



# Regional Stormwater Program

P.O. Box 160

135 2<sup>nd</sup> Street

Asotin, WA 99402

509-243-2074

Fax 509-243-2003

**Management Team Meeting Agenda  
County Commissioner's Chambers  
095 Second Street, Asotin  
June 13, 2011  
3:00 – 5:00 pm**

1. **Public Comment (3:00 pm - 15 minutes)**
2. **Review agenda, minutes (3:15 pm - 10 minutes)**
3. **Review program status (3:25 pm - 15 minutes)**
4. **Permit boundary update (3:40 pm - 10 minutes)**
5. **Management Team Bylaws (3:50 pm - 35 minutes)**
6. **Interlocal Agreement Language (4:25 pm - 30 minutes)**
7. **Next meeting (4:55 pm - 5 minutes – set regular date)**





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## Management Team Meeting Minutes

Clarkston City Hall

April 19, 2011

2:00 – 4:00 pm

### ATTENDANCE

#### Management Team Voting Members:

Keith Delzer	City of Asotin
George Nash	City of Clarkston
Jim Martin	City of Clarkston Public Works Director
Don Brown	Asotin County
Joel Ristau	Asotin County Public Works Director

#### Non-Voting Members:

Cheryl Sonnen	Regional Stormwater Program Coordinator
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#### 1. Review agenda, minutes

There were no changes to the agenda or the minutes.

#### 2. Public comment

Public comment was taken for the majority of the meeting. There were many questions that were similar in nature and were combined. Staff tried to answer as many questions as possible and agreed to respond as well as possible in the minutes.

**Q:** What is the legal status of the utility and management team? How is it organized, how was it formed and how is the budget determined? How does this differ from the MPO?

**A:** An Interlocal Cooperation Agreement (ILA) was developed and signed by all three entities that outlines the administration of the stormwater utility, the eligible activities included in the utility, the make up of the Management Team, setting of utility rates, describing how budgets are determined and approved, how bills are to be paid, the advisory role of the Management Team to the elected officials, determining operating and capital reserve accounts, and how claims, disputes and audits will be handled. The ILA is posted on the stormwater website at <http://www.asotincountystormwater.com/Stormwater-Utility-Program.html>.

The MPO is not connected to the stormwater utility.



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**Q:** What type of utility is the stormwater utility – PUD, LID? There is no record on file with state's Public Utility District, and there are no stormwater utilities listed in the state. Where will stormwater utility be registered?

**A:** Pat Mason from Municipal Research provided an answer to this question:

The Washington Utilities and Transportation Commission does not regulate public suppliers of water such as cities, towns and counties. The stormwater utility operated by a county would be such a public utility that is not regulated. See WAC 480-110-255:

[http://www.mrsc.org/wa/rcwwac/index\\_dtSearch.html](http://www.mrsc.org/wa/rcwwac/index_dtSearch.html)

I am attaching a link to the WUTC web page which outlines which industries are subject to their regulation. The UTC does not regulate municipal water utilities.

<http://wutc.wa.gov/regulatedindustries>

I then asked if there was anywhere else we needed to register the utility:

**From:** Cheryl Sonnen [mailto:csonnen@co.asotin.wa.us]  
**Sent:** Friday, May 13, 2011 3:51 PM  
**To:** Pat Mason  
**Subject:** RE: Public Utility Commission

Thanks Pat. Do we need to register this anywhere else?

No, I am not aware of anywhere else you would need to register.

Pat

**Q:** There were many questions/comments about the urbanized area boundary. There was a request for written proof that we need to be in the stormwater program if we have a county population of less than 25,000. Some people feel that we are in this because of Lewiston and because of our lower population we should not be involved.

**A:** There is nothing in our Phase II Permit that discusses populations less than 25,000 being exempt from the permit requirements. The only reference for the 25,000 population is as a monitoring threshold.

The 2000 Census defined the Lewiston – Clarkston area as an urbanized area (UA). Once designated as an urbanized area it doesn't matter how large our individual entities are – we will still have a Phase II permit we need to comply with. The final phase II rule provides automatic coverage of all small MS4s within an urbanized area. See CFR 40 Section 122.32.

I've attached four fact sheets developed by EPA that discuss small MS4s.



