



# Council Business Meeting

June 20, 2023

<b>Agenda Item</b>	Storm water Discharge and Quality Control Ordinance Section 14.10	
<b>From</b>	Scott Fleury PE	Public Works Director
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<b>Item Type</b>	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Presentation <input type="checkbox"/>	

## SUMMARY

Before the Council is a request to approve a newly created section of the Ashland Municipal Code (AMC) for storm water drainage quality control. The newly created code, section 14.10 “Storm water Discharge and Quality Control” was developed by staff with assistance from the Department of Environmental Quality (DEQ) to meet the current MS4\* National Pollution Discharge Elimination System (NPDES) permit requirements.

*\*MS4: A municipal separate storm sewer system, commonly called an MS4, is a conveyance or system of conveyances, such as roads with drainage systems, municipal streets, catch basins, curbs, gutters, constructed channels or storm drains, owned or operated by a governmental entity that discharges to waters of the state.*

## POLICIES, PLANS & GOALS SUPPORTED

City Council Goals:

Essential Services

- Storm water

Community Values:

- Environmental resilience, including addressing climate change and ecosystem conservation

Bear Creek Total Maximum Daily Load (TMDL)

- Designated Management Area (Ashland) – Reduce Non-Point Source Pollutants

Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life cycle costs.
- Deliver timely life cycle capital improvement projects.
- Maintain and improve infrastructure that enhances the economic vitality of the community.
- Evaluate all city infrastructure regarding planning management and financial resources.

## PREVIOUS COUNCIL ACTION

Staff provided an update to Council on the Storm water Drainage Master Plan and associated storm drainage background at the March 1, 2021 Study Session ([Staff Report](#)). This included background associated with MS4 requirements. The Council adopted the Storm water and Drainage Master Plan at the October 4, 2022 Business Meeting ([Staff Report](#), [Minutes](#)).





# Council Business Meeting

The Council has also previously approved Intergovernmental Agreements (IGAs) with the Rogue Valley Council of Governments for assistance in meeting the Bear Creek TMDL requirements (non-point source pollutant reduction).

## **BACKGROUND AND ADDITIONAL INFORMATION**

The City of Ashland is a Phase II Community and has a National Pollution Discharge Elimination System (NPDES) MS4 permit issued by DEQ for the storm drain system. NPDES MS4 permits are issued on five year cycles with the City receiving the last updated permit in 2019. The MS4 permit requires the City to have numerous measures and activities in place to ensure compliance with the permit. Staff has previously developed the required Stormwater Management Program document, the Illicit Discharge Detection and Elimination document. The last formal requirement is to develop an ordinance that provides for legal authority to manage and enforce non-stormwater discharges into receiving water bodies with escalating enforcement capabilities\*\*.

*\*\*The permit registrant must prohibit non-stormwater discharges into the MS4 (except those conditionally allowed by Schedule A.1d) through enforcement of an ordinance or other regulatory mechanism, to the extent allowable under state law. The permit registrant must implement appropriate enforcement procedures and actions to ensure compliance.*

### **Permit Requirements:**

1. Pursuant to 40 CFR §122.34(a), the permit registrant must at a minimum develop, implement and enforce a Stormwater Management Program (SWMP) designed to reduce pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirement of the Clean Water Act. This permit identifies the management practices, control techniques and system, and design and engineering methods necessary to meet this standard. **COMPLETED**
2. The permit registrant must adopt, update, and maintain adequate legal authority through ordinance(s), code(s), interagency agreement(s), contract(s), and/or other mechanisms to control pollutant discharges into and discharges from its MS4 and to implement and enforce the conditions of this permit, to the extent allowable pursuant to the respective authority granted under state law.

**If existing ordinances or regulatory mechanisms are insufficient to meet the criteria required by this permit, the permit registrant must adopt new ordinances.** If the permit registrant does not have the authority to adopt ordinances, the permit registrant must utilize all relevant regulatory mechanisms available to it as allowed pursuant to applicable state law. **IN PROCESS**

DEQ has determined the City's existing ordinances are insufficient to meet the requirements of the MS4 permit and thus has required the City to develop and updated ordinance. DEQ has reviewed the ordinance developed by staff and supports its approval.

The Stormwater Discharge Quality Control Ordinance developed aligns with the MS4 permit requirements to control pollutant discharges and provide for adequate enforcement capabilities for non-stormwater discharges. It also aligns with the Rogue Valley Sewer Services Stormwater Design Manual for Low Impact Development and stormwater feature maintenance requirements. The ordinance also supports the existing Bear Creek TMDL for non-point source pollutant reduction.





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The City is required to monitor and report on all permit requirements of the storm water system yearly. Many of the activities that are required to be reported on are coordinated with the Rogue Valley Council of Governments through an Intergovernmental Agreement, specifically the education and outreach requirements (coordinated with the TMDL reporting). The rest of the requirements are managed by existing staff, (Engineering, Street, Wastewater Collections).

## **Existing Ordinance and Storm water Drainage Background:**

The Storm Drainage Ordinance was originally established in 1994 under Ordinance 2740 and amended in 1996 with Ordinance 2788. The function of this ordinance was to establish the storm drain utility and provide for a mechanism to collect the storm drainage fee for associated management of the system.

## **FISCAL IMPACTS**

The fiscal impacts are contained within the storm drain fund budget for each biennium. These impacts include staffing levels necessary to ensure compliance, equipment purchases, infrastructure maintenance improvements, capital projects, and professional services.

## **STAFF RECOMMENDATION**

Staff recommends approval of the first reading of ordinance 3223.

## **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

I Move to approve a first reading of Ordinance 3223, titled "Storm water Discharge Quality Control".

## **REFERENCES & ATTACHMENTS**

Attachment # 1: Ordinance 14.10 "Storm water Discharge Quality Control"

Attachment # 2: Ordinance 4.27 "Storm Drainage Utility"

Attachment # 3: NPDES General Permit- Ashland MS4

1 **ORDINANCE NO. 3223**  
2 **AN ORDINANCE CREATING SECTION 14.10 OF THE ASHLAND**  
3 **MUNICIPAL CODE: STORMWATER DISCHARGE QUALITY**  
4 **CONTROL**

5 Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are  
6 **bold lined through** and additions are **bold underlined**.

7  
8  
9 **WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

10 Powers of the City. The City shall have all powers which the constitutions, statutes, and  
11 common law of the United States and of this State expressly or impliedly grant or allow  
12 municipalities, as fully as though this Charter specifically enumerated each of those  
13 powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto,  
14 shall possess all powers hereinafter specifically granted. All the authority thereof shall  
15 have perpetual succession.

16  
17 **WHEREAS**, the City desires to create section 14.10 of the Ashland Municipal Code:  
18 **STORMWATER DISCHARGE QUALITY CONTROL**

19  
20 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

21  
22 **SECTION 1.** Chapter 14.10 is hereby created to read as follows:

23 **14.10.010 Title.**

24 This chapter shall be known as the stormwater discharge quality control ordinance of the City of  
25 Ashland.

26  
27 **14.10.020 Purpose.**

28 The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens  
29 of Ashland through the regulation of nonstormwater discharges to the storm drainage system to  
30 the maximum extend practicable as required by federal and state law. This chapter establishes  
methods for controlling the introduction of pollutants into the municipal separate storm sewer

1 system (MS4) in order to comply with requirements of the National Pollution Discharge  
2 Elimination System (NPDES) permit process. Objectives of this chapter are to:

- 3 A. Regulate the contribution of pollutants in stormwater discharges and to prohibit non-  
4 stormwater discharges to the public stormwater drainage, groundwater and surface water  
5 systems, underground injection control or waterways.
- 6 B. Prohibit illicit connections and discharges to the MS4
- 7 C. Establish legal authority to carry out all inspections, surveillance, monitoring, and  
8 enforcement procedures necessary to ensure compliance with this chapter.

9 **14.10.030 Definitions.**

10 For the purposes of this chapter, the following words shall have the following meanings:

11 “Agricultural activities” means those activities over which the Oregon Department of  
12 Agriculture has enforcement authority.

13  
14 “Bank” means that portion of a waterway that is exposed from the ordinary high water mark  
15 (OHWM) and extends upland.

16 “BMP” means best management practices.

17  
18 “City” means city of Ashland

19 “Construction activities” means activities that require a National Pollution Discharge Elimination  
20 System construction permit. These activities include but are not limited to clearing and grubbing,  
21 grading, excavating, and demolition.

22 “Director” means the Director of Public Works or the Director’s designee.

23  
24 “Hazardous materials” mean any material, including any substance, waste, or combination  
25 thereof, that because of its quantity, concentration, or physical, chemical, or infectious  
26 characteristics may cause, or contribute to, a substantial present or potential hazard to human  
27 health, safety, property, or the environment when improperly treated, stored, transported,  
28 disposed of, or otherwise mismanaged.

29 “Illicit connection” means either of the following:

- 30 1. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit  
discharge to enter the public storm drainage and surface water system including but not

1 limited to any conveyances that allow any non-stormwater discharge including sewage,  
2 process wastewater, and wash water to enter the public storm drainage and surface water  
3 system and any connections to the public storm drainage and surface water system from  
4 indoor drains and sinks, regardless of whether the drain or connection had been previously  
5 allowed, permitted, or approved by a government agency; or

6 2. Any drain or conveyance connected from a commercial or industrial land use to the  
7 public storm drainage and surface water system that has not been documented in plans,  
8 maps, or equivalent records and approved by the City.

9 “Illicit discharge” means any direct or indirect non-stormwater discharge to the public storm  
10 drainage and surface water system, except as exempted in Section 14.10.070. “Illicit discharge”  
11 as used in this chapter shall have the same meaning as the term “illegal dumping” as used by the  
12 Department of Environmental Quality.

13 “Industrial activity” means activities which require an NPDES industrial permit.

14 “National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit”  
15 means general, group, and individual stormwater discharge permits that regulate facilities  
16 defined in federal NPDES regulations and regulated through the Oregon Department of  
17 Environmental Quality.

18 “Non-stormwater discharge” means any discharge to the public storm drainage, groundwater and  
19 surface water systems that is not composed entirely of stormwater.

20 “Municipal separate storm sewer system (MS4)”

21 “Ordinary high water mark” (OHWM) means the line on the bank or shore to which the high  
22 water ordinarily rises in the average runoff year. The OHWM excludes exceptionally high water  
23 levels caused by large flood events such as the five-year or 100-year events.

24 “Owner” means a person who is the sole fee simple owner of the real property, all joint owners  
25 whose interests add up to a fee simple interest in the property, or the owner of an equitable  
26 interest in the property pursuant to a land sales contract.

27 “Person responsible” or “responsible person” means the equitable or legal owner of the subject  
28 property, a lessee, tenant or person in possession of the property, or the person or persons  
29 directly or indirectly responsible for an act.  
30

1 “Pollutant” means anything that causes or contributes to pollution. Pollutants may include, but  
2 are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous  
3 liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or  
4 abandoned objects, articles, and accumulations, that may cause or contribute to pollution;  
5 floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal  
6 coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues  
7 that result from constructing a building or structure (including but not limited to sediments,  
8 slurries, and concrete rinsates); and noxious or offensive matter of any kind.

9 “Pollution” means contamination or other alteration of the physical, chemical, or biological  
10 properties of any waters of the state, including change in temperature, taste, color, turbidity, silt,  
11 or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other  
12 substance into any water of the state that either by itself or in connection with any other  
13 substance present can reasonably be expected to create a public nuisance or render such waters  
14 harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial,  
15 industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife,  
16 fish, other aquatic life or the habitat thereof.

17 “Premises” means any building, lot, parcel of land, or portion of land whether improved or  
18 unimproved including adjacent sidewalks and parking strips.

19 “Public storm drainage and surface water system” means publicly owned facilities by which  
20 stormwater is collected and/or conveyed, including but not limited to any roads with drainage  
21 systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention  
22 and detention basins, natural and human-made or altered drainage channels, reservoirs and other  
23 drainage structures.

24 “Stormwater” means snow melt runoff, and surface runoff and drainage, and is defined in 40  
25 CFR §122.26(b)(13). “Stormwater” means that portion of precipitation that does not naturally  
26 percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes  
27 into a defined surface water channel or a constructed infiltration facility.

28 “Stormwater management area” means an area designated as a stormwater management area by  
29 the Oregon Department of Environmental Quality.  
30

1 “UIC” means underground injection control. A UIC structure is a subsurface distribution system  
2 for stormwater; usually an assemblage of perforated pipes, drain tiles or other mechanisms  
3 intended to distribute stormwater below the surface of the ground.

4 “Waters of the state” means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers,  
5 streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits  
6 of the state of Oregon, and all other bodies of surface or underground waters, natural or artificial,  
7 inland or coastal, fresh or salt, public or private (except those private waters that do not combine  
8 or effect a junction with natural surface or underground waters) that are located wholly or  
9 partially within or bordering the state or within its jurisdiction.

10 “Waterway” means a body of water (whether natural or manmade) that periodically or  
11 continuously contains waters of the state and has a definite bed and banks that serve to confine  
12 the water.

13 **14.10.040 Applicability.**

14 This chapter applies to all water entering the public storm drainage and surface water system  
15 generated on any developed and undeveloped lands inside the City of Ashland’s stormwater  
16 management area.

17 **14.10.050 Ultimate responsibility of property owner.**

18 The standards set forth in this chapter are minimum standards. This chapter does not mean or  
19 imply that compliance with this chapter by any person will ensure that there will be no  
20 contamination, pollution, or unauthorized discharge of pollutants into waters of the state by a  
21 responsible person. The property owner is ultimately responsible for all conditions on or created  
22 by the owner’s property. This chapter shall not create liability on the part of the City of Ashland,  
23 or any agent or employee of the City of Ashland, for any damages that result from a responsible  
24 person’s or property owner’s reliance on this chapter or any administrative decision lawfully  
25 made under this chapter.

