years into the analysis of results, as appropriate. See APPENDIX B for required information to be included in each report.

6.4 Retention of Records

The Permittee must retain records and copies of all information (including all monitoring, calibration, and maintenance records and all original strip chart recordings for any continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the SWMP Document and application for this permit) for a period of at least five years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended at the request of EPA at any time.

6.5 Availability of Records.

At a minimum, the Permittee must retain all records associated with this Permit in a location and format that are accessible to EPA and the Puyallup Tribe. The Permittee must make all records described above available to the public if requested to do so in writing. The public must be able to view the records during normal business hours. The Permittee may charge the public a reasonable fee for copying requests.

7 COMPLIANCE RESPONSIBILITIES

7.1 Duty to Comply

The Permittee must comply with all conditions of this Permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

7.2 Penalties for Violations of Permit Conditions

7.2.1 Civil and Administrative Penalties

Pursuant to 40 CFR §19 and the CWA, any person who violates sections 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the CWA, is subject to a civil penalty not to exceed the maximum amounts authorized in the United States Code (USC) by section 309(d) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $55,800 per day for each violation).

7.2.2 Administrative Penalties

Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR §19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by section 309(g)(2)(A) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) [currently $22,320 per violation, with the maximum amount of any Class I penalty assessed not to exceed $55,800]. Pursuant to 40 CFR §19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by section 309(g)(2)(B) of the CWA and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) [currently $22,320 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $278,995].

7.2.3 Criminal Penalties

7.2.3.1 Negligent Violations

The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections

in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

7.2.3.2 Knowing Violations

Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

7.2.3.3 Knowing Endangerment

Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

7.2.3.4 False Statements

The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. The CWA further provides that any person who

knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

7.3 Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

7.4 Duty to Mitigate

The Permittee must take all reasonable steps to minimize or prevent any discharge or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

7.5 Proper Operation and Maintenance

The Permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes best management practices, adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of this Permit.

7.6 Toxic Pollutants

The Permittee must comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7.7 Planned Changes

The Permittee must give notice to the Director and the Puyallup Tribe of Indians as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

- The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR §122.29(b); or
- The alteration or addition could significantly change the nature or increase the quantity of the pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

7.8 Anticipated Noncompliance

The Permittee must give advance notice to the Director of EPA Office of Compliance and Enforcement, and Puyallup Tribe of Indians using the addresses provided in Part 6.1.1 (*Addresses*), of any planned changes in the permitted facility or activity which may result in noncompliance with this Permit.

7.9 Twenty-Four-Hour Notice of Noncompliance Reporting

The Permittee must report the following occurrences of noncompliance by telephone at (206) 553-1846, within 24-hours from the time the Permittee becomes aware of the circumstances:

- Any discharge to or from the MS4 which could result in noncompliance that may endanger health or the environment;
- Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in this Permit. See Part 7.10 *(Bypass of Treatment Facilities);*
- Any upset that results in or contributes to an exceedance of any effluent limitation in this Permit. See Part 7.11 *(Upset Conditions)*.

7.9.1 Written Report

The Permittee must also provide a written submission within five (5) business days of the time that the Permittee becomes aware of any event required to be reported under Part 7.9 *(Twenty-Four-Hour Notice of Noncompliance Reporting)*. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and all steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Permittee must submit its written report to EPA and Puyallup Tribe of Indians.

7.9.2 Written Report Waiver

The Director of EPA Office of Compliance and Enforcement may waive the written report on a case by case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

7.10 Bypass of Treatment Facilities

7.10.1 Bypass Not Exceeding Limitations

The Permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 7.10.2 and 7.10.3 of this Part.

7.10.2 Notice

7.10.2.1 Anticipated bypass.

If the Permittee knows in advance of the need for a bypass,

it must submit prior notice, to the Director, if possible at least 10 days before the date of the bypass.

7.10.2.2 Unanticipated bypass.
The Permittee must submit notice of an unanticipated bypass as required under Part 7.9 (*Twenty-Four-Hour Notice of Noncompliance Reporting*)

7.10.3 Prohibition of Bypass

Bypass of stormwater from all or any portion of a stormwater treatment BMP is prohibited, and the Director of the Office of Compliance and Enforcement may take enforcement action against the Permittee for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- The Permittee submitted notices as required under Part 7.10.2 above.

7.10.4 Optional Approval

The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in this part.

7.11 Upset Conditions

7.11.1 Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with a technology-based permit effluent limitation if the Permittee meets the requirements of paragraph 7.11.2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

7.11.2 Conditions Necessary for a Demonstration of Upset

To establish the affirmative defense of upset, the Permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- An upset occurred and that the Permittee can identify the cause(s) of the upset;

- The permitted facility was at the time being properly operated;
- The Permittee submitted notice of the upset as required under Part 7.9, (*Twenty-Four-Hour Notice of Noncompliance Reporting*) and,
- The Permittee complied with any remedial measures required under Part 7.4, (*Duty to Mitigate*).

7.11.3 Burden of Proof

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

7.12 Other Noncompliance

The Permittee must report all instances of noncompliance, not required to be reported within 24 hours, as part of each Annual Report. Such noncompliance reports must contain all the information listed in Part 7.9 (*Twenty-Four-Hour Notice of Noncompliance Reporting*).