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- Q:** There were many questions/comments about the permit boundary. The existing boundary was adopted as the MPO 20-year planning boundary. There are concerns about going outside of the census defined urbanized area.
- Agricultural lands will be categorized as urban.
  - Since the MPO is separate, we shouldn't use the transportation plan boundary.
  - Ecology only expected the census defined urbanized area and the rest was not intended to be part of the stormwater program.
- A:** The elected officials adopted the 20-year planning boundary as part of the permit area. This was a recommendation made by staff because the area has the potential to impact the stormwater system as growth occurs in those areas. We will be looking at this issue more closely in the future with Ecology and there will be opportunities for public input.
- Q:** Many questions/comments were made about why we are involved in the program and whether the necessity of our participation has been questioned.
- Who told us we had to do this? Did anyone question it?
  - Did we just take the grant money without question? How many entities didn't take the grants?
  - How do we know we have an issue if we are not monitoring?
  - We should push back against the federal mandate.
- A:** Jim Martin advised that the Association of Washington Cities pooled their resources when Ecology's Phase II program first came out and tried to fight it. They were told we were out of luck. The three entities will keep implementing the program until someone higher up than us tells us to stop.

At this time, monitoring is not required by the Permit. The results could be used against us by third parties, as other areas are experiencing. Implementing the six elements listed in the Permit will reduce pollutants from outfalls.

Additionally, EPA was sued by municipalities in Texas because monitoring was not conducted before they were included in the Phase II Permit. The lawsuit was heard by the 9<sup>th</sup> Circuit Court of Appeals and they ruled in favor of EPA. The Court felt that EPA has done enough studies in other areas to be able to make a direct correlation between urbanized areas and increases in pollutants discharged to surface waters from stormwater systems. The Court said that EPA does not need to conduct the perfect study in each municipality before they are issued a National Pollutant Discharge Elimination System (NPDES) permit. See Docket Nos. 00-70014, 00-70734 and 00-70822 at <http://caselaw.findlaw.com/us-9th-circuit/1370913.html>.

The grant funds were provided to Phase II permit holders by Ecology to help offset costs required to implement the Phase II Permit. We utilized these funds rather than immediately implementing a utility fee or using general or reserve funds. According to Ecology, all permit holders in the state that were offered grants accepted them.



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Keith Delzer advised that no one in Asotin is happy about the stormwater program. However, if we don't implement this Permit, we will end up spending taxpayer money in Courts, based on legal precedent and legal opinion. He recommended that citizens contact their federal legislators to voice their opinions.

### 3. Review program status

Cheryl provided an update on the program and answered questions about the budget.

- George Nash asked if a \$2/ERU fee could be added to the ILA. We all agreed that will need to be reviewed by legal staff and discussed in more depth.
- The grants were reviewed.
  - Bids for the sweeper were being developed. The sweeper will be housed at City of Asotin but will be available for all three entities to use. Keith asked if some of the grant money can be used to upgrade the storage facility. Cheryl will check on this.
  - The field guide grant will create a construction field guide to be used by contractors, builders, developers, etc. to help them install sediment and erosion control practices on their project sites. This field guide will be based on the Eastern WA stormwater manual and will be available to all permittees in Eastern WA. We have received input from all permittees so the field guide should cover most practices.
  - The Eastern WA outreach grant will provide all Eastern WA permittees with educational materials that will provide a consistent message about stormwater and water quality throughout the area so no matter where you travel the message will be the same.
- Questions were asked about the interfund loan. This was used to provide cash at the beginning of the year to cover expenses of the program before revenues were received. The loan will be paid off by the end of the year and the interest is required by law.
- Cheryl advised that the Operation & Maintenance Plans and annual reports required by the Permit have not been completed. She advised that the O&M work is being conducted, but the plans are not in place. Additionally, the annual reports have not yet been submitted. She advised that her workload has been too heavy. The utility billing clerk hired in 2010 left so she handled the billing and database responsibilities. A new utility clerk has been hired.

### 4. Discuss permit boundary

The permit boundary was briefly discussed. The Management Team will make a recommendation to the elected officials. There are many ways to define the boundary and staff needs time to get information together. Items that need to be considered include:

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defined boundary

- Amount of stormwater coming into the County's system from areas outside of the census boundary. The County is responsible for all flows into our stormwater system and stormwater needs to be properly managed.
- Future TMDLs on our waterways.

Staff will gather the information and bring it back to the group. We will also contact Ecology to get their opinion and invite them to a Management Team meeting to discuss the issue.