26 **14.10.060 Prohibition of illicit discharges.**

27 A. No person shall discharge or cause to be discharged into the public stormwater drainage,  
28 groundwater and surface water system, UICs, or waterways any materials, including but not  
29 limited to pollutants or waters containing any pollutants that cause or contribute to a violation of  
30 DEQ and/or other applicable water quality standards, other than stormwater. Pollutants include,  
but are not limited to:



- 1 1. Septic, sewage, and dumping or disposal of liquids or materials other than stormwater  
2 into the MS4;
- 3 2. Discharges of washwater resulting from the hosing or cleaning of gas stations, auto  
4 repair garages, or other types of automotive services facilities;
- 5 3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment,  
6 machinery, or facility, including motor vehicles, cement-related equipment, and port-a-  
7 potty servicing, etc.;
- 8 4. Discharges of washwater from mobile operations, such as mobile automobile or truck  
9 washing, steam cleaning, power washing, and carpet cleaning, etc.;
- 10 5. Discharges of washwater from the cleaning or hosing of impervious surfaces in  
11 municipal, industrial, commercial, or residential areas (including parking lots, streets,  
12 sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.)  
13 where detergents are used and spills or leaks of toxic or hazardous materials have occurred  
(unless all spilled material has been removed);
- 14 6. Discharges of runoff from material storage areas, which contain chemicals, fuels, grease,  
15 oil, or other hazardous materials from material storage areas;
- 16 7. Discharges of pool or fountain water containing chlorine, biocides, filter backwash water  
17 or other chemicals;
- 18 8. Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other  
19 landscape or construction-related wastes;
- 20 9. Discharges of trash, paints, stains, resins, or other household hazardous wastes;
- 21 10. Discharges of food-related wastes (grease, restaurant kitchen material and trash bin  
22 washwater, etc.).

23  
24 B. Discharges from the following activities will not be considered a source of pollutants to the  
25 storm drain system and to waters of the state when properly managed to ensure that no potential  
26 pollutants are present, and therefore they shall not be considered illicit discharges under the  
27 Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules or this chapter:

- 28 1. Uncontaminated water line flushing.
- 29 2. Landscape irrigation. For permit registrant owned or operated areas landscape irrigation  
30 will be considered allowable only if pesticides and fertilizers are applied in accordance  
with manufacturer's instructions.
3. Diverted stream flows.

- 1 4. Uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(20)) to  
2 separate storm sewers.
- 3 5. Rising groundwaters.
- 4 6. Uncontaminated pumped ground water.
- 5 7. Potable water sources (including potable groundwater monitoring wells and draining and  
6 flushing of municipal potable water storage reservoirs).
- 7 8. Start up flushing of groundwater wells.
- 8 9. Foundation, footing and crawlspace drains (where flows are not contaminated [i.e.,  
9 process materials or other pollutant]).
- 10 10. Uncontaminated air conditioning or compressor condensate.
- 11 11. Irrigation water.
- 12 12. Springs.
- 13 13. Lawn watering.
- 14 14. Individual residential car washing.
- 15 15. Charity car washing (provided that chemicals, soaps, detergents, steam or heated water  
16 are not used. Washing is restricted to the outside of the vehicle, no engines, transmissions  
17 or undercarriages).
- 18 16. Flows from riparian habitats and wetlands.
- 19 17. Dechlorinated swimming pool discharges including hot tubs (heated water must be  
20 cooled for at least 12 hours prior to discharge).
- 21 18. Fire hydrant flushing.
- 22 19. Street and pavement washwaters (provided that chemicals, soaps, detergents, steam or  
23 heated water are not used).
- 24 20. Routine external building wash-down (provided that chemicals, soaps, detergents, steam  
25 or heated water are not used).
- 26 21. Water associated with dye testing activity.
- 27 22. Discharges of treated water from investigation, removal and remedial actions selected or  
28 approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.
- 29  
30

1 C. The prohibition set forth in subsection (A) of this section shall not apply to any non-  
2 stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued  
3 to the discharger and administered by the Oregon Department of Environmental Quality under  
4 the authority of the Federal Environmental Protection Agency; provided, that the discharger is in  
5 full compliance with all requirements of the permit, waiver, or order and other applicable laws  
6 and regulations; and provided, that the City of Ashland has granted written approval for any  
7 discharge to the public storm drainage and surface water system.

8 **14.10.070 Prohibition of illicit connections.**

9 The construction, use, maintenance or continued existence of illicit connections to the public  
10 storm drainage and surface water system is prohibited. This prohibition expressly includes,  
11 without limitation, illicit connections made in the past, regardless of whether the connection was  
12 permissible under law or practices applicable or prevailing at the time of connection.

13 **14.10.080 Waste disposal prohibitions.**

14 No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or  
15 maintained, in or upon any public or private property, driveway, parking area, street, alley,  
16 sidewalk, component of the storm drainage and surface water system, UICs, or waters of the  
17 state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and  
18 accumulations, so that the same may cause or contribute to pollution. Wastes deposited in proper  
19 waste receptacles for the purposes of collection are exempt from this prohibition.

20 **14.10.090 Discharges in violation of industrial or construction activity NPDES stormwater  
21 discharge permit.**

22 Any person subject to an industrial or construction activity NPDES stormwater discharge permit  
23 shall comply with all provisions of the permit. Failure to comply with all provisions shall  
24 constitute a violation of this chapter. Proof of compliance with the permit may be required in a  
25 form acceptable to the director prior to or as a condition of a subdivision map, site plan, building  
26 permit, or development or improvement plan; upon inspection of the facility; during any  
27 enforcement proceeding or action; or for any other reasonable cause.

28 **14.10.100 Waterway protection.**

29 Every person responsible for property through which a waterway passes shall maintain and  
30 stabilize that portion of the waterway that is within the responsible person's property lines in  
order to protect against erosion and degradation of the waterway originating from the property.  
"Maintain" and "stabilize" as used in this section means keeping that portion of the waterway  
that is within the property lines free of trash, debris, excessive vegetation, and other obstacles

1 that would pollute, contaminate, or retard the flow of water through the waterway. “Maintain”  
2 also includes the maintenance of existing privately owned structures within or adjacent to a  
3 waterway, so that the structures will not become a hazard to the use, function, or physical  
4 integrity of the waterway. “Erosion” as used in this section includes the removal of bank  
5 vegetation that will result in bare slopes subject to erosion. This chapter shall not be interpreted  
6 to restrict a person responsible for property from enhancing or establishing the planting of  
7 riparian buffers or to perform maintenance within those areas.

8 **14.10.110 Requirement to monitor and analyze.**

9 The director may require by written notice to the property owner that any person engaged in any  
10 activity and/or owning or operating any facility which may cause or contribute to stormwater  
11 pollution, illicit discharges, and/or non-stormwater discharges to the public stormwater drainage,  
12 groundwater and surface water systems, UICs, or waters of the state, to undertake at the owner’s  
13 expense any monitoring and analyses and furnish any reports to the director as deemed necessary  
14 to determine compliance with this chapter.

15 **14.10.120 Illicit discharge procedure.**

16 Notwithstanding any other requirements of law, as soon as any person responsible for a facility  
17 or operation, or responsible for emergency response for a facility or operation, has information of  
18 any known or suspected release of materials which are resulting or may result in illicit discharges  
19 or pollutants discharging into the public stormwater drainage, groundwater and surface water  
20 systems, or waters of the state from the facility, the person shall take all necessary steps to ensure  
21 the discovery, containment, and cleanup of the release. Upon discovery of any illicit discharge,  
22 the responsible person shall immediately notify the director.

23 **14.10.130 Authority to inspect.**

24 When the director determines it is necessary to make an inspection to enforce any provision of  
25 this chapter, the director shall provide a written request to enter and inspect the premises by  
26 delivering the request to a responsible person or by posting the request at a conspicuous location  
27 on the premises. If a responsible person refuses entry or fails to respond to the request, the  
28 director may seek warrant or other assistance from any court of competent jurisdiction in  
29 obtaining entry.

30 **14.10.140 Authority to sample, establish sampling devices, and test.**

During any inspection pursuant to this chapter, the director may take any samples and perform  
any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

1 **14.10.150 Low Impact Development**

2  
3 A. Low Impact Development (LID) is a term used to describe a land planning and engineering  
4 design approach to manage stormwater runoff as part of green infrastructure. LID emphasizes  
5 conservation and use of on-site natural features to protect water quality.

6 B. Post-Construction Stormwater Development/Management Guidelines. Refer to most current  
7 version of the “Rogue Valley Stormwater Quality Design Manual.”

8 C. Maintenance Agreement. Stormwater treatment practices shall have an enforceable operations  
9 and maintenance agreement to ensure the system functions as designed. This agreement will  
10 include:

11 1. Access to the stormwater treatment facilities at the site by the city for purpose of  
12 inspection and repair.

13 2. A legally binding document specifying the parties responsible for the proper  
14 maintenance of the stormwater treatment facilities. The agreement will be recorded and  
15 run with the land.

16 3. For stormwater controls that include vegetation and/or soil permeability, the operation  
17 and maintenance manual must include the maintenance of these elements to maintain the  
18 functionality of the feature.

19 4. Person(s) responsible for the operation and maintenance of the stormwater facility  
20 shall have the operation and maintenance manual on site and available at all times.

21 Records of the maintenance and repairs shall be retained and available for the last five  
22 years and available for inspection by the city.  
23

24 **14.10.190 Notice of violation and Abatement**

25 A. Whenever the director finds that a person has violated a provision of this chapter, the director  
26 may order compliance by written notice of violation to the property owner pursuant to Ashland  
27 Municipal Code Section 2.31 Uniform Violation Abatement Process.

28 **14.10.230 Hearing request.**

29 A property owner who is served with a notice of violation as described in Section 14.10.190 may  
30 request an appeal of the directors decision using the uniform administrative appeals process  
outlined in Ashland Municipal Code chapter 2.30.

1 **14.10.240 Penalties.**

2 A. In addition to any other remedies set forth in Ashland Municipal Code, any person who  
3 violates any provision of this Chapter is subject to Section 1.08.020 of the Ashland Municipal  
4 Code. Any violation of this section is a Class 1 violation. (Ord. 3137, amended, 2017) Any  
5 person who is cited for a violation of this chapter shall be subject to a fine of not more than  
6 \$500.00 for a noncontinuing violation and a fine of not more than \$1,000 for a continuing  
7 violation.

8 B. Each day that this chapter is violated shall constitute a separate violation.

9 **14.10.250 Enforcement.**

10 The provisions of this chapter are enforceable pursuant to Chapter 1.08 General Penalties.

11 **14.10.260 Other remedies.**

12 The provisions of this chapter are in addition to and not in lieu of any other procedures and  
13 remedies provided by law including equitable relief and damages.

14 **SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance  
15 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the  
16 validity of the remaining sections, subsections, paragraphs and clauses.

17  
18 **SECTION 3. Codification.** Provisions of this Ordinance shall be incorporated in the City Code,  
19 and the word “ordinance” may be changed to “code”, “article”, “section”, or another word, and  
20 the sections of this Ordinance may be renumbered or re-lettered, provided however, that any  
21 Whereas clauses and boilerplate provisions (*i.e.*, Sections [No(s.)] need not be codified, and the  
22 City Recorder is authorized to correct any cross-references and any typographical errors.  
23

24  
25 The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C)  
26 of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2023, and duly PASSED and  
27 ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.

28  
29 \_\_\_\_\_  
30 Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.

ORDINANCE NO. \_\_

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Tonya Graham, Mayor

Reviewed as to form:



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Carmel Zahran, Assistant City Attorney

## **Chapter 4.27**

### **STORM DRAINAGE UTILITY**

Sections:

- 4.27.010 Findings**
- 4.27.020 Definitions**
- 4.27.030 Storm Drainage Policy**
- 4.27.040 Establishment of a Storm Drainage Utility**
- 4.27.050 Establishment of a Storm Drainage Utility Fee**
- 4.27.060 Storm Drainage Utility Fee – Dedicated**
- 4.27.080 Enforcement**
- 4.27.090 Administrative Review - Appeals**
- 4.27.100 Notice of Decision**
- 4.27.110 Exemptions**
- 4.27.120 Discount for the Elderly**

#### **4.27.010 Findings**

A. The City provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharged from properties and public rights-of-way within the City. The storm drainage facilities constitute a public utility owned and operated by the City. The utility exists for the benefit of any person within the City who wants to have the public storm drainage facilities available for the diversion, collection and/or disposal of storm drainage and other runoff water from the person's property and represents a municipal service in a developed urban environment which is essential to the public health, safety and welfare.

B. Persons who use the public storm drainage facilities ought to be charged fees that reflect the cost of the management, maintenance, extension and construction of the public storm drainage facility as a public utility in the City. Persons ought not be compelled to use this utility, nor to pay monthly utility fees, if the utility is not to be used by the person responsible. Persons who undertake the installation of runoff control facilities on their property that reduce or eliminate the discharge of storm water into public storm drainage facilities ought to be given credit, in proportion to the degree of reduction, against storm drainage utility fees that would otherwise be due.

C. Accordingly, the structure of the storm drainage utility is intended to be a fee for service and not a charge against property. Although this structure is intended to constitute a service fee, even if it is viewed as a fee against property or against the person responsible, as a direct consequence of ownership of that property, the utility's fee structure should allow the person responsible to have the ability to control the amount of the fee. Similarly, the utility fee structure should reflect the actual cost of providing the service and not impose fees on persons not receiving a service. The actual costs may include all costs the utility might incur were it in private ownership.



D. Persons using water from the City potable water facilities, City irrigation water facilities and/or the Talent Irrigation District irrigation facilities use substantial amounts of water for irrigating lawns and gardens, washing structures, sidewalks, driveways and parking lots, and for other activities which result in the discharge of runoff into the public storm drainage facilities. These uses of water demonstrate a substantial relationship between persons' use of these water facilities and their use of the public storm drainage facilities.

## **4.27.020 Definitions**

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

- A. Commercial or Industrial Unit shall be as defined in AMC 18.08 as "Commercial, or commercial use" and "Industrial, or industrial use".
- B. Development shall mean any constructed change to improved or unimproved property including, but not limited to, buildings or other structures, private storm drainage facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.
- C. Director shall mean the City Director of Public Works/City Engineer or the person designated by the Director.
- D. Duplex shall be as defined in AMC 18.08 as "Dwelling, two family or duplex".
- E. Equivalent Residential Unit (ERU) shall mean an area which is estimated to place approximately equal demand on the public storm drainage facilities as defined in AMC 18.08 as "Dwelling, single-family". One (1) ERU shall be equal to 3,000 square feet of impervious surface.
- F. Impervious Surfaces are those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Examples of impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.
- G. Improved Property shall mean any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the Director.
- H. Master Plan shall mean the "City of Ashland Drainage Master Plan" prepared by Kramer, Chin and Mayo, Incorporated, dated July 1985 including such amendments to such plan.
- I. Mobile Home Park shall be as defined in AMC 18.08 as "Mobile home court, park or subdivision".
- J. Multiple-family unit (MFU) shall be as defined in AMC 18.08 as "Dwelling, multiple-family".
- K. Open Drainage way shall mean a natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.