7.13 Removed Substances

All collected screenings, grit, solids, sludges, filter backwash water, decant water, and/or other pollutants removed in the course of maintenance, and/or treatment or control of stormwater and other wastewaters must be managed and disposed of in a manner such as to prevent such pollutants from entering the waters of the U.S. See also APPENDIX D of the Permit.

8 GENERAL REQUIREMENTS

8.1 Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR §§122.62, 122.64, or 124.5. The filing of a request by the Permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

8.2 Duty to Reapply

If the Permittee intends to continue its operational control and management of discharges from the MS4 as regulated by this permit after the permit expiration date, the Permittee must apply for and obtain a new permit in accordance with 40 CFR §122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Director, the Permittee must submit a new application at least 180 days before the permit expiration date.

8.3 Duty to Provide Information

The Permittee must furnish to EPA, within the time specified in the request, any information that the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee must also furnish to EPA, upon request,

copies of the records required to be kept by this Permit.

8.4 Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in an application, or any report to EPA, it must promptly submit the omitted facts or corrected information in writing.

8.5 Signatory Requirements

All permit applications, reports, or information submitted to EPA must be signed and certified as follows:

8.5.1 All Permit applications must be signed and certified:

- For a corporation: by a principal corporate officer.
- For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
- For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

8.5.2 Duly Authorized Representative

All reports required by this permit and other information requested by EPA must be signed by a person described in Part 8.5.1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

8.5.2.1 The authorization is made in writing by a person described above and submitted to the Director;

8.5.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity,

Such as the position of plant manager, owner or operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

8.5.2.3 Written authorization is submitted to EPA Director of the Office of Compliance and Enforcement.

8.5.3 Changes to Authorization

If an authorization under Part 8.5.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 8.5.2 must be submitted to EPA Director of the Office of Compliance and Enforcement prior to or together with any reports, information, or applications to be signed by an authorized representative.

8.5.4 Certification

Any person signing a document under this part must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8.6 Availability of Reports

In accordance with 40 CFR §2, information submitted to EPA pursuant to this permit may be claimed as confidential by the Permittee. In accordance with the CWA, permit applications, permits, and effluent data are not considered confidential. Any confidential claim must be asserted at the time of submission by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the Permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR §2, Subpart B (Public Information) and 41 Federal Register 36924 (September 1, 1976), as amended.

8.7 Inspection and Entry

The Permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; or an authorized representative (including an authorized contractor acting as a representative of the Director), upon the presentation of credentials and other documents as may be required by law, to:

8.7.1 Enter

Upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

8.7.2 Access

Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

8.7.3 Inspect

Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

8.7.4 Sample, Monitor, Evaluate or Audit

At reasonable times, for the purpose of assuring permit compliance or

as otherwise authorized by the CWA, any discharges, substances or parameters at any location.

8.8 Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

8.9 Transfers

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds. The Director may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary under the CWA.

8.10 State/Tribal Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state/Tribal law or regulation under authority preserved by Section 510 of the CWA. No condition of the permit releases the Permittee from any responsibility or requirements under other environmental statutes or regulations.

8.11 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Clean Water Act or Section 106 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

8.12 Severability

The provisions of this permit are severable, and if any provision of this Permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

8.13 Re-opener Clause

This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the Permittee) or upon EPA initiative. However, a permit may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR §§122.62 or 122.64, and 40 CFR §124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance, including but not limited to future monitoring results. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request. See also Part 8.1 (*Permit Actions*).

9 DEFINITIONS

1. ***Administrator*** means the Administrator of the United States Environmental Protection Agency, or an authorized representative [40 CFR §122.2].

2. ***Best Management Practice****, or BMP,* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States and waters of the Tribe. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. See 40 CFR 122.2 and 122.44(k).

3. ***Bypass*** means the intentional diversion of waste streams from any portion of a treatment facility.

4. ***CFR*** means the Code of Federal Regulations, which is the official annual compilation of all regulations and rules promulgated during the previous year by the agencies of the United States government, combined with all the previously issued regulations and rules of those agencies that are still in effect.

5. ***Construction General Permit*** or *CGP* means the current version of the U.S. Environmental Protection Agency's *NPDES General Permit for Stormwater Discharges from Construction Activities in Indian Country within the State of Washington*, Permit No. WAR10I000. The permit is posted on EPA's website at https://www.epa.gov/npdes/stormwater-discharges-construction-activities

6. ***Construction Activity*** includes, but is not limited to, clearing, grading, excavation, and other site preparation work related to construction of residential buildings and non-residential buildings, and heavy construction (e.g., highways, streets, bridges, tunnels, pipelines, transmission lines and industrial non-building structures).

7. ***Control Measure*** as used in this Permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States and waters of the Tribe.

8. ***CWA*** or *the Act*, means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 U.S.C. § 1251 et seq. [40 CFR §122.2].

9. ***Director*** means the Regional Administrator of EPA Region 10, or the Director of EPA Region 10 Office of Water and Watersheds, Director of EPA Region 10 Office of Compliance and Enforcement, or an authorized representative thereof.

10. ***Discharge*** when used without qualification means the "discharge of a pollutant" as defined at 40 CFR §122.2.