## 5. Upcoming events

Cheryl advised that she will have a booth at the Fair and also at Alive After Five events in Clarkston.

Keith Delzer asked how contractors were being contacted about getting stormwater construction permits. Cheryl advised that the Building & Planning Departments are making referrals when a building permit is applied for. A building permit will not be issued until the stormwater permit is in place.

Keith asked about filling the vacant Management Team position for the City of Asotin. It can be a staff person or another council member. Keith advised that the City is currently seeking new legal counsel and will likely recommend this person fill the position. Until that time, the position will be open.

Discussion occurred about having bylaws or other guidance documents for the Management Team that outlines the number of members required for a quorum, the number of elected officials required for a quorum, how to handle a tie vote and other items. Bylaws from other groups such as the PTBA will be reviewed and a draft presented to the Management Team for review.

Cheryl will send out a Doodle to schedule the next meeting.

### Action Items:

- Start gathering information regarding the permit boundary.
- Get samples of bylaws from other entities.



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TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

PART 122--EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM--Table of Contents

Subpart B--Permit Application and Special NPDES Program Requirements

**Sec. 122.32 As an operator of a small MS4, am I regulated under the NPDES storm water program?**

(a) Unless you qualify for a waiver under paragraph (c) of this section, you are regulated if you operate a small MS4, including but not limited to systems operated by federal, State, Tribal, and local governments, including State departments of transportation; and:

(1) Your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

(2) You are designated by the NPDES permitting authority, including where the designation is pursuant to Secs. 123.35(b)(3) and (b)(4) of this chapter, or is based upon a petition under Sec. 122.26(f).

(b) You may be the subject of a petition to the NPDES permitting authority to require an NPDES permit for your discharge of storm water. If the NPDES permitting authority determines that you need a permit, you are required to comply with Secs. 122.33 through 122.35.

(c) The NPDES permitting authority may waive the requirements otherwise applicable to you if you meet the criteria of paragraph (d) or (e) of this section. If you receive a waiver under this section, you may subsequently be required to seek coverage under an NPDES permit in accordance with Sec. 122.33(a) if circumstances change. (See also Sec. 123.35(b) of this chapter.)

(d) The NPDES permitting authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

(1) Your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program (see Sec. 123.35(b)(4) of this chapter); and

(2) If you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established ``total maximum daily load'' (TMDL) that addresses the pollutant(s) of concern.

(e) The NPDES permitting authority may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

(1) The permitting authority has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

(2) For all such waters, the permitting authority has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

(3) For the purpose of this paragraph (e), the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation),

pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from your MS4; and

(4) The permitting authority has determined that future discharges from your MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.



# Stormwater Phase II Final Rule

## Small MS4 Stormwater Program Overview

### Stormwater Phase II Final Rule Fact Sheet Series

#### Overview

1.0 – Stormwater Phase II Final Rule: An Overview

#### Small MS4 Program

2.0 – Small MS4 Stormwater Program Overview

2.1 – Who's Covered? Designation and Waivers of Regulated Small MS4s

2.2 – Urbanized Areas: Definition and Description

#### Minimum Control Measures

2.3 – Public Education and Outreach

2.4 – Public Participation/Involvement

2.5 – Illicit Discharge Detection and Elimination

2.6 – Construction Site Runoff Control

2.7 – Post-Construction Runoff Control

2.8 – Pollution Prevention/Good Housekeeping

2.9 – Permitting and Reporting: The Process and Requirements

2.10 – Federal and State-Operated MS4s: Program Implementation

#### Construction Program

3.0 – Construction Program Overview

3.1 – Construction Rainfall Erosivity Waiver

#### Industrial "No Exposure"

4.0 – Conditional No Exposure Exclusion for Industrial Activity

Polluted storm water runoff is often transported to municipal separate storm sewer systems (MS4s) and ultimately discharged into local rivers and streams without treatment. EPA's Stormwater Phase II Rule establishes an MS4 stormwater management program that is intended to improve the Nation's waterways by reducing the quantity of pollutants that stormwater picks up and carries into storm sewer systems during storm events. Common pollutants include oil and grease from roadways, pesticides from lawns, sediment from construction sites, and carelessly discarded trash, such as cigarette butts, paper wrappers, and plastic bottles. When deposited into nearby waterways through MS4 discharges, these pollutants can impair the waterways, thereby discouraging recreational use of the resource, contaminating drinking water supplies, and interfering with the habitat for fish, other aquatic organisms, and wildlife.