- L. Person responsible shall mean the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property.
- M. Runoff Control shall mean any measure approved by the Director that reduces storm water runoff from land surfaces on which development exists.
- N. Single-family Unit (SFU) shall be as defined in AMC 18.08 as "Dwelling, single-family" or individual units of "Condominiums". A SFU is presumed to have 3,000 square feet of impervious surface area for purposes of this chapter. The term SFU shall be inclusive of those units identified as detached single-family residences, unit ownerships, and condominiums, and etc.
- O. Storm Drainage Facilities shall mean any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated including, but not limited to, pipes, sewers, gutters, manholes, catch basins, ponds, open drainage-ways and their appurtenances. Ashland Creek, Bear Creek, Wrights Creek, Neil Creek, Emigrant Creek, Hamilton Creek, Clay Creek, Tolman Creek or creeks excluded by action of the Council are not storm drainage facilities.
- P. Storm Water shall mean water from precipitation, surface or subterranean water from any source, drainage and nonseptic waste water. (Ord. 2788, amended, 1996)

### **4.27.030 Storm Drainage Policy**

- A. Council declares its intention to acquire, own, manage, construct, equip, operate and maintain within the City open drainage ways, underground storm drains, equipment and appurtenances necessary, useful, or convenient for public storm drainage facilities. The Council also declares its intention to manage, maintain and extend existing public storm drainage facilities.
- B. The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be the responsibility of the person responsible. The improvements shall comply with all applicable City ordinances, policies, standards and Master Plan.
- C. No portion of this ordinance or statement or subsequent Council interpretation or policies shall relieve the person responsible of assessments levied against their property for public facility improvement projects.
- D. It is the policy of the City to participate in improvements to storm drainage facilities when authorized by the Director. To be considered for approval by the Director, a storm drainage facility must:
1. be public; and
  2. be a major benefit to the community; and
  3. be located in or on a City property, City right-of-way or City easement; and
  4. if a piped system, be a design equivalent to larger than a 24 inch diameter circular concrete pipe; and
  5. be identified as a project in the Master Plan; or

6. be a rehabilitation and/or replacement of existing public storm drainage facilities.
- E. The City shall maintain public storm drainage facilities located on City property, City right-of-way or City easements. Public storm drainage facilities to be managed by the City include, but are not limited to;
1. open drainage ways serving a drainage basin of at least 100 acres, when on City property, City right-of-way or City easement;
  2. a piped drainage system and related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the Director;
  3. roadside drainage ditches along unimproved City streets;
  4. flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the City.
- F. Storm drainage facilities not to be maintained by the City include, but are not limited to:
1. storm drainage facilities not located on City property, City right-of-way, or City easement;
  2. private parking lot storm drainages;
  3. roof, footing, and area drainages;
  4. drainages not designed and constructed for use by the general public;
  5. drainage swales which collect storm water from a basin less than 100 acres that are not located on City property, right-of-way or easement;
  6. access drive culverts;
  7. those portions of streams or drainage ways specified in AMC [4.27.010](#) located on privately owned land;
  8. ditches, swales, culverts and similar facilities owned and operated by the U.S. Bureau of Reclamation or the Talent Irrigation District.

#### **4.27.040 Establishment of a Storm Drainage Utility**

A Storm Drainage Utility is created for the purpose of providing funds for the management, maintenance, extension and construction of public storm drainage facilities within the City. Council finds, determines and declares the necessity of providing for the management, maintenance, extension and construction of City storm drainage facilities for its inhabitants.

### **4.27.050 Establishment of a Storm Drainage Utility Fee**

A storm drainage utility fee shall be paid by each person(s) responsible and shall be established by resolution of the Council for commercial or industrial units, duplexes, mobile home parks, multiple-family units, single-family units and equivalent residential units.

1. Such fee shall be established in amounts which will provide sufficient funds to properly manage and maintain public storm drainage facilities.
2. Such fee may be used for the construction of new storm drainage facilities or for the extension of existing storm drainage facilities.
3. Council may from time to time by resolution, change the fees based upon revised estimates of the cost of properly managing, maintaining, extending and constructing public storm drainage facilities.
4. Credit will be allowed for runoff control measures. When approved by the Director, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of the passage of this ordinance, being considered as starting or initial conditions. If the person responsible establishes, to the satisfaction of the Director, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be no fees charged under the provisions of this chapter.
5. Property not used for single-family dwelling purposes shall be considered to be furnished service in proportion to the amount of the property's impervious surface, and that for each 3,000 square feet (or increment of 100 square feet) of impervious surface, the property is furnished service equivalent to that furnished a single-family unit and that the minimum service charge shall be that established for a single-family unit.

### **4.27.060 Storm Drainage Utility Fee - Dedicated**

All fees collected for the purposes specified in this chapter shall be paid into the storm drainage accounts and accounted for by dedicated line items including, but not limited to, Storm Drainage Maintenance and Storm Drainage Construction. Such revenues shall be used for the purposes of the management, maintenance, extension and construction of public storm drainage facilities.

### **4.27.080 Enforcement**

Any fee due which is not paid when due may be recovered in an action at law by the City. In addition to any other remedies or penalties provided by this or any other City ordinance, failure of any person responsible to pay fees promptly when due shall subject the person responsible to discontinuance of any utility services provided by the City and the City Administrator is empowered and directed to enforce this provision against such delinquent users. The employees of the City shall, at all reasonable times, have access to any improved property served by the City for inspection, repair, or the enforcement of the provisions of this chapter. In addition to any other remedy or

penalty provided herein, failure to remit the fee provided herein when due shall be considered a Class I violation and each day the remittance is late shall constitute a separate offense. (Ord. 3023, amended, 08/03/2010)

#### **4.27.090 Administrative Review - Appeals**

- A. Any person responsible who disputes the amount of the fee, or disputes any determination made by or on behalf of the City pursuant to and by the authority of this chapter may petition the Council for a hearing on a revision or modification of such fee or determination. Such petitions may be filed only once in connection with any fee for determination, except upon the showing of changed circumstances sufficient to justify the filing of an additional petition.
- B. Such petitions, including all facts and figures, shall be submitted in writing and filed with the City Recorder at least 14 days prior to a hearing scheduled by the Council. The petitioner shall have the burden of proof.
- C. Within 30 days of filing of the petition, the Council shall make findings of fact based on all relevant information, shall make a determination based upon such findings and, if appropriate, modify such fee or determination accordingly. Such determination by the Council shall be considered a final order.

#### **4.27.100 Notice of Decision**

Every determination of the Council shall be in writing, and notice shall be mailed to or served upon the petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.

#### **4.27.110 Exemptions**

The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

#### **4.27.120 Discount for the Elderly**

Discounts applying to low income elderly persons for water, sewer and electric utility fees shall also apply to storm drainage utility fees. (Ord. 2740, amended, 1994)

**The Ashland Municipal Code is current through Ordinance 3187, and legislation passed through June 2, 2020.**

Disclaimer: The City Recorder's office has the official version of the Ashland Municipal Code. Users should contact the City Recorder's office for ordinances passed subsequent to the ordinance cited above.

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[City Website: www.ashland.or.us](http://www.ashland.or.us)

City Telephone: (541) 488-5307

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State of Oregon  
Department of  
Environmental  
Quality

[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ); Search "MS4"

**General Permit**  
**National Pollutant Discharge Elimination System**  
**Municipal Separate Storm Sewer Systems**  
**Phase II General Permit**

Oregon Department of Environmental Quality  
Stormwater Program  
700 NE Multnomah St., Suite 600  
Portland, OR 97232

*Issued pursuant to Oregon Revised Statute 468B.050 and Section 402 of the Federal Clean Water Act*

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**Registered to:**

**Major Receiving Streams:**

**Wasteload/Load Allocations (if any):**

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**Sources Covered By This Permit**

This permit authorizes regulated small municipal separate storm sewer systems to discharge stormwater to surface waters of the state, in accordance with the requirements, limitations and conditions set forth.

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Justin Green  
Water Quality Division Administrator

Issuance Date: November 30, 2018  
Effective Date: March 1, 2019

## **PERMITTED ACTIVITIES**

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Until this permit expires or is modified or revoked, the permit registrant is authorized to discharge municipal stormwater to surface waters of the state only in conformance with the requirements, limitations and conditions set forth in the following schedules. Where conflict exists between specific conditions (found in Schedules A-D) and general conditions (Schedule F), the specific conditions supersede the general conditions.

Unless specifically authorized by this permit, by regulation issued by EPA, by another National Pollutant Discharge Elimination System permit, a Water Pollution Control Facilities permit, or by Oregon Administrative Rule, any other direct or indirect discharges to waters of the state is prohibited, including discharges to an underground injection control system.



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## **APPLICABILITY AND NOTIFICATION REQUIREMENTS**

### **1. Entities Eligible for Coverage**

Entities eligible for coverage under this permit are regulated small municipal separate storm sewer systems (MS4s) that discharge stormwater from their MS4 to surface waters of the state.

### **2. Permit Coverage Area**

The permit applies to the geographic area served by the regulated small MS4 that is located fully, or partially, within an Urbanized Area in the State of Oregon as defined by a Decennial Census conducted by the U.S. Bureau of Census. If the small MS4 is not located entirely within an Urbanized Area, only the portion that is within the Urbanized Area is considered the minimum permit coverage area.

### **3. Eligibility Requirements**

#### **a. Existing Registrants**

Regulated small MS4 owners or operators (hereafter referred to as operators) listed below are currently covered by an individual NPDES MS4 stormwater discharge permit, meet the eligibility requirements of this permit, submitted a complete renewal application, and are therefore not required to submit an application coverage under this permit. Hereafter the following small MS4s are referred to as Existing Registrants:

- i. City of Ashland
- ii. City of Bend
- iii. City of Corvallis
- iv. City of Keizer
- v. City of Medford
- vi. City of Philomath
- vii. City of Springfield
- viii. City of Troutdale
- ix. City of Turner
- x. City of Wood Village
- xi. Benton County
- xii. Lane County
- xiii. Marion County
- xiv. Polk County
- xv. Rogue Valley Sewer Services - Co-Implementers (City of Central Point, City of Phoenix, City of Talent, Jackson County, Rogue Valley Sewer Services)

#### **b. New Registrants**

Any operator of a regulated small MS4 not identified as an Existing Registrant above, that seeks coverage under this permit, must submit a complete application for coverage under this permit in accordance with the Application Requirements listed below. An MS4 operator that has not previously been covered by an NPDES MS4 stormwater discharge permit is hereafter referred to as a New Registrant.

The following New Registrants have met the eligibility requirements for this permit, based on the 2010 Decennial Census, and must complete and submit a New NPDES MS4 Phase II General Permit application by January 30, 2019, in order to obtain coverage under this permit:

- i. City of Albany
- ii. City of Eagle Point
- iii. City of Grants Pass
- iv. City of Millersburg
- v. City of Rogue River
- vi. Josephine County
- vii. Linn County

#### **4. Individual Permit**

If coverage under this permit is denied, the permit registrant is unable to meet the terms and conditions of the general permit, or if the permit registrant does not wish to be regulated by this permit, the permit registrant must cease discharge or apply for an individual permit in accordance with Oregon Administrative Rule 340-045-0030.

##### **a. Permit Registrant's Request for Individual Permit**

Any small MS4 operator requesting coverage under an individual permit must submit an individual NPDES MS4 permit application to DEQ by January 30, 2019.

After the effective date of the general permit, any small MS4 operator requesting to be covered under an individual permit must submit an individual NPDES MS4 permit application to DEQ.

##### **b. DEQ Individual Permit Decisions**

DEQ may refuse to authorize or may revoke coverage under this permit and require the MS4 operator to apply for an individual MS4 NPDES permit in accordance with the procedures in OAR 340-045-0033(10). If that occurs, DEQ will notify the applicant or registrant in writing that an individual permit is required.

#### **5. Discharge Authorization**

When permit coverage is granted, DEQ will notify the permit applicant that the permit has been granted and that discharge is authorized.

#### **6. Application Requirements**

Any New Registrant seeking authorization to discharge under this permit must submit a complete application to DEQ as outlined below.

##### **a. Application Deadlines**

- i. New Registrants seeking authorization to discharge under this permit must submit a complete Application for New NPDES MS4 Phase II General Permit by January 30, 2019, unless DEQ notifies the applicant of a later application deadline.
- ii. After the effective date of the general permit, New Registrants that DEQ determines need permit coverage must submit a complete application for a new NPDES MS4 Phase II General Permit no later than 60 days after the date of DEQ's notification, unless DEQ provides the applicant a later date.

##### **b. Application Form and Fee**

The NPDES MS4 Phase II General Permit application form must be completed and signed in accordance with the signatory requirements of Schedule F. The application submittal must include the application fee and annual fee for the first year of permit coverage according to OAR 340-045-0075, Table 70H.

**c. Application Submittal**

The applicant must submit a hard copy and an electronic copy of the complete application to DEQ at the following address:

Oregon Department of Environmental Quality  
MS4 Stormwater Program, Attention: 7<sup>th</sup> Floor  
700 NE Multnomah St., Suite 600  
Portland, OR 97232

MS4Stormwater@deq.state.or.us (this email address can be used for electronic submittals)

**d. Co-Applicants Under a Single Permit Application**

A co-applicant is any small MS4 operator applying for this permit, in a cooperative agreement with at least one other applicant. Co-applicants must own or operate a small MS4 within or in proximity to another regulated small MS4.

Small MS4 operators may seek to obtain coverage under this permit as a co-applicant with one or more small MS4s eligible for this permit. In this instance, a single joint application, that includes all required information and certification signatures for each co-applicants, must be submitted to DEQ. See Schedule A.2 for permit registrant's Responsibilities.

**7. Renewal Requirements**

If the permit registrant intends to continue to operate under this permit after the permit expiration date, the permit registrant must submit a complete DEQ renewal application along with all other required documents to DEQ at least 180 days prior to permit expiration. DEQ will notify the permit registrant in writing if the renewal application has been approved or denied.

## **SCHEDULE A - EFFLUENT LIMITATIONS, CONDITIONS, AND STORMWATER MANAGEMENT PROGRAM**

### **1. Authorized Discharges**

Subject to the terms and conditions of this permit, the permit registrant is authorized to discharge municipal stormwater to surface waters of the state from its MS4, within the defined Permit Coverage Area.