11. ***Discharge Monitoring Report*** *(DMR)* means EPA's uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by Permittees [40 CFR §122.2].

12. ***Discharge of a pollutant*** means (a) any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or (b) any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger" [40 CFR §122.2].

13. ***Discharge-related activities*** include activities which cause, contribute to, or result in stormwater point source pollutant discharges, and measures to control such stormwater discharges, including the siting, construction, and operation of BMPs to control, reduce or prevent stormwater pollution.

14. ***Draft permit*** means a document prepared under 40 CFR §124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit" [40 CFR §122.2].

15. ***Effluent limitation*** means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean, including schedules of compliance." [See CWA §502(11) and 40 CFR §122.2].

16. ***EPA*** means Environmental Protection Agency Region 10's Regional Administrator, the Director of the Office of Water and Watersheds, or an authorized representative.

17. ***Erosion*** means the process of carrying away soil particles by the action of water.

18. ***Facility*** means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

19. ***Hyperchlorinated*** means water that contains more than 10 mg/Liter chlorine.

20. ***Illicit Connection*** means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

21. ***Illicit Discharge*** is defined at 40 CFR §122.26(b)(2) and means any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire-fighting activities.

22. ***Impervious surface*** means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. "Impervious surface" also means a non-vegetated surface area which causes water to run off the surface in greater quantities (or at an increased rate of

flow) than the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to: roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities must be considered impervious surfaces for purposes of runoff modeling.

23. ***Indian Country*** as indicated by 18 U.S.C. § 1151 means:

    (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,

    (b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and,

    (c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

24. ***Indian Tribe*** means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian Reservation [40 CFR §122.2].

25. ***Industrial Activity*** as used in this Permit refers to the eleven categories of industrial activities included in the definition of discharges of stormwater associated with industrial activity at 40 CFR §122.26(b)(14).

26. ***Industrial Stormwater*** as used in this permit refers to stormwater runoff from industrial activities, such as those defined in 40 CFR 122.26(b)(14)(i-xi).

27. ***Infiltration*** is the process by which stormwater penetrates into soil.

28. ***Low Impact Development*** or *LID* means a stormwater and land use management strategy that strives to mimic pre-development hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of onsite natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

29. ***LID Best Management Practices*** or *LID practices*, means the distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention/rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

30. ***LID Principles*** means the land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

31. ***Maintenance*** means the repair and maintenance activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use

beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. One example is the replacement of a collapsed, fish blocking, round culvert with a new box culvert under the same span, or width, of roadway. In regard to stormwater facilities, maintenance includes assessment to ensure ongoing proper operation, removal of built up pollutants (i.e. sediments), replacement of failed or failing treatment media, and other actions taken to correct defects as identified in the maintenance standards of Chapter 4, Volume V- *Runoff Treatment BMPs* of the 2012 *Stormwater Management Manual for Western Washington as amended 2014* or other functionally equivalent documents.

32. ***Method Detection Limit*** *(MDL)* means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

33. ***Minimize*** means to reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practices.

34. ***Minimum Level*** *(ML)* means either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor.

35. ***MSGP****, or Multi-Sector General Permit* means the current version of the U.S. Environmental Protection Agency's *NPDES Multi-Sector General Permit For Stormwater Discharges Associated With Industrial Activity In Indian Country In The State Of Washington, Permit No. WAR05I000.* The permit is posted on EPA's website at https://www.epa.gov/npdes/final-2015-msgp-documents,

36. ***Municipal Separate Storm Sewer****, or MS4* is defined at 40 CFR 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned

Treatment Works (POTW) as defined at 40 CFR §122.2.

37. ***Municipality*** means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA.

38. ***National Pollutant Discharge Elimination System*** *(NPDES*) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA [40 CFR §122.2]. The term includes an "approved program" delegated to a State agency.

39. ***Outfall*** means a point source (defined below) at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

40. ***Owner or operator*** means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

41. ***Permanent stormwater management controls*** see *post-construction stormwater management controls*.

42. ***Pervious Surface*** means any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

43. ***Point Source*** is defined at 40 CFR §122.2 and means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

44. ***Pollutant*** is defined at 40 CFR §122.2, and includes: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

45. ***Post-construction stormwater management, post-construction controls****,* or *permanent stormwater management controls* means those controls designed to treat or control runoff on a permanent basis once construction is complete, including stormwater treatment and flow control BMPs / facilities, including detention facilities, bioretention, vegetated roofs, permeable pavements, etc.

46. ***Receiving waters*** means bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow. For the purposes of this Permit, *receiving waters* also means ground water to which surface runoff is directed by infiltration. See also *waters of the Tribe* and *waters of the United States*.

47. ***Regional Administrator*** means the Regional Administrator of Region 10 of EPA, or the authorized representative of the Regional Administrator.

48. ***Runoff*** see *stormwater.*

49. ***Severe property damage*** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR §122.41(m)(1)(ii).

50. ***Snow management*** means the plowing, relocation and collection of snow and ice.