In 1990, EPA promulgated rules establishing Phase I of the National Pollutant Discharge Elimination System (NPDES) stormwater program. The Phase I program for MS4s requires operators of "medium" and "large" MS4s, that is, those that generally serve populations of 100,000 or greater, to implement a stormwater management program as a means to control polluted discharges from these MS4s. The Stormwater Phase II Rule extends coverage of the NPDES stormwater program to certain "small" MS4s but takes a slightly different approach to how the stormwater management program is developed and implemented.

### What Is a Phase II Small MS4?

A small MS4 is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all small MS4s located in "urbanized areas" (UAs) as defined by the Bureau of the Census (unless waived by the NPDES permitting authority), and on a case-by-case basis those small MS4s located outside of UAs that the NPDES permitting authority designates. For more information on Phase II small MS4 coverage, see Fact Sheets 2.1 and 2.2.

### What Are the Phase II Small MS4 Program Requirements?

Operators of regulated small MS4s are required to design their programs to:

- Reduce the discharge of pollutants to the "maximum extent practicable" (MEP);
- Protect water quality; and
- Satisfy the appropriate water quality requirements of the Clean Water Act.

Implementation of the MEP standard will typically require the development and implementation of BMPs and the achievement of measurable goals to satisfy each of the six minimum control measures.

The Phase II Rule defines a small MS4 stormwater management program as a program comprising six elements that, when implemented in concert, are expected to result in significant reductions of pollutants discharged into receiving waterbodies.

The six MS4 program elements, termed “minimum control measures,” are outlined below. For more information on each of these required control measures, see Fact Sheets 2.3 – 2.8.

- 1 *Public Education and Outreach***  
Distributing educational materials and performing outreach to inform citizens about the impacts polluted stormwater runoff discharges can have on water quality.
- 2 *Public Participation/Involvement***  
Providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a stormwater management panel.
- 3 *Illicit Discharge Detection and Elimination***  
Developing and implementing a plan to detect and eliminate illicit discharges to the storm sewer system (includes developing a system map and informing the community about hazards associated with illegal discharges and improper disposal of waste).
- 4 *Construction Site Runoff Control***  
Developing, implementing, and enforcing an erosion and sediment control program for construction activities that disturb 1 or more acres of land (controls could include silt fences and temporary stormwater detention ponds).
- 5 *Post-Construction Runoff Control***  
Developing, implementing, and enforcing a program to address discharges of post-construction stormwater runoff from new development and redevelopment areas. Applicable controls could include preventative actions such as protecting sensitive areas (e.g., wetlands) or the use of structural BMPs such as grassed swales or porous pavement.
- 6 *Pollution Prevention/Good Housekeeping***  
Developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, or frequent catch-basin cleaning).

## **What Information Must the NPDES Permit Application Include?**

The Phase II program for MS4s is designed to accommodate a general permit approach using a Notice of Intent (NOI) as the permit application. The operator of a regulated small MS4 must include in its permit application, or NOI, its chosen BMPs and measurable goals for each minimum control measure. To help permittees identify the most appropriate BMPs for their programs, EPA issued a Menu of BMPs to serve as guidance. NPDES permitting authorities can modify the EPA menu or develop their own list. For more information on application requirements, see Fact Sheet 2.9.

## **What Are the Implementation Options?**

The rule identifies a number of implementation options for regulated small MS4 operators. These include sharing responsibility for program development with a nearby regulated small MS4, taking advantage of existing local or State programs, or participating in the implementation of an existing Phase I MS4's stormwater program as a co-permittee. These options are intended to promote a regional approach to stormwater management coordinated on a watershed basis.

## **What Kind of Program Evaluation/Assessment Is Required?**

Permittees need to evaluate the effectiveness of their chosen BMPs to determine whether the BMPs are reducing the discharge of pollutants from their systems to the “maximum extent practicable” and to determine if the BMP mix is satisfying the water quality requirements of the Clean Water Act. Permittees also are required to assess their progress in achieving their program’s measurable goals. While monitoring is not required under the rule, the NPDES permitting authority has the discretion to require monitoring if deemed necessary. If there is an indication of a need for improved controls, permittees can revise their mix of BMPs to create a more effective program. For more information on program evaluation/assessment, see Fact Sheet 2.9.