This permit also conditionally authorizes discharges from the permit registrant's MS4, which are categorized as allowable non-stormwater discharges in Schedule A.1.d.

#### **a. Requirement to Reduce the Discharge of Pollutants**

Pursuant to 40 CFR §122.34(a), the permit registrant must at a minimum develop, implement and enforce a Stormwater Management Program (SWMP) designed to reduce pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirement of the Clean Water Act. This permit identifies the management practices, control techniques and system, and design and engineering methods necessary to meet this standard.

#### **b. Water Quality Standards**

If the permit registrant complies with all the terms and conditions of this permit, it is presumed that the permit registrant is not causing or contributing to an excursion of the applicable water quality standards as established in OAR 340-041.

If the permit registrant or DEQ determines that a pollutant in the permit registrant's MS4 discharge is causing or contributing to an excursion of an applicable water quality standard, the permit registrant must take the following corrective actions:

- i. Within 48 hours of becoming aware of or being notified of the excursion, the permit registrant must begin to investigate the cause of the excursion;
- ii. Within 30 days of becoming aware of the excursion, the permit registrant must notify DEQ in writing of the excursion (for on-going or continuing excursions, a single written notification will fulfill this requirement); and
- iii. Within 60 days of becoming aware of or being notified of the excursion, the permit registrant must submit a report to DEQ that documents the following:
  - (A) The results of the investigation, including the date the excursion was discovered;
  - (B) A brief description of the conditions that triggered the violation or the cause; and
  - (C) Corrective actions taken or planned, including the date corrective action was completed or is expected to be completed.

The permit registrant must implement the corrective action(s) in accordance with the schedule approved by DEQ, beginning upon receipt of DEQ's written response to the report submitted.

DEQ may impose additional water quality-based limitations or terminate permit coverage, if information in the application, required reports, or from other sources indicates that the discharge is causing or contributing to a violation of water quality standards, either in the receiving waterbody or in a downstream waterbody.

#### **c. Limitations of Coverage**

The permit does not authorize:

- i. Stormwater discharges associated with industrial activities [as defined in 40 CFR §122.26(b)(14)] or stormwater associated with construction activities [as defined in 40 CFR §122.26(b)(14)(x) and (b)(15)]. Such discharges are regulated through DEQ's NPDES

Industrial Stormwater General Permits and DEQ's NPDES Construction Stormwater General Permits; or another appropriate NPDES permit.

- ii. Stormwater discharges to underground injection control (UIC) systems.

**d. Allowable Non-Stormwater Discharges**

The permit does not authorize the discharge of non-stormwater from the MS4, except where such discharges satisfy one of the following conditions:

- i. The non-stormwater discharge is regulated under a separate NPDES permit.
- ii. The non-stormwater discharge originates from emergency firefighting activities.
- iii. The non-stormwater discharge is categorized as an authorized or allowable non-stormwater discharge listed in below:
  - (A) Uncontaminated water line flushing.
  - (B) Landscape irrigation. For permit registrant owned or operated areas landscape irrigation will be considered allowable only if pesticides and fertilizers are applied in accordance with manufacturer's instructions.
  - (C) Diverted stream flows.
  - (D) Uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(20)) to separate storm sewers.
  - (E) Rising groundwaters.
  - (F) Uncontaminated pumped ground water.
  - (G) Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs).
  - (H) Start up flushing of groundwater wells.
  - (I) Foundation, footing and crawlspace drains (where flows are not contaminated [i.e., process materials or other pollutant]).
  - (J) Uncontaminated air conditioning or compressor condensate.
  - (K) Irrigation water.
  - (L) Springs.
  - (M) Lawn watering.
  - (N) Individual residential car washing.
  - (O) Charity car washing (provided that chemicals, soaps, detergents, steam or heated water are not used. Washing is restricted to the outside of the vehicle, no engines, transmissions or undercarriages).
  - (P) Flows from riparian habitats and wetlands.
  - (Q) Dechlorinated swimming pool discharges including hot tubs (heated water must be cooled for at least 12 hours prior to discharge).
  - (R) Fire hydrant flushing.
  - (S) Street and pavement washwaters (provided that chemicals, soaps, detergents, steam or heated water are not used).
  - (T) Routine external building wash-down (provided that chemicals, soaps, detergents, steam or heated water are not used).
  - (U) Water associated with dye testing activity.
  - (V) Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

If any of these allowable non-stormwater discharges are or becomes a significant source of pollutants, the permit registrant must prohibit that discharge or require implementation of appropriate BMPs to reduce the discharge of pollutants associated with the source before discharge to the MS4.

## 2. Permit Registrant's Responsibilities

Each permit registrant is responsible for permit compliance related to the permit registrant's permit coverage area, or where this permit requires the specific permit registrant to take an action.

### a. Coordination Among Registrants and Joint Agreements

- i. If MS4 operators elect to submit a joint application, each co-registrant is jointly responsible for permit compliance. If a single MS4 operator elects to submit an application for multiple registrants (commonly referred to as co-implementers), the sole applicant is solely responsible for permit compliance for each of the co-implementers.
- ii. A permit registrant may elect to work with or delegate implementation of one or more stormwater management program control measure to another permit registrant or entity. The permit registrant remains responsible for compliance with any permit conditions that another permit registrant or entity fails to implement.
- iii. If a permit registrant elects to work with or delegate implementation of one or more SWMP control measures to another permit registrant or entity, there must be a written agreement between the permit registrant and the other permit registrant or entity memorializing the delegation. This agreement must be made available to DEQ upon request.

### b. Maintain Adequate Legal Authority

No later than September 1, 2023, the permit registrant must adopt, update, and maintain adequate legal authority through ordinance(s), code(s), interagency agreement(s), contract(s), and/or other mechanisms to control pollutant discharges into and discharges from its MS4 and to implement and enforce the conditions of this permit, to the extent allowable pursuant to the respective authority granted under state law.

If existing ordinances or regulatory mechanisms are insufficient to meet the criteria required by this permit, the permit registrant must adopt new ordinances. If the permit registrant does not have the authority to adopt ordinances, the permit registrant must utilize all relevant regulatory mechanisms available to it as allowed pursuant to applicable state law.

### c. SWMP Document

The permit registrant must maintain a written Stormwater Management Program Document (referred to as the SWMP Document), which describes in detail how the permit registrant complies with the required control measures in this permit. The SWMP Document must be updated annually and must describe the permit registrant's schedule for implementation of any control measure components to be developed during the term of this permit.

The permit registrant's SWMP Document must be submitted with the second Annual Report, and made available to the public through the permit registrant's publicly accessible website.

### d. SWMP Information and Metrics

The permit registrant must maintain a method of gathering, tracking, and using SWMP information to set priorities, and assess its compliance. Permit registrants must track activities and document program outcomes to illustrate progress on the SWMP control measures (for example, the number of inspections, official enforcement actions, and/or types of public education actions, etc.), and cite relevant information and metrics, reflecting the specific reporting period, in each Annual Report.

### e. SWMP Resources

The permit registrant must provide adequate finances, staff, equipment and other support capabilities to implement the control measures and other requirements outlined in this permit.



### 3. Stormwater Management Program Control Measures

Existing Registrants must continue to implement all existing SWMP control measures, and, after the effective date of the permit, must begin to revise their SWMP control measures, as needed, in order to implement any new control measure components required by the implementation deadline specified for that control measure in Table 1 below.

New Registrants, upon the effective date of this permit, must begin to develop and implement the SWMP control measures outlined in Schedule A.3.a-f and must fully implement all applicable SWMP control measures no later than September 1, 2023. Any New Registrant authorized to discharge after the effective date of this permit must fully implement all applicable SWMP control measures in accordance with the implementation schedule established in their discharge authorization letter.

**Table 1. SWMP Control Measures Implementation Schedule**

SWMP Control Measures	Implementation Deadline	
	Existing Registrants	New Registrants
Public Education and Outreach	February 28, 2020	September 1, 2023
Public Involvement and Participation	February 28, 2020	September 1, 2023
Illicit Discharge Detection and Elimination	February 28, 2022	September 1, 2023
Construction Site Runoff Control	February 28, 2023	September 1, 2023
Post-Construction Site Runoff for New Development and Redevelopment	February 28, 2023	September 1, 2023
Pollution Prevention and Good Housekeeping for Municipal Operations	February 28, 2022	September 1, 2023

#### a. Public Education and Outreach

The permit registrant must conduct an ongoing education and outreach program to inform the public about the impacts of stormwater discharges on waterbodies and the steps that they can take to reduce pollutants in stormwater runoff. The education and outreach program must be designed to address stormwater issues of significance within the permit registrant's community.

##### i. Implementation Dates

###### (A) Existing Registrants

No later than February 28, 2020, Existing Registrants must implement the required components described in Schedule A.3.a.ii-vi.

###### (B) New Registrants

Upon the effective date of this permit, New Registrants must begin to develop implement the required components described in Schedule A.3.a.ii-vi; required components must be fully implemented by September 1, 2023.

##### ii. Education and Outreach Program

The permit registrant's public education and outreach program must include educational efforts targeting the three audiences listed in Schedule A.3.a.iv. The goal of the education and outreach program is to reduce the behaviors and practices that cause or contribute to adverse stormwater impacts on receiving waters. The program should promote specific

actions to increase audience understanding of how to reduce pollutant discharges in stormwater runoff and prevent illicit discharge from entering the MS4 impacting receiving waters.

To be considered adequate, the public education and outreach program must include the activities in Schedule A.3.a.iii-vi below.

iii. Stormwater Education Activities

The permit registrant must distribute or offer at least two (2) educational messages or activities per year.

Educational messages or activities may include printed materials (for example, brochures or newsletters); electronic materials (for example, social media, websites or e-newsletters); mass media (for example, utility bill inserts, transit advertisements, newspaper articles or public service announcements); targeted workshops, or other educational events or formats.

The permit registrant may use existing materials if applicable. The permit registrant may develop its own educational materials and means of delivering its message(s). Based on the target audience's demographic, the permit registrant must consider delivering its selected messages and/or activities in an appropriate manner and in language(s) other than English.

iv. Target Audiences and Topics

The permit registrant must at minimum, conduct education and outreach to each target audience identified below at least once during the permit term, construction site operators must be targeted at least twice. The permit registrant must focus its efforts on conveying relevant messages using the Target Topics identified below or stormwater issues of significance in their community.

(A) Target Audience:

1. General public, homeowners, homeowner association, schoolchildren, and businesses (including home-based and mobile business).
2. Local elected officials, land use planners and engineers.
3. Construction site operators (See Schedule A.3.v below).

(B) Target Topics:

1. Impacts of illicit discharges on receiving waters and how to report them.
2. Impacts from impervious surfaces and appropriate techniques to avoid adverse impacts.
3. Best management practices for proper use, application and storage of pesticides and fertilizers.
4. Best management practices for litter and trash control.
5. Best management practices for recycling programs.
6. Best management practices for power washing, carpet cleaning and auto repair and maintenance.
7. Low-impact development/green infrastructure.
8. Septic systems, information pertaining to maintenance of septic systems.
9. Watershed awareness and how storm drains lead to local creeks and rivers, and potential impacts to fish and other wildlife.
10. Stormwater issues of significance identified by permit registrant.

v. Education on Construction Site Control Measures

At least twice during the permit term, the permit registrant must conduct educational outreach to target construction site operators working within their community. Topics should include appropriate selection, design, installation, use and maintenance of construction site

control measures required by the permit registrant's relevant ordinances or other regulatory mechanisms.

vi. Tracking and Assessment

The permit registrant must track implementation of the Public Education and Outreach requirements. In each corresponding Annual Report, the permit registrant must assess their progress toward implementation of the program, including the evaluation of at least one education and outreach activity corresponding to the reporting timeframe for the associated Annual Report. The assessment(s) should be used to inform future stormwater education and outreach efforts to most effectively convey the educational material to the target audience(s).

**b. Public Involvement and Participation**

The permit registrant must implement a public involvement and participation program that provides opportunities for the public to effectively participate in the development of the SWMP control measures. The permit registrant must comply with their public notice requirements when implementing a public involvement participation process.

i. Implementation Dates

(A) Existing Registrants

No later than February 28, 2020, Existing Registrants must implement the required components described in Schedule A.3.b.ii-vi.

(B) New Registrants

Upon the effective date of this permit, New Registrants must begin to develop and implement the required components described in Schedule A.3.b.ii-vi; required components must be fully implemented by September 1, 2023.

ii. Publicly Accessible Website

The permit registrant must maintain and promote at least one publicly accessible website with information on the permit registrant's SWMP implementation, the SWMP Document, contact information, and educational materials. The website must be maintained with current information, and be updated at least annually. The permit registrant's website must incorporate the following:

(A) Illicit Discharge Complaint or Report requirements (see Schedule A.3.c.v).

(B) Draft documents issued for public comment, and final reports, plans and other official SWMP policy documents.

(C) Links to all ordinances, policies and/or guidance documents related to the construction and post-construction stormwater management control programs, including education, training, licensing, and permitting.

(D) The permit registrant's contact information for relevant staff, including phone numbers, mailing addresses and email addresses.

iii. Stewardship Opportunity

The permit registrant must, at a minimum, create or partner in the development of one stewardship opportunity during the permit term. The permit registrant may consider one of the following stewardship opportunities or a more locally relevant opportunity:

(A) Stream team activities,

(B) Storm drain marking or stenciling,

(C) Volunteer monitoring,

- (D) Riparian plantings/facility enhancement,
- (E) Neighborhood low-impact development activities,
- (F) Adopt-A-Road,
- (G) Citizen advisory committee, or
- (H) Other locally relevant opportunities.

iv. Tracking and Assessment

The permit registrant must track implementation of the public involvement and participation requirements. In each corresponding Annual Report, the permit registrant must assess their progress towards implementation of the program.

**c. Illicit Discharge Detection and Elimination**

The permit registrant must implement and enforce a program to detect and eliminate illicit discharges into the MS4, to the extent allowable by state laws. An illicit discharge is any discharge to an MS4 that is not composed entirely of stormwater. Conditional exceptions are identified in Schedule A.1.d.

i. Implementation Dates

(A) Existing Registrants

No later than February 28, 2022, Existing Registrants must implement all of the required components described in Schedule A.3.c.ii-viii.