51. ***Source control*** means stormwater management practices that control stormwater *before* pollutants have been introduced into stormwater; a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The 2012 *Stormwater Management Manual for Western Washington as amended 2014* separates source control BMPs into two types. *Structural Source Control BMPs* are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. *Operational BMPs* are non-structural practices that prevent or reduce pollutants from entering stormwater. See Volume IV-*Source Control BMPs* of the 2012 *Stormwater Management Manual for Western Washington as amended 2014* for details.

52. ***Stormwater****,* and *stormwater runoff* as used in this Permit means runoff during and following precipitation and snow melt events, including surface runoff and drainage, as defined at 40 CFR §122.26(b)(13). Stormwater means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility.

53. ***Stormwater Control Measure*** means physical, structural, and/or managerial measures that, when used singly or in combination, reduce the downstream quality and quantity impacts of stormwater. Also, SCM means a permit condition used in place of or in conjunction with effluent limitations to prevent or control the discharge of pollutants. This may include a schedule of activities, prohibition of practices, maintenance procedures, or other management practices. SCMs may include, but are not limited to, treatment requirements; operating procedures; practices to control plant site runoff, spillage, leaks, sludge, or waste disposal; or drainage from raw material storage. See "*best management practices (BMPs).*

54. ***Stormwater Discharge Associated with Construction Activity****,* as used in this

Permit, refers to a discharge of pollutants in stormwater runoff from areas where soil disturbing activities (*e.g.*, clearing, grading, or excavation), construction materials or equipment storage or maintenance (*e.g.*, fill piles, borrow areas, concrete truck washout, fueling) or other industrial stormwater directly related to the construction process are located. (See 40 CFR §122.26(b)(14)(x) and 40 CFR §122.26(b)(15) for the two regulatory definitions of stormwater associated with construction sites.)

55. ***Stormwater Discharge Associated with Industrial Activity***, as used in this Permit, refers to the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial activity included in the regulatory definition at 40 CFR §122.26(b)(14).

56. ***Stormwater Facility*** means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins, and modular pavement. See also *permanent stormwater management controls* and/or *post-construction stormwater management controls*.

57. ***Stormwater Management Practice*** *or Stormwater Management Control* means practices that manage stormwater, including structural and vegetative components of a stormwater system.

58. ***Stormwater Management Program*** *(SWMP)* refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system.

59. ***Stormwater Management Program Document*** (*SWMP Document*) refers to the written document which describes the Permittee's plans and actions to reduce pollutants from stormwater to the maximum extent practicable via the requirement of this permit.

60. ***Stormwater Pollution Prevention Plan*** *(SWPPP)* means a site-specific plan designed to describe the control of soil or other materials to prevent pollutants in stormwater runoff, generally developed for a construction site, or an industrial facility. For the purposes of this Permit, a SWPPP means a written document that identifies potential sources of pollution, describes practices to reduce pollutants in stormwater discharges from the site, and identifies procedures that the operator will implement to comply with applicable permit requirements.

61. ***Treatment*** means stormwater management practices that 'treat' stormwater after pollutants have been incorporated into the stormwater.

62. ***Uncontaminated***, for the purposes of this Permit, means that the MS4 discharge does not:

- Result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or
- Result in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or
- Contribute to a violation or exceedance of an applicable water quality standard.

63. ***Upset*** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation. See 40 CFR §122.42(n)(1).

64. ***Waters of the Tribe*** includes those waters as defined as *waters of the United States* in 40 CFR §120.2 within the geographic boundaries of Washington State and having Tribal water quality standards.

65. ***Waters of the United States*** or *waters of the U.S*. means: those waters defined in 40 CFR §120.2.

66. ***Watershed*** is defined as all the land area that is drained by a water body and its tributaries.

67. ***Wetlands*** means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

APPENDIX A. ANNUAL REPORTS

This Appendix outlines the content of the Annual Reports, and provides an example format.

Annual Report Template
Pierce County
Municipal Separate Storm Sewer System (MS4)
Permit # WAS026875

Reporting Period

☐ Year 1 Reporting Period: effective date of the permit – December 31, 2022

☐ Year 2 Reporting Period: January 1, 2023 – December 31, 2023

☐ Year 3 Reporting Period: January 1, 2024 – December 31, 2024

☐ Year 4 Reporting Period: January 1, 2025 – December 31, 2025

☐ Year 5 Reporting Period: January 1, 2026 – December 31, 2026

☐ Other Click or tap here to enter text.

General Information

Contact Person Name and Title: Click or tap here to enter text.

Phone Number: Click or tap here to enter text.

E-mail: Click or tap here to enter text.

Stormwater Website URL: Click or tap here to enter text.

Signature and Certification

Certification: *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

Signature: Click or tap here to enter text. Date: Click or tap to enter a date.

Printed Name: Click or tap here to enter text.

Signatory Title: Click or tap here to enter text.