## For Additional Information

### ***Contacts***

- ☞ U.S. EPA Office of Wastewater Management  
<http://www.epa.gov/npdes/stormwater>  
Phone: 202-564-9545
  
- ☞ Your NPDES Permitting Authority. Most States and Territories are authorized to administer the NPDES Program, except the following, for which EPA is the permitting authority:  
  

Alaska	Guam
District of Columbia	Johnston Atoll
Idaho	Midway and Wake Islands
Massachusetts	Northern Mariana Islands
New Hampshire	Puerto Rico
New Mexico	Trust Territories
American Samoa	
  
- ☞ A list of names and telephone numbers for each EPA Region and State is located at <http://www.epa.gov/npdes/stormwater> (click on “Contacts”).

### ***Reference Documents***

- ☞ EPA’s Stormwater Web Site  
<http://www.epa.gov/npdes/stormwater>
  - Stormwater Phase II Final Rule Fact Sheet Series
  - Stormwater Phase II Final Rule (64 *FR* 68722)
  - National Menu of Best Management Practices for Stormwater Phase II
  - Measurable Goals Guidance for Phase II Small MS4s
  - Stormwater Case Studies
  - And many others



# Stormwater Phase II Final Rule

## Who's Covered? Designation and Waivers of Regulated Small MS4s

### Stormwater Phase II Final Rule Fact Sheet Series

#### Overview

1.0 – Stormwater Phase II Final Rule: An Overview

#### Small MS4 Program

2.0 – Small MS4 Stormwater Program Overview

2.1 – Who's Covered? Designation and Waivers of Regulated Small MS4s

2.2 – Urbanized Areas: Definition and Description

#### Minimum Control Measures

2.3 – Public Education and Outreach

2.4 – Public Participation/Involvement

2.5 – Illicit Discharge Detection and Elimination

2.6 – Construction Site Runoff Control

2.7 – Post-Construction Runoff Control

2.8 – Pollution Prevention/Good Housekeeping

2.9 – Permitting and Reporting: The Process and Requirements

2.10 – Federal and State-Operated MS4s: Program Implementation

#### Construction Program

3.0 – Construction Program Overview

3.1 – Construction Rainfall Erosivity Waiver

#### Industrial "No Exposure"

4.0 – Conditional No Exposure Exclusion for Industrial Activity

### Who Is Affected by the Phase II Small MS4 Program?

The Stormwater Phase II Final Rule applies to operators of *regulated small* municipal separate storm sewer systems (MS4s), which are designated based on the criteria discussed in this fact sheet. In this fact sheet, the definition of an MS4 and the distinction between small, medium, and large MS4s is reviewed. Conditions under which a small MS4 may be designated as a *regulated small* MS4, as well as the conditions for a waiver from the Phase II program requirements, are outlined. This fact sheet also attempts to clarify possible implementation issues related to determining one's status as an operator of a regulated small MS4.

### What Is a Municipal Separate Storm Sewer System (MS4)?

What constitutes an MS4 is often misinterpreted and misunderstood. The term MS4 does not solely refer to municipally-owned storm sewer systems, but rather is a term of art with a much broader application that can include, in addition to local jurisdictions, State departments of transportation, universities, local sewer districts, hospitals, military bases, and prisons. An MS4 also is not always just a system of underground pipes – it can include roads with drainage systems, gutters, and ditches. The regulatory definition of an MS4 is provided below.

According to 40 CFR 122.26(b)(8), "*municipal separate storm sewer* 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)...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 into waters of the United States.
- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

## What Is a Small, Medium, or Large MS4?

- ❑ EPA’s NPDES (National Pollutant Discharge Elimination System) stormwater permitting program labels MS4s as either “small,” “medium,” or “large” for the purposes of regulation.
- ❑ A **small MS4** is any MS4 that is not already covered by the Phase I stormwater program. Small MS4s include Federally-owned systems, such as military bases.
- ❑ The Phase I stormwater program covers *medium* and *large* MS4s. Phase I MS4s were automatically designated nationwide as **medium MS4s** if they were located in an incorporated place or county with a population between 100,000 - 249,999 or as **large MS4s** if located in an incorporated place or county with a population of 250,000 or greater. Many MS4s in areas below 100,000 in population, however, have been individually brought into the Phase I program by NPDES permitting authorities. Such already regulated MS4s do not have to develop a Phase II program.