(B) New Registrants

Upon the effective date of this permit, New Registrants must begin to develop and implement the required components described in Schedule A.3.c.ii-viii; all required components must be fully implemented by September 1, 2023.

ii. MS4 Map

(A) MS4 Map and Digital Inventory

The permit registrant must develop and maintain a current map of their MS4. The MS4 map and digital inventory must include the location of outfalls and an outfall inventory, conveyance system and stormwater control locations, and chronic illicit discharges (see Schedule A.3.c.ii.B-D). The permit registrant must delineate their MS4 by storm sewer drainage basin, as appropriate, and identify the location and characteristics of any ongoing dry weather flows.

(B) Outfall Inventory

The permit registrant must maintain an inventory of all the known outfall locations, owned or operated by the permit registrant. The outfall location must include a unique identifier (for example, alphanumeric code identifier), any geographic information (for example, streets, manholes, or milepost markers) necessary to locate these outfalls in the field, and the name(s) of the receiving water(s).

(C) Conveyance System and Stormwater Control Locations

The permit registrant must maintain a map of the MS4 collection system and all known structural stormwater controls. Where applicable, features must include a unique identifier (for example, alphanumeric code identifier) and any geographic information (for example, streets, manholes, or milepost markers) necessary to locate these features in the field.

(D) Chronic Illicit Discharges

If applicable, the permit registrant must include the location(s) of known of chronic illicit discharge(s).

The permit registrant must make map(s) and digital inventories available to DEQ upon request. When in digital format, the permit registrant must fully describe mapping standards in the SWMP document.

Existing Registrants must submit their MS4 map with the third Annual Report; New Registrants must submit their MS4 map by September 1, 2023. Prior to this date, all existing maps (including GIS data layers) must be shared with DEQ upon request.

iii. Ordinance and/or Other Regulatory Mechanisms

The permit registrant must prohibit non-stormwater discharges into the MS4 (except those conditionally allowed by Schedule A.1.d) through enforcement of an ordinance or other regulatory mechanism, to the extent allowable under state law. The permit registrant must implement appropriate enforcement procedures and actions to ensure compliance. The ordinance or other regulatory mechanism must also define the range of illicit discharges it covers including, but not limited to the following:

- (A) Septic, sewage, and dumping or disposal of liquids or materials other than stormwater into the MS4;
- (B) Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
- (C) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
- (D) Discharges of washwater from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, and carpet cleaning, etc.;
- (E) Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, or residential areas (including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.) where detergents are used and spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- (F) Discharges of runoff from material storage areas, which contain chemicals, fuels, grease, oil, or other hazardous materials from material storage areas;
- (G) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
- (H) Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other landscape or construction-related wastes;
- (I) Discharges of trash, paints, stains, resins, or other household hazardous wastes; and
- (J) Discharges of food-related wastes (grease, restaurant kitchen mat and trash bin washwater, etc.).

iv. Enforcement Procedures

The permit registrant must develop, implement and maintain a written escalating enforcement and response procedure. The procedure must address repeat violations through progressively stricter responses as needed, to achieve compliance. The escalating enforcement and response procedure must describe how the permit registrant will use enforcement techniques to ensure compliance. The enforcement procedures must include timelines for compliance and, when formulating response procedures, must consider factors

such as the amount of pollutant discharged, the type of pollutant discharge, and whether the discharge was intentional or accidental.

For Existing Registrants the escalating enforcement procedure must be submitted with the third Annual Report. New Registrants must submit the escalating enforcement procedure by September 1, 2023.

v. Program to Detect and Eliminate Illicit Discharges

At a minimum, the permit registrant's program must include the following activities:

(A) Illicit Discharge Complaints or Reports

The permit registrant must publicize a phone number, webpage, and/or other communication channel that the public can use to report illicit discharges. The complaint/reporting communication channel must be answered or responded to by trained staff during normal business hours and must include a system to record or capture incoming complaints or reports during non-business hours.

(B) Response to Complaints or Reports

The permit registrant must respond to all complaints or reports of illicit discharges, as soon as possible, or within an average of two working days, unless there is a threat to human health, welfare, or the environment. For discharges, including spills, which constitute a threat to human health, welfare, or the environment, the permit registrant must respond within 24 hours. Spills, or other illicit discharges, that may endanger human health or the environment must be reported in accordance with all applicable federal and state laws, including notification to the Oregon Emergency Response System (800-452-0311).

The permit registrant's complaint response and the associated investigation must at minimum, use the following timelines:

1. Initial Investigation or Evaluation

Conduct an initial investigation or evaluation within an average of five working days or refer the complaint to the appropriate agency (see Schedule A.3.c.v.C below).

2. Ongoing Illicit Discharges

If the elimination of the illicit discharge will take more than 15 working days due to technical, logistical, or other reasonable issues, the permit registrant must within 20 working days upon identifying the source of an illicit discharge initiate procedures to eliminate the illicit discharge.

Upon confirmation of an illicit connection, the permit registrant must use the Enforcement Procedures in a documented effort to eliminate the illicit connection within six months to the extent allowable under state law. All known illicit connections to the MS4 must be eliminated.

3. Ongoing Illicit Discharges involving Capital Improvements

If the elimination of the illicit discharge involves the repair or replacement of the permit registrant's wastewater or storm sewer conveyance systems, the permit registrant must remove the source of the illicit discharge within three years of the date of its identification.

(C) Notification of Other Authorities

If the illicit discharge originates outside the permit registrant's jurisdictional authority, the permit registrant must notify the jurisdictional authority within five working days of becoming aware of the illicit discharge.

(D) Complaints Tracking

The permit registrant must maintain a procedure or system to document all complaints or reports of illicit discharges into and from the MS4. The tracking system must document, at minimum the following:

1. Date the complaint was received and, if available, the complainant's name and contact information.
2. Staff responding to the complaint.
3. Date the investigation was initiated.
4. The outcome of the staff investigation.
5. Corrective action(s) taken to eliminate the illicit discharge.
6. The responsible party for the corrective action(s).
7. The status of enforcement procedure(s), when necessary.
8. The date the corrective action(s) was completed and staff that evaluated final compliance.

Complaint tracking information must be summarized in each Annual Report.

vi. Dry Weather Screening Program

At a minimum, the permit registrant must conduct dry weather screening at the following percentage of their MS4:

(A) Existing Registrants

Existing Registrants must conduct dry weather screening of at least 40 percent of their MS4 outfalls no later than February 28, 2022. Subsequently, Existing Registrants must conduct dry weather screening at an additional 20 percent of their MS4 outfalls each year thereafter.

(B) New Registrants

New Registrants must conduct dry weather screening of at least 25 percent of their MS4 outfalls no later than September 1, 2023, then an additional 20 percent each year thereafter.

Once all the known outfalls are inspected, or if all the known outfalls have been previously screened, the permit registrant must identify and document priority locations. The 20 percent annual field screening must include a portion or all of the permit registrant's identified priority locations.

(C) Annual Field Screening of Priority Locations

Priority locations must, when possible, be located at an accessible location downstream of any source of suspected illegal or illicit activity or location as identified by the permit registrants. Priority locations must be based on an equitable consideration of hydrological conditions, total drainage area of the location, population density of the location, traffic density, age of the structures or buildings in the area, history of the area, land use types, personnel safety, accessibility, historical complaints or other appropriate factors as identified by the permit registrant.

The dry-weather field screening activities must occur after an antecedent dry period of at least 72-hours. The dry-weather field screening activities must be documented and include:

(D) General Observations

General observations must include visual presence of flow, turbidity, oil sheen, trash, debris or scum, condition of conveyance system or outfall, color, odor and any other relevant observations related to the potential presence of non-storm water or illicit discharges.

(E) Field Screening and Analysis

If flow is observed, and the source is unknown, a field analysis must be conducted to determine the cause of the dry-weather flow. The field analysis must include sampling for pollutant parameters that are likely to be found based upon the suspected source of discharge or by other effective investigatory approaches or means to identify the source or cause of the suspected illicit discharge. Where appropriate, field screening pollutant parameter action levels, identified by the permit registrant, must be considered.

(F) Pollutant Parameter Action

The permit registrant must develop or identify pollutant parameter action levels to be used as part of the field screening. The pollutant parameter action levels and rationale must be documented in an enforcement response plan (or similar document) or in the SWMP Document. The permit registrant may use following as indicator constituents: ammonia, biochemical oxygen demand, pH, total chlorine, detergents as surfactants, E. coli, total phosphorus, turbidity, temperature, and total suspended solids.

Existing Registrants must submit their Pollutant Parameter Action levels with the third Annual Report. New Registrants must submit the Pollutant Parameter Action levels by September 1, 2023.

(G) Laboratory Analysis

If general observations and field screening indicate an illicit discharge and the presence of a suspected illicit discharge cannot be identified through other investigatory methods, permittee must collect a water quality sample for laboratory analyses for ongoing discharges. The water quality sample must be analyzed for pollutant parameters or identifiers that will aid in the determination of the source of the illicit discharge. The types of pollutant parameters or identifiers may include, but are not limited to genetic markers, industry-specific toxic pollutants, or other pollutant parameters that may be specifically associated with a source type.

vii. Illicit Discharge Detection and Elimination Training and Education

The permit registrant must ensure that all persons responsible for investigating and eliminating illicit discharges and illicit connections into the MS4 are appropriately trained to conduct such activities. All staff directly responsible for conducting dry weather screening activities or responding to reports of illicit discharges and spills into the MS4 must be properly trained to conduct such activities.

The permit registrant must provide orientation and training to all new staff working to implement the IDDE program within 30 days of their assignment to this program. All staff must receive training at least once during the permit term. Permit registrant must provide follow-up training as procedures or technology utilized in this program change.

viii. Tracking and Assessment

The permit registrant must track implementation of the IDDE program requirements. In each corresponding Annual Report, the permit registrant must assess their progress towards implementation of the program.



**d. Construction Site Runoff Control**

The permit registrant must implement and enforce a construction site runoff control program to reduce discharges of pollutants from construction sites in its coverage area. Existing permit registrants must continue to implement their construction site runoff program as they develop, and implement the requirements of Schedule A.3.d.

i. Implementation Dates

(A) Existing Registrants

No later than February 28, 2023, Existing Registrants must implement all of the required components described in Schedule A.3.d.ii-ix.

(B) New Registrants

Upon the effective date of this permit, New Registrants must begin to develop and implement the required components described in Schedule A.3.d.ii-ix; and all required components must be fully implemented by September 1, 2023.

ii. Ordinance and/or Other Regulatory Mechanism

Through ordinance or other regulatory mechanism, to the extent allowable under state law, the permit registrant must require erosion controls, sediment controls, and waste materials management controls to be used and maintained at all qualifying construction projects from initial clearing through final stabilization to reduce pollutants in stormwater discharges to the MS4 from construction sites.

The permit registrant must require construction site operators to complete and implement an Erosion and Sediment Control Plan (ESCP) for construction project sites that results in a minimum land disturbance of:

(A) For Large Communities, 7,000 square feet or more; and

(B) For Small Communities, 10,890 square feet (a quarter of an acre) or more.

The permit registrant must use appropriate enforcement procedures and actions to ensure compliance with Schedule A.3.d.ii-vi.

iii. Compliance with Other NPDES Permits

For construction projects that disturb one or more acres (or that disturb less than one acre, if it is part of a “common plan of development or sale” disturbing one or more acres), the permit registrant must refer project sites to DEQ, or the appropriate DEQ agent, to obtain NPDES Construction Stormwater Permit coverage. The NPDES Construction Stormwater General Permit requirements are in addition to the permit registrant’s construction site runoff control requirements identified in this permit (Schedule A.3.d.iv).

iv. Erosion and Sediment Control Plans

The permit registrant must maintain written specifications that address the proper installation and maintenance of such controls during all phases of construction activity occurring in their coverage area. At a minimum, the written specifications must include an ESCP template, worksheet or similar document (henceforth referred to as Erosion and Sediment Control Plan or ESCP) for construction site operators to document how erosion, sediment, and waste material management controls will be implemented at the construction project site. At a minimum, through ordinance or other regulatory mechanism the permit registrant must:

(A) Provide the construction site operator an Erosion and Sediment Control Plan template prior to beginning construction/land disturbance;

- (B) Require construction site operator to complete a site-specific Erosion and Sediment Control Plan prior to beginning construction/land disturbance;
- (C) Require the Erosion and Sediment Control Plan be maintained and updated as site conditions change, or as needed; and
- (D) Require Erosion and Sediment Control Plans to be kept on site and made available for review by the permit registrant, DEQ, or another administrating entity.

The Erosion and Sediment Control Plan must, at a minimum consist of sizing criteria, performance criteria, design specifications, and guidance on selection and placement of controls, and specifications for long term operation and maintenance, including appropriate inspection interval and self-inspection checklists for use by the construction site operator.

v. Erosion and Sediment Control Plans Review

At a minimum, the permit registrant must review Erosion and Sediment Control Plans from construction projects that will result in land disturbance of one or more acres (or that disturb less than one acre, if it is part of a “common plan of development or sale” disturbing one or more acres) using a checklist or similar document to determine compliance with the ordinance or other regulatory mechanism required.

Erosion and Sediment Control Plan review procedures must include consideration of the construction activities’ potential water quality impacts, and, in accordance with applicable state and local public notice requirements.

vi. Construction Site Inspections

The permit registrant must inspect construction sites to ensure compliance with Schedule A.4.d.iii-iv.

(A) Minimum Triggers for Inspection

At a minimum, the permit registrant must inspect construction sites if:

1. The construction activity will result in land disturbance of one or more acres (or that disturb less than one acre, if it is part of a “common plan of development or sale” disturbing one or more acres). Each site must be inspected at least once during the permit term;
2. Sediment is visible or reported in stormwater discharge or dewatering activities from the construction site; or
3. A complaint or report is received. At minimum, the permit registrant must respond to the initial complaint if more than one report or complaint is received.

(B) Minimum Inspection Documentation Requirements

If the permit registrant inspects a construction site, at a minimum the site inspection must include and document the following:

1. A review and evaluation of the ESCP to determine if the described control measures were installed, implemented and maintained properly.
2. An assessment of the site’s compliance with the permit registrant’s ordinances or requirements, including the implementation and maintenance of required control measures.
3. Visual observations and documentation of any existing or potential non-stormwater discharges, illicit connections, and/or discharge of pollutants from the site. Documentation of recommendations to the construction site operator for follow-up.

4. If necessary, education or instruction provided to the construction site operator related to additional stormwater pollution prevention practices to comply with the approved ESCP.
5. A written or electronic inspection report, including documentation of all necessary follow-up actions (i.e., re-inspection, enforcement) to ensure compliance with their applicable requirements.