PERMITTEE RESPONSIBILITIES

Shared Implementation with Outside Entities (2.1.4.4)

1. Do you, the Permittee, share Permit implementation responsibility with an Outside Entity for compliance with the Permit pursuant to Permit Part 2.1?
   ☐ Yes ☐ No

2. If yes, is the written and binding agreement with the Outside Entity attached to this annual report?
   ☐ Yes ☐ No ☐ Not Applicable

SWMP Document (2.3.1.4)

3. Is the updated SWMP document pursuant to Permit Part 2.3.1 attached?
   ☐ Yes ☐ No

SWMP Information and Statistics (2.3.2)

4. Do you, the Permittee, have a method of gathering, tracking, and using SWMP information to set priorities and assess permit compliance pursuant to Permit Part 2.3.2?
   ☐ Yes ☐ No

SWMP Resources (2.3.3.1)

5. Provide an estimation of SWMP implementation costs over the relevant reporting period pursuant to Permit Part 2.3.3:
   Click or tap here to enter text.

Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation (2.3.4.2)

6. Have there been any additions and/or schedules for implementation to the Permit Area pursuant to Permit Part 2.3.4?
   ☐ Yes ☐ No

7. If yes, document the additions here or include an attachment:
   Click or tap here to enter text.

STORMWATER MANAGEMENT PROGRAM CONTROL MEASURES

Education and Outreach (3.1.6)

8. Have you, the Permittee, conducted assessment activities for at least one target audience (Permit Part 3.1.3) in at least one of the topics listed in Permit Part 3.1.4?
   ☐ Yes ☐ No

9. Summarize assessment activities conducted during the reporting period resulting in changes in adoption of the targeted behaviors pursuant to Permit Part 3.1:
   Click or tap here to enter text.

Public Involvement/Participation (3.2.4)

10. Was the applicable Annual Report and SMWP Document available to the public on your, the Permittee's, website no later than May 31st of the year following the reporting period (Permit Part 3.2.3)?
    ☐ Yes ☐ No

11. Summarize public involvement and participation activities sponsored during the reporting period pursuant to Permit Part 3.2:
    Click or tap here to enter text.

Illicit Discharge Detection and Elimination (3.3.7)

12. Is a copy of the completed MS4 map attached in an Arc GIS compatible format (Permit Part 3.3.2)?
    ☐ Yes ☐ No

13. Report the total number of illicit discharges identified during the reporting period (Permit Part 3.3.7.2):
    Click or tap here to enter text.

14. Describe the types of illicit discharges identified (Permit Part 3.3.7.2):
    Click or tap here to enter text.

15. Describe any dry weather screening efforts conducted (Permit Part 3.3.7.3):
    Click or tap here to enter text.

16. Describe the locations and efforts taken to address identified illicit discharges (Permit Part 3.3.7.4):
    Click or tap here to enter text.

17. Provide the record of calls received and follow-up actions taken (Permit Part 3.3.7.5):
Click or tap here to enter text.

18. Provide records of relevant training provided or obtained and the staff members trained (Permit Part 3.3.7.6):

Name of Training	Date of Training	Description	Number of Staff Trained

New Development, Redevelopment, and Construction Site Runoff (3.4.6)

19. Summarize corrective actions taken at construction sites during the previous reporting period (Permit Part 3.4.6.1):
Click or tap here to enter text.

20. Provide the number of site plans reviewed (Permit Part 3.4.6.2):
Click or tap here to enter text.

21. Provide the number of site inspections conducted (Permit Part 3.4.6.2):
Click or tap here to enter text.

22. Provide the result/response of each inspection (Permit Part 3.4.6.2):
Click or tap here to enter text.

23. Summarize any follow-up action(s) conducted, subsequent enforcement action(s), and/or any referrals to different departments or agencies (Permit Part 3.4.6.3):
Click or tap here to enter text.

24. Provide records of relevant training provided or obtained and staff members trained (Permit Part 3.4.6.4):

Name of Training	Date of Training	Description	Number of Staff Trained

25. Summarize the specific BMPs that were selected and implemented for reducing pollutants in stormwater runoff from new development, redevelopment, and construction project sites (Permit Part 3.4.6.5):
Click or tap here to enter text.

Structural Stormwater Controls (3.5.4)

26. Provide a list of current planned projects that are scheduled for implementation and a status update for any ongoing projects (Permit Part 3.5.4):
Click or tap here to enter text.

Source Control for Existing Development (3.6.10)

27. Provide records of all source control inspections, follow up actions taken, enforcement actions taken and circumstances beyond your control that prevent an inspection from occurring (Permit Part 3.6.10.1):
Click or tap here to enter text.

28. Provide an updated source control inventory including those sources identified by complaints (sources identified by complaints must be noted as such in the inventory) (Permit Part 3.6.10.2):
Click or tap here to enter text.

29. Provide records of relevant training provided or obtained and staff members trained (Permit Part 3.6.10.3):

Name of Training	Date of Training	Description	Number of Staff Trained

Municipal Operations & Maintenance (3.7.10):

30. Provide records of all permanent stormwater facility inspections, catch basin inspections, maintenance or repair activities conducted and those circumstances beyond the Permittee's control that prevent a maintenance activity from occurring (Permit Part 3.7.10.1 & 3.7.10.2):
Click or tap here to enter text.

31. Provide the total number of owned and/or operated permanent stormwater facilities used for flow control and treatment to be inspected (Permit Part 3.7.10.3):
Click or tap here to enter text.

32. Summarize the inspection and maintenance of those permanent stormwater facilities (Permit Part 3.7.10.3.1):
Click or tap here to enter text.

33. Provide the total number of owned and/or operated catch basins to be inspected annually (Permit Part 3.7.10.4):
Click or tap here to enter text.