## Are All Small MS4s Covered by the Phase II Final Rule?

No. The universe of small MS4s is quite large since it includes every MS4 except for the approximately 900 medium and large MS4s already regulated under the Phase I stormwater program. Only a select sub-set of small MS4s, referred to as **regulated small MS4s**, is covered by the Phase II Final Rule, either through automatic nationwide designation or designation on a case-by-case basis by the NPDES permitting authority.

## How Is A Small MS4 Designated as a Regulated Small MS4?

A small MS4 can be designated by the permitting authority as a *regulated* small MS4 in one of three ways:

### 1 Automatic Nationwide Designation

The Phase II Final Rule requires nationwide coverage of all operators of small MS4s that are located within the boundaries of a Bureau of the Census-defined “urbanized area” (UA) based on the latest decennial Census. Once a small MS4 is designated into the program based on the UA boundaries, it cannot be waived from the program if in a subsequent UA calculation the small MS4 is no longer within the UA boundaries. An automatically designated small MS4 remains regulated unless, or until, it meets the criteria for a waiver.

### ❑ Urbanized Areas

An **urbanized area (UA)** is a land area comprising one or more places – central place(s) – and the adjacent densely settled surrounding area – urban fringe – that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. It is a calculation used by the Bureau of the Census to determine the geographic boundaries of the most heavily developed and dense urban areas.

EPA has developed a set of digitized maps for each urbanized area as defined by the 2000 U.S. Census. These maps are organized by state and are available at <http://www.epa.gov/npdes/stormwater/urbanmaps>. Additionally, information about urbanized areas is available directly from the U.S. Bureau of the Census at <http://www.census.gov/geo/www/ua/uaucbndy.html>.

### 2 Potential Designation by the NPDES Permitting Authority – Required Evaluation

An operator of small MS4 located outside of a UA may have been designated as a regulated small MS4 if the NPDES permitting authority determined that its discharges cause, or have the potential to cause, an adverse impact on water quality. The Phase II Final Rule required the NPDES permitting authority to develop a set of designation criteria and apply them, *at a minimum*, to all small MS4s located outside of a UA serving a jurisdiction with a population of at least 10,000 and a population density of at least 1,000 people/square mile.

#### ❑ Designation Criteria

EPA recommended that the NPDES permitting authority use a balanced consideration of the following designation criteria on a watershed or other local basis:

- ✓ Discharge to sensitive waters;
- ✓ High population density;
- ✓ High growth or growth potential;
- ✓ Contiguity to a UA;
- ✓ Significant contributor of pollutants to waters of the United States; and
- ✓ Ineffective protection of water quality concerns by other programs.

### ③ Potential Designation by the NPDES Permitting Authority – Physically Interconnected

Under the final rule, the NPDES permitting authority was required to designate any small MS4 located outside of a UA that contributes substantially to the pollutant loadings of a *physically interconnected* MS4 regulated by the NPDES stormwater program. The final rule did not set a deadline for designation of small MS4s meeting this criterion.

*Physically interconnected* means that one MS4 is connected to a second MS4 in such a way that it allows for *direct* discharges into the second system.

State and EPA permitting authorities can be contacted to obtain a full list of regulated MS4s, including both automatically designated MS4s and those that were additionally designated.

### Are Waivers from the Phase II Permit/Program Requirements Possible?

Yes, two waiver options are available to operators of automatically designated small MS4s if discharges do not cause, or have the potential to cause, water quality impairment.

The first applies where:

- (1) the jurisdiction served by the system is less than 1,000 people;
- (2) the system is not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4; and
- (3) if the small MS4 discharges any pollutants identified as a cause of impairment of any water body to which it discharges, stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established “total maximum daily load” (TMDL) that addresses the pollutant(s) of concern.

*TMDLs* are water quality assessments that determine the source or sources of pollutants of concern for a particular waterbody, consider the maximum amount of pollutants the waterbody can assimilate, and then allocate to each source a set level of pollutants that it is allowed to discharge (i.e., a “wasteload allocation”). Small MS4s that are not given a wasteload allocation would meet the third criterion above.

The second applies where:

- (1) the jurisdiction served by the system is less than 10,000 people;
- (2) an evaluation of all waters of the U.S. that receive a discharge from the system shows that stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or an equivalent analysis; and
- (3) it is determined that future discharges from the small MS4 do not have the potential to result in exceedances of water quality standards.

