

6. Controlling Runoff from New Development, Redevelopment, and Construction Sites

Each Permittee shall implement and enforce a program to reduce pollutants in stormwater runoff to a regulated small MS4 from new development, redevelopment and construction site activities. The program shall apply to private and public development, including transportation projects.¹⁷

The minimum performance measures are:

- a. Implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects.

Each Permittee shall adopt and make effective a local program, no later than June 30, 2022, that meets the requirements of S5.C.6.b(i) through (iii), below, and shall apply to all applications¹⁸ submitted:

- i. On or after July 1, 2022.
 - ii. Prior to January 1, 2017, that have not started construction¹⁹ by January 1, 2022.²⁰
 - iii. Prior to July 1, 2022, that have not started construction by July 1, 2027.
- b. The ordinance or other enforceable mechanism shall include, at a minimum:
 - i. The Minimum Requirements, thresholds, and definitions in Appendix 1, or the 2013 Appendix 1 amended to include the changes identified in Appendix 10, or Phase I program approved by Ecology and amended to include Appendix 10, for new development, redevelopment, and construction sites. Adjustment and variance criteria equivalent to those in Appendix 1 shall be included. More stringent requirements may be used, and/or certain requirements may be tailored to local circumstances through the use of Ecology-approved basin plans or other similar water quality and quantity planning efforts. Such local requirements and thresholds shall provide equal protection of receiving waters and equal levels of pollutant control to those provided in Appendix 1.
 - ii. The local requirements shall include the following requirements, limitations, and criteria that, when used to implement the minimum requirements in Appendix 1 (or program approved by Ecology under the 2019 Phase I Permit) will protect

¹⁷ For continuing Permittees, this means continuing to implement existing programs developed under previous permits until updates are made to meet the schedules defined. *New Permittees shall meet the requirements of S5.C.6 no later than December 31, 2022, except where otherwise specified in this Section.*

¹⁸ In this context, "application" means, at a minimum a complete project description, site plan, and, if applicable, SEPA checklist. Permittees may establish additional elements of a completed application.

¹⁹ In this context "started construction" means the site work associated with, and directly related to the approved project has begun. For example: grading the project site to final grade or utility installation. Simply clearing the project site does not constitute the start of construction. Permittees may establish additional requirements related to the start of construction.

²⁰ For Permittees in **Lewis and Cowlitz counties**: Prior to July 1, 2017, that have not started construction by June 30, 2022. **For Lynden, Snoqualmie**: Prior to January 1, 2018, that have not started construction by January 1, 2023. **For Aberdeen**: Prior to July 1, 2018, that have not started construction by June 30, 2023. **Shelton and Clallam County** shall adopt and make effective a local program that meets the requirements of S5.C.6.b(i) through (iii) no later than December 31, 2022. The local program shall apply to all applications submitted on or after January 1, 2023, and shall apply to applications submitted prior to January 1, 2023, which have not started construction by January 1, 2028.

water quality, reduce the discharge of pollutants to the MEP, and satisfy the State requirement under Chapter 90.48 RCW to apply AKART prior to discharge:

- (a) Site planning requirements
- (b) BMP selection criteria
- (c) BMP design criteria
- (d) BMP infeasibility criteria
- (e) LID competing needs criteria
- (f) BMP limitations

Permittees shall document how the criteria and requirements will protect water quality, reduce the discharge of pollutants to the MEP, and satisfy State AKART requirements.

Permittees who choose to use the requirements, limitations, and criteria, above, in the *Stormwater Management Manual for Western Washington*, or a Phase I program approved by Ecology, may cite this choice as their sole documentation to meet this requirement.

- iii. The legal authority, through the approval process for new development and redevelopment, to inspect and enforce maintenance standards for private stormwater facilities approved under the provisions of this Section that discharge to the Permittee's MS4.
- c. The program shall include a permitting process with site plan review, inspection and enforcement capability to meet the standards listed in (i) through (iv) below, for both private and public projects, using qualified personnel (as defined in *Definitions and Acronyms*). At a minimum, this program shall be applied to all sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.
 - i. Review of all stormwater site plans for proposed development activities.
 - ii. Inspect, prior to clearing and construction, all permitted development sites that have a high potential for sediment transport as determined through plan review based on definitions and requirements in Appendix 7 – *Determining Construction Site Sediment Damage Potential*. As an alternative to evaluating each site according to Appendix 7, Permittees may choose to inspect all construction sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.
 - iii. Inspect all permitted development sites during construction to verify proper installation and maintenance of required erosion and sediment controls. Enforce as necessary based on the inspection.
 - iv. Each Permittee shall manage maintenance activities to inspect all stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every six months, until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized), to identify maintenance needs and enforce compliance with maintenance standards as needed.
 - v. Inspect all permitted development sites upon completion of construction and prior to final approval or occupancy to ensure proper installation of permanent

stormwater facilities. Verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater treatment and flow control BMPs/facilities. Enforce as necessary based on the inspection.

- vi. Compliance with the inspection requirements in (ii) through (v), above, shall be determined by the presence and records of an established inspection program designed to inspect all sites. Compliance during this permit term shall be determined by achieving at least 80% of required inspections. The inspections may be combined with other inspections provided they are performed using qualified personnel.
- vii. The program shall include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities shall be maintained.
- viii. An enforcement strategy shall be implemented to respond to issues of non-compliance.
- d. The program shall make available, as applicable, the link to the electronic *Construction Stormwater General Permit* Notice of Intent (NOI) form for construction activity and, as applicable, a link to the electronic *Industrial Stormwater General Permit* NOI form for industrial activity to representatives of proposed new development and redevelopment. Permittees shall continue to enforce local ordinances controlling runoff from sites that are also covered by stormwater permits issued by Ecology.²¹
- e. Each Permittee shall ensure that all staff whose primary job duties are implementing the program to control stormwater runoff from new development, redevelopment, and construction sites, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Follow-up training must be provided as needed to address changes in procedures, techniques or staffing. Permittees shall document and maintain records of the training provided and the staff trained.²²

7. Operations and Maintenance

Each Permittee shall implement and document a program to regulate maintenance activities and to conduct maintenance activities by the Permittee to prevent or reduce stormwater impacts.²³

The minimum performance measures are:

- a. Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those specified in the *Stormwater Management Manual for Western Washington* or a Phase I program approved by Ecology. For facilities which do not have maintenance standards, the Permittee shall

²¹ New Permittees shall meet the requirements of S5.C.6.d beginning no later than August 1, 2019.

²² New Permittees shall meet the requirements of S5.C.6.e no later than December 31, 2022.

²³ New Permittees shall develop and implement the requirements of S5.C.7 no later than December 31, 2022 except where otherwise noted in this Section.