34. Summarize the progress made toward inspecting and maintaining all catch basins prior to the permit expiration date (Permit Part 3.7.10.4.1):
Click or tap here to enter text.

35. Provide records of relevant training provided or obtained and staff members trained (Permit Part 3.7.10.5):

Name of Training	Date of Training	Description	Number of Staff Trained

OTHER REQUIREMENTS & RESPONSIBILITIES

Adaptive Management Response (4.4.2)

36. Have you, the Permittee submitted an Adaptive Management Response Report pursuant to Permit Part 4?
☐ Yes ☐ No

37. If yes, summarize the status of implementation and results of any monitoring, assessment or evaluation efforts conducted during the reporting period (Permit Part 4.4.2):
Click or tap here to enter text.

Additional Monitoring (5.5)

38. Have any additional monitoring results been attached to this year's monitoring report (Permit Part 5.5)?
☐ Yes ☐ No

Stormwater Monitoring Report (6.3)

39. Is the annual stormwater monitoring report attached (Permit Part 6.3 and Appendix B)?
☐ Yes ☐ No

Other Noncompliance (7.12)

40. Provide a summary of all instances of noncompliance, not required to be reported within 24 hours (Permit Part 7.12):
Click or tap here to enter text.

41. Does each instance contain the information listed in Permit Part 7.9?
☐ Yes ☐ No

APPENDIX B. STORMWATER MONITORING REPORT

Annual Stormwater Monitoring Reports must provide all data collected during the preceding water year (October 1 – September 30). Concentration data must be provided in the same units that are specified for Minimum Levels in Table 1 and Table 2 found in APPENDIX E. Flow data must be reported in gallons per minute. Loading data for each water year must be provided in total pounds and in pounds per acre. Annual Stormwater Monitoring Reports must consist of a narrative report with a description of the findings and data of any stormwater monitoring or other stormwater-related studies conducted by the Permittee (or any other parties available), an Excel spreadsheet with concentration data (summary statistics: minimum, maximum, mean, median, and standard deviation), and pollutant loading calculations. Raw and final stormwater monitoring data must be conveyed with the report. The report must include:

- A brief summary of each monitored drainage basin (full details of the monitoring drainage basin must be in the QAPP), including any changes within the contributing drainage area or changes to the monitoring station that could affect hydrology and/or pollutant loading;
- A description of each flow-weighted composite and grab sampled storm event, including:
    - General summary about storm event criteria, including:
        - Precipitation data (in inches) including antecedent dry period and rainfall distribution throughout the event;
        - Flow and hydrograph data including sampled and total runoff time periods and volumes;
        - Total number of qualifying storm events captured and analyzed at each monitoring location;
        - Distribution of storms collected between wet and dry seasons; and,
        - Logistical problems associated with any storm event criterion.
    - A hyetograph and a hydrograph for each sampled storm event. Include properly labeled graphs that display the following:
        - Date of the storm event;
        - Time of day versus precipitation information;
        - Time versus flow rate (in gallons per minute)
        - Time versus aliquot collection; and,
        - Display the total duration of the storm event, not just the duration when samples were collected (the pollutant load calculation must include flow for the entire storm event, not just the water quality sampled portion).
    - A summary of (or in the graph) the total runoff volume in gallons;
    - A rainfall/runoff relationship table used to estimate the un-sampled storm events (when water quality samples were not collected);
    - Whether or not any chemicals were removed from the list of analysis due to

two years of non-detect data; and,
    - A brief summary with storm event dates, where insufficient volumes were collected. Include the parameters analyzed.
- A description of the stormwater solids sampling event, including;
    - Timeframe for the sampling event;
    - A summary of stormwater solids sampling (including dates) where insufficient volumes were collected. Include the parameters analyzed;
    - Whether or not any chemicals were removed from the list of analysis due to two years of non-detect data; and,
- Event Mean Concentrations (EMCs)
- The wet and dry season pollutant loads and annual pollutant load based on water year for each discharge monitoring location expressed in total pounds, and pounds per acre. The loadings must take into account potential pollutant load from base flow. Pollutant loading calculations and reporting are required only for the nutrients, metals, and organics parameters in stormwater. Include the following:
    - For storm events where water quality samples were collected, the load in pounds per day for each parameter for each sampled storm event, include date of storm events;
    - An estimated seasonal pollutant load for each parameter at each discharge monitoring location. This is calculated using all storm events (when water quality samples were collected and when samples were not collected);
    - A total annual pollutant load (wet season load + dry season load) for each parameter (include estimated events);
    - The rainfall/runoff relationship including your pollutant load estimates for un-sampled events; and,
    - Note that if any data is unavailable to effectively estimate your rainfall to runoff relationship due to an incomplete water year, submit this information in the next year's stormwater monitoring report.
- Quality Assurance/Quality Control information for each successfully sampled qualifying storm event at each discharge monitoring location and solids sample collection event at each discharge monitoring location, including:
    - A narrative summary of field and laboratory verification, validation results and quality control checks performed;
    - A narrative analysis of field and laboratory quality control sample results and how they compare with data quality objectives/indicators in the QAPP; and,
    - Corrective actions reported/taken.
- An explanation and discussion of results from each successfully sampled qualifying storm event at each discharge monitoring location and solids sample collection event collected at each discharge monitoring location, including:
    - A statistical analysis of the event mean concentrations for each parameter and a narrative description of significant findings from this analysis; and,
    - Any conclusions based on data from this study including analyses of

previously collected data from these discharge monitoring locations.