The NPDES permitting authority is required to periodically review any waivers granted to MS4 operators to determine whether any information required for granting the waiver has changed. Minimally, such a review needs to be conducted once every five years.

### Are There Allowances for Phasing-in Permit Coverage?

Yes. Small MS4s serving a jurisdiction with a population under 10,000 can be phased-in for permit coverage, following establishment of a State watershed permitting approach. NPDES permitting authorities that choose this option must establish a schedule to phase-in permit coverage annually for approximately 20 percent of all small MS4s that qualify for such phased-in coverage. Where this option is followed, all regulated small MS4s are required to have permit coverage no later than March 8, 2007.

## Can More than One MS4 in the Same Political Jurisdiction Be Automatically Designated?

Yes. Since the final rule provides automatic coverage of all small MS4s within a UA, the result would likely be coverage of several governments and agencies with multiple, perhaps overlapping, jurisdictions. For example, a city that is located within a UA and operates its own small MS4 could be designated alongside the State’s department of transportation (DOT) and the county’s DOT if the State and county operate roads that are within the borders of the city. All three entities would be responsible for developing a stormwater management program for the portion of their respective MS4s within the city limits. In such a case, the permittees are strongly encouraged to work together to form a unified stormwater management program.

## Who Is Responsible if the Small MS4 Operator Lacks the Necessary Legal Authority?

Some regulated small MS4s may lack the necessary legal authority to implement one or more of the required minimum control measures that comprise the Phase II storm water management program. For example, a local government that is a small MS4 operator may be in a State that does not have an enabling statute that allows local regulatory control of construction site runoff into the sewer system. Another example is a State DOT that may not have the legal authority to require and enforce controls on illicit discharges into its system. In these situations the small MS4 is encouraged to work with the neighboring regulated small MS4s. As co-permittees, they could form a shared stormwater management program in which each permittee is responsible for activities that are within their individual legal authorities and abilities.

### For Additional Information

#### Contacts

- ☞ U.S. EPA Office of Wastewater Management  
<http://www.epa.gov/npdes/stormwater>  
Phone: 202-564-9545
- ☞ Your NPDES Permitting Authority. Most States and Territories are authorized to administer the NPDES Program, except the following, for which EPA is the permitting authority:
 

Alaska	Guam
District of Columbia	Johnston Atoll
Idaho	Midway and Wake Islands
Massachusetts	Northern Mariana Islands
New Hampshire	Puerto Rico
New Mexico	Trust Territories
American Samoa	
- ☞ A list of names and telephone numbers for each EPA Region and State is located at <http://www.epa.gov/npdes/stormwater> (click on “Contacts”).

#### Reference Documents

- ☞ EPA’s Stormwater Web Site  
<http://www.epa.gov/npdes/stormwater>
  - Stormwater Phase II Final Rule Fact Sheet Series
  - Stormwater Phase II Final Rule (64 FR 68722)
  - National Menu of Best Management Practices for Stormwater Phase II
  - Measurable Goals Guidance for Phase II Small MS4s
  - Stormwater Case Studies
  - EPA Urbanized Area Maps: <http://www.epa.gov/npdes/stormwater/urbanmaps>
- ☞ Census 2000 Urbanized Area Information
  - General Information: <http://www.census.gov/geo/www/ua/uacubndy.html>
  - Maps: <http://www.census.gov/geo/www/maps/ua2kmaps.htm>



# Storm Water Phase II Final Rule

## Urbanized Areas: Definition and Description

### Storm Water Phase II Final Rule Fact Sheet Series

#### Overview

1.0 – Storm Water Phase II Final Rule: An Overview

#### Small MS4 Program

2.0 – Small MS4 Storm Water Program Overview

2.1 – Who's Covered? Designation and Waivers of Regulated Small MS4s

2.2 – Urbanized Areas: Definition and Description

#### Minimum Control Measures

2.3 – Public Education and Outreach

2.4 – Public Participation/Involvement

2.5 – Illicit Discharge Detection and Elimination

2.6 – Construction Site Runoff Control

2.7 – Post-Construction Runoff Control

2.8 – Pollution Prevention/Good Housekeeping

2.9 – Permitting and Reporting: The Process and Requirements

2.10 – Federal and State-Operated MS4s: Program Implementation

#### Construction Program

3.0 – Construction Program Overview

3.1 – Construction Rainfall Erosivity Waiver

#### Industrial "No Exposure"

4.0 – Conditional No Exposure Exclusion for Industrial Activity

As discussed in Fact Sheet 2.1, *Who's Covered? Designation and Waivers of Regulated Small MS4s*, the Phase II Final Rule covers all small municipal separate storm sewer systems (MS4s) located within an "urbanized area" (UA). Based on the 2000 Census, there are 464 UAs in the United States that cover approximately 2 percent of total U.S. land area and contain nearly 70 percent of the Nation's population. These numbers include Puerto Rico and the Commonwealth of the Northern Mariana Islands — the two U.S. Territories with UAs.