(C) Inspection Requirements for Existing Large Communities

In addition to Schedule A.3.d.vi.A, existing Large Communities must inspect at least 25% of the qualifying new construction sites that disturb less one at least once during the permit term to ensure compliance with the site's ESCP.

vii. Enforcement Procedures

The permit registrant must develop, implement and maintain a written escalating enforcement and response procedure for all qualifying construction sites. The procedure must address repeat violations through progressively stricter response, as needed, to achieve compliance. The escalating enforcement and response procedure must describe how the permit registrant will use enforcement techniques to ensure compliance. The enforcement procedures must include timelines for compliance and, when formulating response procedures, must consider factors such as the amount of pollutant discharged, the type of pollutant discharge, and whether the discharge was intentional or accidental. For Existing Registrants, the escalating enforcement procedure must be submitted with the third Annual Report. New Registrants must submit the escalating enforcement procedure by September 1, 2023.

viii. Construction Runoff Control Training and Education

The permit registrant must ensure that all staff responsible for ESCP reviews, site inspections, and enforcement of the permit registrant's requirements are trained or otherwise qualified to conduct such activities.

The permit registrant must provide orientation and training to all new staff working to implement the Construction Runoff Control program within 30 days of their assignment to this program. The permit registrant must be properly trained and knowledgeable in the technical understanding of erosion, sediment, and waste material management controls to conduct such ESCP reviews and inspections. All staff must receive training at least once during the permit term. The permit registrant must provide follow-up training as procedures and/or technology utilized in this program change.

ix. Tracking and Assessment

The permit registration must track implementation of Construction Site Runoff program's required activities. In each corresponding Annual Report, the permit registrant must assessment their progress toward implementing the Construction Site Runoff program's control measures.

**e. Post-Construction Site Runoff for New Development and Redevelopment**

Existing permit registrants must continue to implement their post-construction site runoff program as they develop, implement, and enforce the requirements of Schedule A.3.e to reduce discharges of pollutants and control stormwater runoff from new development and redevelopment project sites in its coverage area. New registrants must develop, implement, and enforce a program to reduce discharges of pollutants and control stormwater runoff from new development and redevelopment project sites in its coverage area.

i. Implementation Deadline

(A) Existing Registrants

No later than February 28, 2023, Existing Registrants must implement all of the required components described in Schedule A.3.e.ii-viii.

(B) New Registrants

Upon the effective date of the permit, New Registrants must begin to develop and implement the required components described in Schedule A.3.e.ii-viii; all required components must be fully implemented by September 1, 2023.

ii. Ordinance and/or Other Regulatory Mechanism

Through ordinance or other regulatory mechanism, to the extent allowable under state law, the permit registrant must require the following for project sites discharging stormwater to the MS4 that create or replace 5,000 square feet or more of new impervious surface area:<sup>1</sup>

(A) The use of stormwater controls at all qualifying sites.

(B) A site-specific stormwater management approach that targets natural surface or predevelopment hydrological function through the installation and long-term operation and maintenance of stormwater controls.

(C) Long-term operation and maintenance of stormwater controls at project sites that are under the ownership of a private entity.

The permit registrant must use appropriate enforcement procedures and actions to ensure compliance with Schedule A.3.e.iv. The local ordinance or other regulatory mechanism adopted must meet the requirements of Schedule A.3.e.ii-vi.

iii. Prioritization of Low Impact Development Requirements

The permit registrant must identify, minimize or eliminate ordinance, or code and development standard barriers within their legal authority that inhibit design and implementation techniques intended to minimize impervious surfaces and reduce stormwater runoff (Low Impact Development and Green Infrastructure). Such modifications to ordinance, or codes are only required to the extent they are permitted under federal and state laws.

The permit registrant must review ordinance, code and development standards for barriers by September 1, 2023. If an ordinance, code or development standard barrier is identified at any time subsequent to September 1, 2023, the applicable ordinance, code or development standard must be modified within three years.

iv. Post-Construction Stormwater Management Requirements

The permit registrant must develop enforceable post-construction stormwater management requirements in ordinance or other regulatory mechanism that, at a minimum, including the following technical standards:

(A) Site Performance Standard

The permit registrant must establish a site performance standard with a numeric stormwater retention requirement to target natural surface or predevelopment hydrologic function to retain rainfall on-site and minimize the offsite discharge of

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<sup>1</sup> For counties, through ordinance or other regulatory mechanism, to the extent allowable under state law, the permit registrant must require the following for project sites discharging stormwater to the MS4 that create or replace 10,890 square feet (a quarter of an acre) or more of new impervious surface area.

precipitation utilizing stormwater controls that infiltrate and evapotranspire stormwater. This retention requirement must use one of the following:

1. Volume-based method.
2. Storm event percentile-based method.
3. Annual average runoff-based method.

For projects complying with the retention requirement, the permit registrant can allow for an exception of this retention requirement in the site performance standard in instances where full compliance with this requirement cannot be achieved based on factors of technical infeasibility (see Schedule A.3.iv.D).

(B) Treatment Standard

For projects that are unable to fully meet the retention requirement, the remainder of the rainfall/runoff associated with this retention requirement must be treated prior to discharge with a structural stormwater control. This stormwater structural control must be designed to remove, at minimum, 80 percent of the total suspended solids. In treating the stormwater discharge offsite, the permit registrant must give priority to using green infrastructure before considering other structural stormwater controls. This runoff discharged offsite must target natural surface or predevelopment hydrologic function.

(C) Structural Stormwater Control Design and Specifications

The permit registrant must provide a description of all allowable structural stormwater controls including site-specific design requirements, design requirements that do not inhibit maintenance, conditions where each control applies, and operation and maintenance standards for each control. The permit registrant must identify conditions where the implementation of green infrastructure or equivalent approaches may be impracticable.

A permit registrant may adopt specifications created by another entity that complies with this requirement.

(D) Allowance for Alternative Compliance

The permit registrant may allow alternatives for projects to comply with the retention requirement at a project site based on factors of technical infeasibility or site constraints. Such feasibility or constraint factors may include, but are not limited to, shallow bedrock, high groundwater, groundwater contamination, soil instability as documented by geotechnical analysis, or a land use that is inconsistent with capture, reuse and/or infiltration of stormwater. The determination that full compliance cannot be achieved at the project site must be based on review criteria considering multiple factors and cannot be based solely on the difficulty or cost.

For project sites requesting alternative compliance, the permit registrant must require and subsequently review the written technical justification as to evaluate the technical infeasibility or site constraints, which prevent the onsite management of the runoff amount stipulated in the stormwater retention requirement or a portion thereof. Where alternative compliance is utilized, runoff must comply with the treatment standard. The written technical justification must be in the form of a site-specific hydrologic or design analysis conducted and endorsed by an Oregon registered Professional Engineer or Oregon Certified Engineering Geologist.

If the permit registrant agrees that alternative compliance with the retention requirement is necessary, the permit registrant must require that the site operator use

one or more of the stormwater mitigation options outlined in the Stormwater Mitigation Options below.

(E) Stormwater Mitigation Options

Before allowing alternative compliance with the retention requirement, the permit registrant must establish stormwater mitigation options for alternative compliance, including institutional standards and management systems to value, estimate, and account for how these mitigation projects retain the unmet volume of the stormwater specified in this retention requirement. The mitigation project or site must be within the same subwatershed as the site undergoing development. Stormwater mitigation options must include one or more of the following for alternative compliance:

1. Offsite Mitigation

Offsite mitigation includes meeting the retention requirement at another location, the use of a stormwater mitigation bank program, or the use of stormwater payment-in-lieu program.

2. Groundwater Replenishment Projects

Groundwater replenishment projects include implementing a project that the permit registrant has determined to provide an opportunity to replenish regional groundwater supplies.

3. Treatment Equivalent to the Retention Requirement

Treatment Equivalent to the retention requirement establishes treatment requirements that attain the equivalent water quality benefits as onsite retention of stormwater from new development or redevelopment sites using a continuous simulation hydrologic model or other evaluation tool.

v. Post-Construction Site Runoff Plan Review

The ordinance or other regulatory mechanism must include procedures for the permit registrant's review and approval of structural stormwater control plans for new development and redevelopment projects.

At a minimum, the permit registrant must review and approve plans for structural stormwater control at new development and redevelopment sites that result from a land disturbance of one or more acres (or that disturb less than one acre, if it is part of a "common plan of development or sale" disturbing one or more acres); and sites that use alternative compliance to meet the retention requirement, before the start of the project. The permit registrant must review plans for consistency with the ordinance/regulatory mechanism and specifications required by Schedule A.3.e.vi. The permit registrant must not approve or recommend for approval any plans for structural controls that do not meet minimum requirements to meet Schedule A.3.e.iv and Schedule A.3.e.vi.

vi. Long-Term Operation and Maintenance (O&M)

The permit registrant must maintain an inventory and implement a strategy to ensure that all stormwater controls are operated and maintained to meet the site performance standard in Schedule A.3.e.iv. This strategy must, at minimum, include the following:

(A) Legal authority allowing the permit registrant to inspect and require effective operation and maintenance of privately owned and operated stormwater controls.

(B) Inspection procedures and an inspection schedule ensuring compliance with the O&M requirements of each stormwater control operated by the permit registrant and by other private entities.

- (C) A tracking mechanism for documenting inspections and the O&M requirements for each stormwater control. This tracking mechanism must document enforcement actions and compliance response. For stormwater controls that include vegetation, the O&M requirements must at minimum include requirements to maintain and/or replace vegetation to ensure the functionality of this control. For stormwater controls that include soils in the treatment process, O&M requirements must at minimum include requirements to maintain soil permeability.
- (D) Reporting requirements for privately owned and operated stormwater controls that document compliance with the O&M requirement in Schedule A.3.f.
- (E) The location of all public and private stormwater controls installed in compliance with this permit must be included with the MS4 Map.

vii. Training and Education

The permit registrant must ensure that staff responsible for performing post-construction runoff site plan reviews, administering the alternative compliance program, or performing O&M practices or evaluating compliance with long-term O&M requirements are trained or otherwise qualified to conduct such activities.

The permit registrant must provide orientation and training to all new staff working to implement the post-construction runoff control program within 30 days of their assignment to this program. All staff must receive training at least once during the permit term. Permit registrant must provide follow-up training as procedures and/or technology utilized in this program change.

viii. Tracking and Assessment

The permit registrant must maintain records for activities to meet the requirements of the Post-Construction Site Runoff program requirements and include a descriptive summary of their activities in the corresponding Annual Report.

**f. Pollution Prevention and Good Housekeeping for Municipal Operations**

The permit registrant must properly operate and maintain its facilities, using prudent pollution prevention and good housekeeping to reduce the discharge of pollutants through the MS4 to waters of the state.

i. Implementation Date

(A) Existing Registrants

No later than February 28, 2022, Existing Registrants must implement of the required components described in Schedule A.3.f.ii-ix.

(B) New Registrants

Upon the effective date of this permit, New Registrants must begin to develop and implement the required components described in Schedule A.3.f.ii-ix; all required components must be fully implemented by September 1, 2023.

ii. Operation and Maintenance Strategy for Existing Controls

For existing stormwater controls, the permit registrant must develop and implement an operation and maintenance strategy for both permit registrant-owned controls and controls owned and operated by another entity discharging to the MS4. The O&M strategy for stormwater controls must include, at minimum, the long-term O&M requirements in Schedule A.3.e.v.

iii. Inspection and Cleaning of Catch Basins

The permit registrant must inspect at least 50 percent of the permit registrant-owned or operated catch basins and inlets within the MS4 at least once every five years and take all appropriate maintenance or cleaning action based on those inspections to ensure the catch basins and inlets continue to function as designed. The permit registrant may establish a catch basin inspection prioritization system, and establish alternate inspection frequency, provided the permit registrant describes all relevant factors it uses to target its inspections to specific areas of its MS4 in the SWMP Document.

The permit registrant must maintain catch basin inspection records and cleaning records.

iv. Pollution Prevention in Facilities and Operations

The permit registrant must conduct its municipal O&M activities in a manner that reduces the discharge of pollutants through the MS4 to protect water quality. The permit registrant must review, and if necessary update, existing procedures for inspection and maintenance schedules to ensure pollution prevention and good housekeeping practices are conducted for the following activities:

- (A) Pipe cleaning for stormwater and wastewater conveyance systems.
- (B) Cleaning of culverts conveying stormwater in roadside ditches.
- (C) Ditch maintenance.
- (D) Road and bridge maintenance.
- (E) Road repair and resurfacing including pavement grinding.
- (F) Dust control for roads and municipal construction sites.
- (G) Winter road maintenance, including salt or de-icing storage areas.
- (H) Fleet maintenance and vehicle washing.
- (I) Building and sidewalk maintenance including washing.
- (J) Solid waste transfer and disposal areas.
- (K) Municipal landscape maintenance.
- (L) Material storage and transfer areas, including fertilizer and pesticide, Hazardous material, used oil storage, and fuel
- (M) Fire fighting training activities.
- (N) Maintenance of municipal facilities including public parks and open space, golf courses, airports, parking lots, swimming pools, marinas, etc.

v. Registrant-owned NPDES Industrial Stormwater Permit Facilities

Permit registrant-owned or operated facilities with industrial activity as defined in 40 CFR §122.26(b)(14) discharging stormwater to the waters of the state must have coverage under DEQ's NPDES Industrial Stormwater General Permit. The permit registrant may use the actions required in the NPDES Industrial Stormwater Permit to address the applicable facility requirements in Schedule A.3.f.vi.

vi. Requirements for Pesticide and Fertilizer Applications

The permit registrant must implement practices to reduce the discharge of pollutants to the MS4 associated with the permit registrant's application and storage of pesticides and fertilizers. At a minimum, such areas include the permit registrant's public right-of-ways, parks, recreational facilities, golf courses, and landscaped areas. All employees or contractors of the permit registrant applying pesticides must follow all label requirements,



including those regarding application methods, rates, number of applications allowed, and disposal of the pesticide, fertilizer and rinsate.

vii. Litter Control

The permit registrant must implement methods to reduce litter within its jurisdiction. The permit registrant must work cooperatively with other departments, organization, or other entities to control litter on a regular basis and after major public events, in order to reduce the discharge of pollutants and litter to the MS4.

viii. Materials Disposal

All collected material or pollutants removed in the course of maintenance, treatment, control of stormwater, or other wastewaters must be managed and disposed of in a manner such as to prevent such pollutants from entering the waters of the state in accordance with state and federal rules.

ix. Stormwater Infrastructure Staff Training

The permit registrant must ensure that staff responsible for evaluating O&M practices, evaluating compliance with long-term O&M requirements or ensuring pollution prevention at facilities and during operations are trained or otherwise qualified to conduct such activities.