- A description of activities currently taking place or planned within the monitoring station's drainage area that may have affected or may potentially affect future monitoring results.

If the Permittee monitors any pollutant more frequently at the stormwater monitoring locations, then the results of this monitoring must be included in the annual monitoring report reflecting the water year in which the monitoring occurred.

After three (3) water years of data, the Annual Monitoring Report must include:

- Trend analyses;
- An evaluation of the data as it applies to the SWMP; and,
- Any stormwater management activities the Permittee has identified that can be implemented or adjusted to respond to this data.

APPENDIX C. MINIMUM TECHNICAL REQUIREMENTS

Ecology determined that the following enforceable documents, including codes, ordinances, director's rules, public rules and/or manuals, are functionally equivalent to Appendix I in the Phase I Municipal Stormwater Permit (effective August 1, 2013) and the required portions of Ecology's *2012 Stormwater Management Manual for Western Washington as Amended in December 2014*. The following documents also meet the minimum technical requirements as stated in this Permit.

Pierce County is meeting permit requirements of Parts 3.4.3, 3.6.3, and3.7.2, and achieves equivalency with Ecology's *2012 Stormwater Management Manual for Western Washington as Amended in December 2014* by adopting and implementing the regulations and rules listed below.

- Pierce County Code Title 17A, as effective on December 5, 2015.
- Pierce County Code Title 17B, as effective on December 5, 2015.
- Pierce County Stormwater Management Manual and Site Development Manual as effective December 5, 2015.
- Pierce County Memorandum "Policy to buy into regional stormwater ponds" as effective October 27, 2015.

APPENDIX D. STREET WASTE DISPOSAL

This Appendix contains requirements for street waste disposal, pursuant to Part 3.7 (*Municipal Operations & Maintenance*) of this permit. See also Part 7.13 (*Removed Substances*).

Street Waste Solids

Soils generated from maintenance of the MS4 may be reclaimed, recycled or reused when allowed by local codes and ordinances. Soils that are identified as contaminated pursuant to Washington Administrative Code (WAC) Chapter 173-350 shall be disposed at a qualified solid waste disposal facility.

Street Waste Liquids

General Procedures:

Street waste collection should emphasize retention of solids in preference to liquids. Street waste solids are the principal objective in street waste collection and are substantially easier to store and treat than liquids.

Street waste liquids require treatment before their discharge. Street waste liquids usually contain high amounts of suspended and total solids and adsorbed metals. Treatment requirements depend on the discharge location.

Discharges to sanitary sewer and storm sewer systems must be approved by the entity responsible for operation and maintenance of the system. Neither Washington Department of Ecology nor EPA will generally require waste discharge permits for discharge of stormwater decant to sanitary sewers or to stormwater treatment BMPs that are constructed and maintained in accordance with Department of Ecology's 2012 *SMMWW as amended 2014* or any documents approved as functionally equivalent by the Department of Ecology (See APPENDIX B).

The following order of preference, for disposal of catch basin decant liquid and water removed from stormwater treatment facilities, is required:

1. **Discharge of catch basin decant liquids to a municipal sanitary sewer connected to a Public Owned Treatment Works (POTW) is the <u>preferred disposal option</u>**. Discharge to a municipal sanitary sewer requires the approval of the sewer authority. Approvals for discharge to a POTW will likely contain pretreatment, quantity and location conditions to protect the POTW.

2. **Discharge of catch basin decant liquids may be allowed into a Basic or Enhanced Stormwater Treatment BMP, if option 1 is not available**. Decant liquid collected from cleaning catch basins and stormwater treatment wet vaults may be discharged back into the storm sewer system under the following conditions:

    - The preferred disposal option of discharge to sanitary sewer is not reasonably available; and
    - The discharge is to a Basic or Enhanced Stormwater Treatment Facility as

described by Department of Ecology's 2012 *SMMWW as amended 2014* or any documents approved as functionally equivalent by the Department of Ecology (See APPENDIX C). If pretreatment does not remove visible sheen from oils, the treatment facility must be able to prevent the discharge of oils causing a sheen; and

- The discharge is as near to the treatment facility as is practical, to minimize contamination or recontamination of the collection system; and
- The storm sewer system owner/operator has granted approval and has determined that the stormwater treatment facility will accommodate the increased loading. Pretreatment conditions to protect the stormwater treatment BMP may be issued as part of the approval process. Following local pretreatment conditions is a requirement of this permit.
- Flocculants for the pretreatment of catch basin decant liquids must be non-toxic under the circumstances of use and must be approved in advance by EPA.

The reasonable availability of sanitary sewer discharge will be determined by the Permittee, by evaluating such factors as distance, time of travel, load restrictions, and capacity of the stormwater treatment facility.