The permit registrant must provide orientation and training to all new staff working to implement the pollution prevention and good housekeeping for municipal operations program within 30 days of their assignment to this program and at least once during the permit term. The permit registrant must provide follow-up training as procedures and/or technology utilized in this program change.

x. Tracking and Assessment

The permit registrant must maintain records for activities to meet the requirements of the Pollution Prevention and Good Housekeeping for Municipal Operations program requirements and include a descriptive summary of their activities in the corresponding Annual Report.

## SCHEDULE B - MONITORING AND REPORTING REQUIREMENTS

### 1. Compliance Evaluation

At least once per year, the permit registrant must evaluate their compliance with the requirements of this permit using the DEQ Annual Report template. This self-evaluation includes assessment of progress toward implementing the SWMP control measures in Schedule A, and implementation of actions to comply with any additional requirements identified pursuant to Schedule D (Requirements for Discharges to Impaired Waterbodies).

### 2. Annual Report

No later than November 1 each year, beginning in 2020, the permit registrant must submit an Annual Report to DEQ. The permit registrant must use the Annual Report form provided by DEQ. The reporting period for the Annual Report is from June 1 through June 31 of the following year (for example, June 30, 2020 through July 31, 2021). Reporting periods for subsequent Annual Reports is specified in Table 2 below. The permit registrant must make all Annual Reports available to the public, including any required documents attached to the Annual Report through the permit registrant's maintained website.

**Table 2. Annual Report Deadlines**

Annual Report	Reporting Period	Due Date
1st Year Annual Report	Mar. 1, 2019 - June 30, 2020	Nov. 1, 2020
2nd Year Annual Report	July 1, 2020 - June 30, 2021	Nov. 1, 2021
3rd Year Annual Report	July 1, 2021 - June 30, 2022	Nov. 1, 2022
4th Year Annual Report	July 1, 2022 - June 30, 2023	Nov. 1, 2023
5th Year Annual Report	July 1, 2023 - June 30, 2024	Nov. 1, 2024

### 3. Monitoring Requirements

If the permit registrant discharges to a waterbody for which a TMDL has been approved or is listed on the 303(d) list, the permit registrant must comply with all monitoring requirements under Schedule D.2 or if the permit registrant performs municipal stormwater monitoring at outfall locations, in the receiving waterbody, or to demonstrate compliance with this permit, all monitoring data must be submitted to DEQ.

- a. When the permit registrant conducts stormwater monitoring, the following monitoring requirements must be followed:
  - i. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.
  - ii. Sample collection, preservation, and analysis must be conducted according to methods procedures outlined in 40 CFR § 136, unless otherwise approved by DEQ. Where an approved 40 CFR § 136 method does not exist, and other test procedures have not been specified, any available method may be used after approval from DEQ
- b. Records of monitoring information must include:
  - i. The date, exact place, and time of sampling or measurements.
  - ii. The names(s) of the individual(s) who performed the sampling or measurements.
  - iii. The date(s) analyses were performed.
  - iv. The names of the individuals who performed the analyses.
  - v. The analytical techniques or methods used.

The results of such analyses must be reported in the Annual Report.

#### **4. Submissions**

The permit registrant must provide DEQ with one hard copy and one electronic copy (on a portable electronic storage device or via email) of the Annual Report and any supplemental information required by the due date in Table 2, above. For electronic submittal of documents (i.e., e-Reporting), DEQ may provide the permit registrant with instructions for submittal when required. Once the permit registrant receives permission to submit electronically, it will no longer be required to submit such materials to DEQ in hardcopy.

All hardcopy Annual Reports, attachments, and other required submittals must be sent to DEQ at the following address:

Oregon Department of Environmental Quality  
MS4 Stormwater Program, Attention: 7th Floor  
700 NE Multnomah St., Suite 600  
Portland, OR 97232

MS4Stormwater@deq.state.or.us

#### **5. Recordkeeping**

##### **a. Records Retention**

The permit registrant must retain records and copies of all information (for example, all monitoring, calibration, and maintenance records; all original strip chart recordings for any continuous monitoring instrumentation; copies of all reports required by this permit; annual reports; a copy of the NPDES permit; and, records of all data or information used in the development and implementation of the SWMP) for a period of at least five years from the of the permit compliance action date or for the term of this permit, whichever is longer. This period may be extended at the request of DEQ at any time.

##### **b. Availability of Records**

The permit registrant must submit records to DEQ when requested. The permit registrant must also 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.

**SCHEDULE C - COMPLIANCE CONDITIONS AND DATES**

Compliance conditions and dates are not included at this time.

## **SCHEDULE D - SPECIAL CONDITIONS**

### **1. Requirements for Discharges to Impaired Waterbodies**

#### **a. Applicability**

The requirements of Schedule D.1 apply to MS4 discharges to receiving waters with established TMDLs and with new or modified TMDLs approved by EPA before the effective date of the permit where urban stormwater is identified as a source of TMDL pollutant loading. Schedule D.1 also applies to MS4 discharges to receiving waters identified as impaired on DEQ's current Integrated Report and 303(d) list for particular pollutants, identified before the effective date of the permit. DEQ has identified receiving waters in all urban areas covered by this permit as being water quality impaired for a variety of pollutants and most of these receiving waters are also under a TMDL load allocation. Established TMDLs in the permit registrant's coverage area are noted on the coverage page of this permit.

#### **b. Performance Measures**

DEQ incorporated performance measures in Schedule A.3.c, d, e, and f to address water quality impairments and EPA-approved TMDL allocations issued to date. Compliance with the permit's terms and conditions is presumed to be in compliance with TMDL allocations issued before the effective date of this permit, unless specified below.

- i. The City of Wood Village's must provide a summary of the following to evaluate the control strategies established for the Lower Columbia Slough Phosphate, Lead, and Bacteria TMDLs:
  - (A) For phosphate, monitor influent and effluent dissolved orthophosphate concentrations and total phosphate concentrations at a representative site in Fairview Lake (Reach 4) and Fairview Creek (Reach 5).
  - (B) For lead, estimates of the effectiveness of controls to remove TSS.
  - (C) For bacteria, measuring E. coli concentrations and its distribution over flows (for example, flow duration intervals) to demonstrate compliance with E. coli criteria.

## 2. Definitions:

- a. **Total Maximum Daily Load (TMDL)** or **applicable TMDL** is any TMDL, which has been approved by EPA on or before the issuance date of this permit.
- b. **Best Management Practices (BMPs)** means schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also mean treatment requirements operating procedures, and practices to control runoff, spillage, or leaks, sludge, or waste disposal, or drainage from raw material storages. See 40 CFR § 122.2 and 122.44(k). For the purposes of this permit, BMPs are synonymous with structural and non-structural stormwater controls and include the schedule of activities, controls, prohibition of practices, maintenance procedures and other management practices designed to prevent or reduce pollution.
- c. **Bioretention** means the water quality and water quantity stormwater management practice using the chemical, biological and physical properties of plants, microbes and soils for the removal of pollution from stormwater runoff.
- d. **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.
- e. **Chronic Illicit Discharges** are continuous illicit discharges resulting from sanitary/wastewater connections to an MS4, sanitary/wastewater inflows into a MS4 and unpermitted industrial wastewater discharges to the MS4.
- f. **Clean Water Act (CWA)** refers to what was formally called 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].
- g. **Common Plan of Development** means a contiguous construction project or projects where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan.
- h. **Construction activity** includes, but is not limited to, clearing, grading, excavation, and other site preparation work related to the construction of residential buildings and non-residential buildings, and heavy construction (for example, highways, streets, bridges, tunnels, pipelines, transmission lines and industrial non-building structures).
- i. **Erosion and Sediment Control Plan** is a site-specific plan designed to describe the control of soil, raw materials, or other substances to prevent pollutants in storm water runoff. For the purposes of this permit, an ESCP means a document that identifies potential sources of pollution, describes practices to reduce pollutants in stormwater discharges from the site, and identifies procedures or controls that the operator will implement to reduce impacts to water quality and comply with applicable Permit requirements.
- j. **Control Measure**, as used in this permit, refers to any action, activity, Best Management Practice or other method used to control the discharge of pollutants in MS4 discharges.
- k. **Discharge** of a pollutant means any addition of any “pollutant” or combination of pollutants to “waters of the state” from any “point source,” or 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 state 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].

- l. **Erosion** is the process of carrying away soil particles by the action of water, wind, or other process.
- m. **Evaporate** is rainfall that is changed or converted into a vapor.
- n. **Evapotranspiration** is the sum of evaporation and transpiration of water from the earth’s surface to the atmosphere. It includes evaporation of liquid or solid water plus the transpiration from plants.
- o. **Final Stabilization** is determined by satisfying the following criteria: (1) there is no reasonable potential for discharge of a significant amount of construction related sediment or turbidity to surface waters; (2) construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by the temporary erosion and sediment controls; (3) all temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements; (4) all soil disturbance activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased; (5) all disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures. However, temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials), provided that measures are in place to eliminate or minimize erosion.
- p. **Green Infrastructure (GI)** is a specific type of stormwater control using vegetation, soils, and natural processes to manage stormwater. At the scale of a neighborhood or site, green infrastructure refers to stormwater management systems designed to mimic nature by reducing and/or storing stormwater through infiltration, evaporation, and transpiration. At the scale of city or county, green infrastructure refers to the patchwork of natural areas that provides flood protection and natural processes that remove pollutants from stormwater.
- q. **Impaired Water** means any waterbody that does not meet applicable water quality standards for one or more parameters as identified on Oregon’s 303(d) list.
- r. **Infiltration** is the process by which storm water penetrates into soil.
- s. **Illicit Connections** include, but are not limited to, pipes, drains, open channels, or other conveyances that have the potential to result in an illicit discharge.
- t. **Illicit Discharge** is any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges authorized under Section A.4.a.xii., discharges permitted by a NPDES permit or other state or federal permit, or otherwise authorized by DEQ.
- u. **Impervious Surface** any surface resulting from development activities that prevents the infiltration of water or results in more runoff than in the undeveloped condition. Common impervious surfaces include building roofs, traditional concrete or asphalt paving on walkways, driveways, parking lots, gravel lots and roads, and packed earthen materials.
- v. **Large Communities** is defined as any permit registrant not defined as a Small Community.
- w. **Low Impact Development (LID)** is a stormwater management approach that seeks to mitigate the impacts of increased runoff and stormwater pollution using a set of planning, design and construction approaches and stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater, and can occur at a wide range

of landscape scales (i.e., regional, community and site). Low impact development is a comprehensive land planning and engineering design approach to stormwater management with a goal of mimicking the pre-development hydrologic regime of urban and developing watersheds.

- x. **Maximum Extent Practicable (MEP)** is the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by Section 402(p)(3)(B)(iii) of the Clean Water Act [33 U.S.C §1342(p)(3)(B)(iii)].
- y. **Minimize** means to reduce and/or eliminate to the extent achievable using control measures (including BMPs) that are technologically available, economically practicable, and achievable in light of best industry or municipal practices.
- z. **Municipal Separate Storm Sewer System (MS4)** is defined in 40 CFR §122.26(b) 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, storm water, 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 Clean Water Act that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works as defined at 40 CFR §122.2.
- aa. **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 Clean Water Act.
- bb. **National Pollutant Discharge Elimination System (NPDES)** is 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 Clean Water Act [40 CFR §122.2].
- cc. **Non-structural Stormwater Controls** or **BMPs** are stormwater controls in the form of development standards or other regulatory mechanisms intended to minimize and treat stormwater by minimizing impervious surfaces and by using soil infiltration, evaporation, and transpiration. These controls may also take the form of procedural practices to prevent pollutants from contaminating stormwater. The use of this term in this Permit is consistent with the discussion of non-structural stormwater BMPs in 64 Federal Register 68760 (December 9, 1999) which encompasses preventative actions that involve management and source controls such as: (1) policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive waterbodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; (2) policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure; (3) education programs for developers and the public about project designs that minimize water quality impacts; and (4) other measures such as minimization of the percentage of impervious area after development, use of measures to



- minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance and spill prevention.
- dd. **Outfall** is defined as a point source at the point where a municipal separate storm sewer discharges to waters of the State, and does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.
- ee. **Owner** or **Operator** is the owner or operator of any “facility or activity” subject to regulation under the NPDES program.
- ff. **Pesticide** as used this Permit carries the same definition as used in the Federal Insecticide, Fungicide, and Rodenticide Act and is any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Under FIFRA, pest is any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism
- gg. **Plant Intercept** is the capture of precipitation by the plant canopy and its subsequent return to the atmosphere through evaporation or sublimation.
- hh. **Pollutant** is dredged spoil; solid waste; incinerator residue; sewage; garbage; sewerage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into water.
- ii. **Predevelopment Hydrologic Function** is the hydrology of a site reflecting the local rainfall patterns, soil characteristics, land cover, evapotranspiration, and topography. The term predevelopment as used in predevelopment hydrologic function is consistent with the term predevelopment as discussed in Federal Register Volume 64, Number 235 and refers to the runoff conditions that exist onsite immediately before the planned development activities occur. Predevelopment is not intended to be interpreted as the period before any human-induced land disturbance activity has occurred.
- jj. **Post-Construction Site Runoff Plan** is a plan developed by a site owner or operator and/or their designer to demonstrate compliance with the post-construction stormwater management and long-term operation and maintenance requirements of this permit.
- kk. **Redevelopment** a project on a previously developed site that results in the addition or replacement of impervious surface.
- ll. **Regulated small MS4** is a municipal separate storm sewer that is not medium or large MS4. Large MS4 is defined in 40 CFR §122.26(b)(4). Medium MS4 is defined in 40 CFR § 122.26(b)(7). For the purposes of this permit, a small MS4 is any municipal separate storm sewer system located within a Census-defined Urbanized Area. Regulated small MS4s are automatically designated as needing a NPDES permit pursuant to federal requirements found in 40 CFR § 122.30-37. Regulated small MS4 also mean any MS4 designated by DEQ pursuant to 40 CFR §122.26(a)(1)(v) and/or 123.35 as needing a NPDES permit.
- mm. **Small Communities** is defined as any permit registrant that has a population of less than 10,000 people or is a county that is the sole permit registrant/applicant. If the county is a co-registrant at the time of permit coverage or becomes a co-registrant at any time of permit coverage under this permit, it is not eligible for this exemption.
- nn. **Small MS4**, is defined at 40 CFR § 122.26(b)(16) and (17), respectively, and means all separate storm sewers that are: (i) owned or operated by the United States, 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, storm water, 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 Clean Water Act that discharges to waters of the United States; (ii) not defined as “large” or “medium” municipal separate storm sewer systems pursuant to 40 CFR § 122.26(b)(4) and (b)(7), or designated under 40 CFR § 122.26(a)(1)(v); and (iii) includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