3. **Water removed from stormwater ponds, vaults and oversized catch basins may be returned to the storm sewer system**. Stormwater ponds, vaults and oversized catch basins contain substantial amounts of liquid, which hampers the collection of solids and pose problems if the removed waste must be hauled away from the site. Water removed from these facilities may be discharged back into the pond, vault or catch basin provided:

- Clear water removed from a stormwater treatment structure may be discharged directly to a down gradient cell of a treatment pond or into the storm sewer system.
- Turbid water may be discharged back into the structure it was removed from if:
    - The removed water has been stored in a clean container (eductor truck, Baker tank or other appropriate container used specifically for handling stormwater or clean water); and
    - There will be no discharge from the treatment structure for at least 24 hours.
- If discharging to a pond, vault or catch basin that is not owned or operated by the Permittee, the discharge must be approved by the storm sewer system owner/operator.

APPENDIX E. MONITORING PARAMETERS AND MINIMUM LEVELS

The Table below lists the maximum Minimum Level (ML) for pollutants that have monitoring requirements in the Permit. The Permittee may request different MLs. The request must be in writing and must be approved by EPA. If the Permittee is unable to obtain the required ML in its effluent due to matrix effects, the Permittee must submit a matrix-specific detection limit (MDL) and a ML to EPA with appropriate laboratory documentation.

Table 1: Stormwater Effluent Parameters and MLs

Analyte	Minimum Level
Conventional Parameters	
Total suspended solids	1.0 mg/L
Turbidity	± 0.2 NTU
Conductivity	± 1 µmhos/cm
Chloride	0.2 mg/L
BOD_5	2.0 mg/L
pH	0.2 units
Hardness as $CaCO_3$	1.0 mg/L
Methylene blue activated substances (MBAS)	0.025 mg/L
Bacteria	
Fecal Coliform	$2\text{-}2x10^6$ CFU
Nutrients	
Orthophosphate as P	0.01 mg/L
Total phosphorus as P	0.01 mg/L
Total Kjeldahl nitrogen as N	0.3 mg/L
Nitrate-Nitrite as N	0.1 mg/L
Metals	
Total zinc	5.0 µg/L
Dissolved zinc	1.0 µg/L
Total lead	0.1 µg/L
Total copper	0.5 µg/L
Total cadmium	0.2 µg/L
Dissolved lead	0.1 µg/L
Dissolved copper	0.1 µg/L
Dissolved cadmium	0.1 µg/L
Organics	

PAHs[a]	0.1 µg/L
Pesticides: Bifenthrin (pyrethroid insecticide) and dichlobenil (herbicide)	0.05 µg/L
Phthalates[b]	1 µg/L
Petroleum Hydrocarbons	
NWTPH-Dx (diesel, heavy oil, and summed total)	0.25-0.5 mg/L

a. Polycyclic aromatic hydrocarbons (PAH), total and these individual compounds: acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(ghi)perylene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, pyrene, and retene. Report the individual compound concentrations, and their summed total.

b. Phthalates, total and these individual compounds: bis(2-ethylhexyl)phthalate, butyl benzyl phthalate, di-n-octyl phthalate, dibutyl phthalate, and diethyl phthalate. Report the individual compound concentrations, and their summed total.

Table 2: Stormwater Solids Effluent Parameters and MLs

Analyte	Minimum Level
Conventional Parameters	
Percent solids	0.1%
Total organic carbon	0.1%
Grain size	Not applicable
Total phosphorus	0.01 mg/kg
Total volatile solids	0.1%
Metals, dry weight	
Total zinc	5.0 mg/kg
Total lead	0.1 mg/kg
Total copper	0.1 mg/kg
Total cadmium	0.1 mg/kg
Organics, dry weight	
Pesticides: Bifenthrin and dichlobenil	1.0 µg/kg
PAHs[a]	70 µg/kg
Phthalates[b]	70 µg/kg Except di-n-octylphthalate (250 µg/kg)
Phenolics[c]	660 µg/kg
PCBs[d]	0.195 µg/kg or 5-20 ng/kg
PBDEs[e]	5-10 ng/kg Except PBDE 209: (200 ng/kg)

Petroleum Hydrocarbons	
TPH-Dx (diesel, heavy oil, and summed total)	25-100 mg/kg

a. Polycyclic aromatic hydrocarbons (PAH), total and these individual compounds: acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(ghi)perylene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, pyrene, and retene. Report the individual compound concentrations, and their summed total.

b. Phthalates: bis(2-ethylhexyl)phthalate, butyl benzyl phthalate, di-n-octyl phthalate, dibutyl phthalate, and diethyl phthalate. Report the individual compound concentrations, and their summed total.

c. Phenolics: pentachlorophenol, p-cresol, and o-cresol. Report the individual compound concentrations.

d. PCBs: EPA Methods 608.3 or EPA Method 8082A for Aroclors: 1016, 1221, 1232, 1242, 1248, 1254, 1260, 1262, 1268) are suitable starting points for stormwater solids characterization. If a more sensitive congener analysis is conducted (EPA Method 8082A or EPA Method 1668C) then those individual compound concentrations should also be reported in the annual report.

e. Polybrominated diphenyl ethers (PBDEs): congener numbers 47, 49, 66, 71, 99, 100, 138, 153, 154, 183, 184, 191, and 209. Report the individual compound concentrations, and their summed total.