- oo. **Stormwater** or **stormwater runoff** includes snow melt runoff, and surface runoff and drainage, and is defined in 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.
- pp. **Stormwater Control** refers to non-structural, structural stormwater controls and/or BMPs.
- qq. **Stormwater Management Program (SWMP)** refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system. For the purposes of this permit, the SWMP consists of the actions and activities conducted by the permit registrant as required by the permit and described in the permit registrant’s SWMP Document.
- rr. A **SWMP Document** is the written summary describing the unique and/or cooperative means by which an individual permit registrant or entity implements the specific stormwater management control measures required by the permit..
- ss. **Stormwater Mitigation Bank Program** is a program for offsite compliance that establishes a market with an entity that tracks the life cycle of an offsite mitigation credit by certifying the credit, issuing a tradable credit to the seller, transferring the ownership of the credit from the seller to the buyer, and use or retirement of the credit to receive a benefit when buyer of the credit is unable to meet a retention requirement on their site.
- tt. **Stormwater Payment-in-Lieu Program** is a program for offsite compliance where the permit registrant or site owner/operator pays a fee in lieu of full compliance on the development site with this fee based on volume ratios (i.e., volume stormwater to be retained onsite to the volume to be retained at the mitigation site) and a rate specified by the Registrant. The Permit registrant can aggregate fees and apply them to a public stormwater structural or non-structural control at a later point in time.
- uu. **Structural Stormwater Controls** or **BMPs** are stormwater controls that are physically designed, installed, and maintained to prevent or reduce the discharge of pollutants in stormwater to minimize the impacts of stormwater on waterbodies. As noted in the 64 Federal Register 68760 (December 9, 1999), examples of structural stormwater controls or BMPs include: (1) storage practices such as wet ponds and extended-detention outlet structures; (2)filtration practices such as grassed swales, sand filters and filter strips; and, (3) infiltration practices such as infiltration basins and infiltration trenches.
- vv. **Subwatershed** is the topographic perimeter of the catchment area of a stream tributary.
- ww. **Transpiration** means to release water vapor into the atmosphere through plant stomata or pores.
- xx. **Waters of the State** means Lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not

combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or boarding the state or within its jurisdiction.

## **SCHEDULE F - NPDES PERMIT GENERAL (MS4)**

*Revision Date, October 1, 2015*

The general conditions in this schedule apply only to the extent they do not conflict with the requirements contained in Schedules A through E. If the permit requirements in Schedule A through D conflict with these general conditions, the permit requirements in Schedule A through D will control.

### **SECTION A. STANDARD CONDITIONS**

#### **A1. Duty to Comply with Permit**

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and the federal Clean Water Act and is grounds for an enforcement action. Failure to comply is also grounds for DEQ to terminate, modify and reissue, revoke, or deny renewal of a permit.

#### **A2. Penalties for Water Pollution and Permit Condition Violations**

The permit is enforceable by DEQ or EPA, and in some circumstances also by third-parties under the citizen suit provisions of 33 USC § 1365. DEQ enforcement is generally based on provisions of state statutes and Environmental Quality Commission (EQC) rules, and EPA enforcement is generally based on provisions of federal statutes and EPA regulations.

ORS 468.140 allows DEQ to impose civil penalties up to \$25,000 per day for violation of a term, condition, or requirement of a permit. The federal Clean Water Act provides for civil penalties not to exceed \$25,000 per day for each violation of any condition or limitation of this permit.

Under ORS 468.943, unlawful water pollution in the second degree, is a Class A misdemeanor and is punishable by a fine of up to \$25,000, imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense. The federal Clean Water Act provides for criminal penalties of not more than \$50,000 per day of violation, or imprisonment of not more than 2 years, or both for second or subsequent negligent violations of this permit.

Under ORS 468.946, unlawful water pollution in the first degree is a Class B felony and is punishable by a fine up to \$250,000, imprisonment for not more than 10 years or both. The federal Clean Water Act provides for criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment of not more than 3 years, or both for knowing violations of the permit. In the case of a second or subsequent conviction for knowing violation, a person is subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

#### **A3. Duty to Mitigate**

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit. In addition, upon request of DEQ, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

#### **A4. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

DEQ may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

**A5. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute.
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts.
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a total maximum daily load (TMDL).
- e. New information or regulations.
- f. Modification of compliance schedules.
- g. Requirements of permit reopener conditions.
- h. Correction of technical mistakes made in determining permit conditions.
- i. Determination that the permitted activity endangers human health or the environment.
- j. Other causes as specified in 40 CFR § 122.62, 122.64, and 124.5.

The filing of a request by the permittee for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**A6. Toxic Pollutants**

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 and 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the federal Clean Water Act 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.

**A7. Property Rights and Other Legal Requirements**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other private rights, or any infringement of federal, tribal, state, or local laws or regulations.

**A8. Permit References**

Except for effluent standards or prohibitions established under section 307(a) of the federal Clean Water Act and OAR 340-041-0033 for toxic pollutants, and standards for sewage sludge use or disposal established under section 405(d) of the federal Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

**A9. Permit Fees**

The permittee must pay the fees required by OAR.

**SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

**B1. 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 adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**B2. Need to Halt or Reduce Activity Not a Defense**

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee must, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It is not a defense for a 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.

**B3. Bypass of Treatment Facilities**

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs b and c of this section.
- (2) "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 that 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.

b. Prohibition of bypass.

- (1) Bypass is prohibited and DEQ may take enforcement action against a permittee for bypass unless:
  - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. 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 preventative maintenance; and
  - iii. The permittee submitted notices and requests as required under General Condition B3.c.
- (2) DEQ may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when DEQ determines that it will meet the three conditions listed above in General Condition B3.b(1).

c. Notice and request for bypass.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, a written notice must be submitted to DEQ at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in General Condition D5.

**B4. Upset**

- a. Definition. "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 operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B4.c are met. 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.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the causes(s) of the upset;
  - (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted notice of the upset as required in General Condition D5, hereof (24-hour notice); and
  - (4) The permittee complied with any remedial measures required under General Condition A3 hereof.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

**B5. Treatment of Single Operational Upset**

For purposes of this permit, a single operational upset that leads to simultaneous violations of more than one pollutant parameter will be treated as a single violation. A single operational upset is an exceptional incident that causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one federal Clean Water Act effluent discharge pollutant parameter. A single operational upset does not include federal Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational upset is a violation.

**B6. Public Notification of Effluent Violation**

If effluent limitations specified in this permit are exceeded or an overflow occurs that threatens public health, the permittee must take such steps as are necessary to alert the public, health agencies and other affected entities (for example, public water systems) about the extent and nature of the discharge in accordance with the notification procedures developed under General Condition B7. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

**B7. Emergency Response and Public Notification Plan**

The permittee must develop and implement an emergency response and public notification plan that identifies measures to protect public health from bypasses or upsets that may endanger public health. At a minimum the plan must include mechanisms to:

- a. Ensure that the permittee is aware (to the greatest extent possible) of such events;
- b. Ensure notification of appropriate personnel and ensure that they are immediately dispatched for investigation and response;

- c. Ensure immediate notification to the public, health agencies, and other affected entities (including public water systems). The response plan must identify the public health and other officials that will receive immediate notification;
- d. Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained;
- e. Provide emergency operations; and
- f. Ensure that DEQ is notified of the public notification steps taken.

**B8. Removed Substances**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in such a manner as to prevent any pollutant from such materials from entering waters of the state, causing nuisance conditions, or creating a public health hazard.

**SECTION C. MONITORING AND RECORDS**

**C1. Representative Sampling**

Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and must be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points must not be changed without notification to and the approval of DEQ. Samples must be collected in accordance with requirements in 40 CFR part 122.21 and 40 CFR part 403 Appendix E.

**C2. Flow Measurements**

Appropriate flow measurement devices and methods consistent with accepted scientific practices must be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices must be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than  $\pm 10$  percent from true discharge rates throughout the range of expected discharge volumes.

**C3. Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge (biosolids) use and disposal, approved under 40 CFR part 503 unless other test procedures have been specified in this permit.

For monitoring of recycled water with no discharge to waters of the state, monitoring must be conducted according to test procedures approved under 40 CFR part 136 or as specified in the most recent edition of Standard Methods for the Examination of Water and Wastewater unless other test procedures have been specified in this permit or approved in writing by DEQ.

**C4. Penalties for Tampering**

The federal Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, 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, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.



C5. Reporting of Monitoring Results

Monitoring results must be summarized each month on a discharge monitoring report form approved by DEQ. The reports must be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

C6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or, in the case of sludge (biosolids) use and disposal, approved under 40 CFR part 503 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report. Such increased frequency must also be indicated. For a pollutant parameter that may be sampled more than once per day (for example, total residual chlorine), only the average daily value must be recorded unless otherwise specified in this permit.

C7. Averaging of Measurements

Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which must be averaged as specified in this permit.

C8. Retention of Records

Records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities must be retained for a period of at least 5 years (or longer as required by 40 CFR part 503). Records of all monitoring information including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit and records of all data used to complete the application for this permit must be retained for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of DEQ at any time.

C9. Records Contents

Records of monitoring information must include:

- a. The date, exact place, time, and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

C10. Inspection and Entry

The permittee must allow DEQ or EPA upon the presentation of credentials to:

- a. 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;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

**C11. Confidentiality of Information**

Any information relating to this permit that is submitted to or obtained by DEQ is available to the public unless classified as confidential by the Director of DEQ under ORS 468.095. The permittee may request that information be classified as confidential if it is a trade secret as defined by that statute. The name and address of the permittee, permit applications, permits, effluent data, and information required by NPDES application forms under 40 CFR § 122.21 are not classified as confidential [40 CFR § 122.7(b)].

**SECTION D. REPORTING REQUIREMENTS**

**D1. Planned Changes**

The permittee must comply with OAR 340-052, “Review of Plans and Specifications” and 40 CFR § 122.41(l)(1). Except where exempted under OAR 340-052, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by DEQ. The permittee must give notice to DEQ as soon as possible of any planned physical alternations or additions to the permitted facility.

**D2. Anticipated Noncompliance**

The permittee must give advance notice to DEQ of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

**D3. Transfers**

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and EQC rules. No permit may be transferred to a third party without prior written approval from DEQ. DEQ 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 40 CFR § 122.61. The permittee must notify DEQ when a transfer of property interest takes place.

**D4. Compliance Schedule**

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. Any reports of noncompliance must include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

**D5. Twenty-Four Hour Reporting**

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours from the time the permittee becomes aware of the circumstances, unless a shorter time is specified in the permit. During normal business hours, the DEQ regional office must be called. Outside of normal business hours, DEQ must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

The following must be included as information that must be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass that exceeds any effluent limitation in this permit;
- b. Any upset that exceeds any effluent limitation in this permit;
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by DEQ in this permit; and

- d. Any noncompliance that may endanger human health or the environment.

A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:

- e. A description of noncompliance and its cause;
- f. The period of noncompliance, including exact dates and times;
- g. The estimated time noncompliance is expected to continue if it has not been corrected;
- h. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
- i. Public notification steps taken, pursuant to General Condition B7.

DEQ may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

**D6. Other Noncompliance**

The permittee must report all instances of noncompliance not reported under General Condition D4 or D5, at the time monitoring reports are submitted. The reports must contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

**D7. Duty to Provide Information**

The permittee must furnish to DEQ within a reasonable time any information that DEQ may request to determine compliance with the permit or to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit. The permittee must also furnish to DEQ, upon request, copies of records required to be kept by this permit.

Other Information: When the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to DEQ, it must promptly submit such facts or information.

**D8. Signatory Requirements**

All applications, reports or information submitted to DEQ must be signed and certified in accordance with 40 CFR § 122.22.

**D9. Falsification of Information**

Under ORS 468.953, 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, is subject to a Class C felony punishable by a fine not to exceed \$125,000 per violation and up to 5 years in prison per ORS chapter 161. Additionally, according to 40 CFR § 122.41(k)(2), 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 non-compliance will, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

D10. Changes to Discharges of Toxic Pollutant

The permittee must notify DEQ as soon as it knows or has reason to believe the following:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following “notification levels:
  - (1) One hundred micrograms per liter (100 µg/l);
  - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR § 122.21(g)(7); or
  - (4) The level established by DEQ in accordance with 40 CFR § 122.44(f).
- b. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
  - (1) Five hundred micrograms per liter (500 µg/l);
  - (2) One milligram per liter (1 mg/l) for antimony;
  - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR § 122.21(g)(7); or
  - (4) The level established by DEQ in accordance with 40 CFR § 122.44(f).

**SECTION E. DEFINITIONS**

- E1. *BOD* or *BOD<sub>5</sub>* means five-day biochemical oxygen demand.
- E2. *CBOD* or *CBOD<sub>5</sub>* means five-day carbonaceous biochemical oxygen demand.
- E3. *TSS* means total suspended solids.
- E4. *Bacteria* means but is not limited to fecal coliform bacteria, total coliform bacteria, *Escherichia coli* (*E. coli*) bacteria, and *Enterococcus* bacteria.
- E5. *FC* means fecal coliform bacteria.
- E6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
- E7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR § 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-041.
- E8. *mg/l* means milligrams per liter.
- E9. *µg/l* means microgram per liter.
- E10. *kg* means kilograms.
- E11. *m<sup>3</sup>/d* means cubic meters per day.
- E12. *MGD* means million gallons per day.
- E13. *Average monthly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- E14. *Average weekly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
- E15. *Daily discharge* as defined at 40 CFR § 122.2 means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge must be calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations

expressed in other units of measurement, the daily discharge must be calculated as the average measurement of the pollutant over the day.

E16. *24-hour composite sample* means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.

E17. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.

E18. *Quarter* means January through March, April through June, July through September, or October through December.

E19. *Month* means calendar month.

E20. *Week* means a calendar week of Sunday through Saturday.