UAs constitute the largest and most dense areas of settlement. UA calculations delineate boundaries around these dense areas of settlement and, in doing so, identify the areas of concentrated development. UA designations are used for several purposes in both the public and private sectors. For example, the Federal Government has used UAs to calculate allocations for transportation funding, and some planning agencies and development firms use UA boundaries to help ascertain current, and predict future, growth areas.

### What Is an Urbanized Area (UA)?

The Bureau of the Census determines UAs by applying a detailed set of published UA criteria (see 55 *FR* 42592, October 22, 1990) to the latest decennial census data. Although the full UA definition is complex, the Bureau of the Census' general definition of a UA, based on population and population density, is provided below.

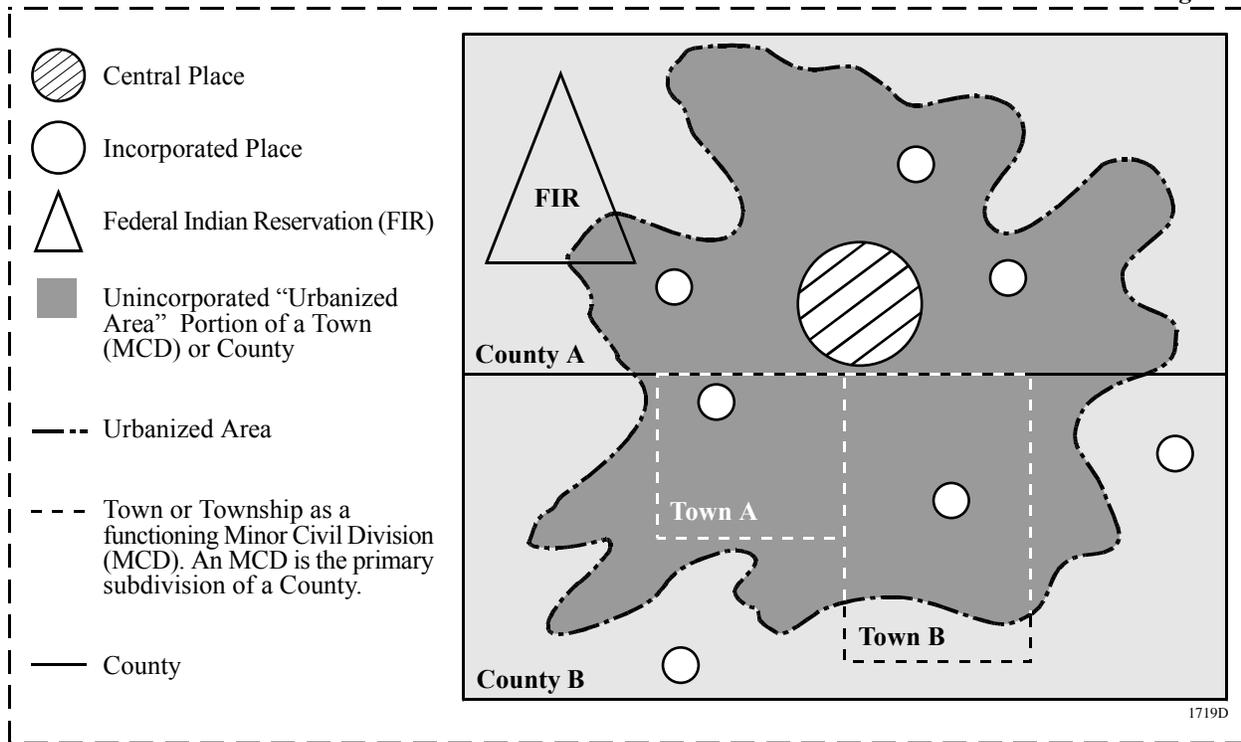
An **urbanized area** is a land area comprising one or more places — central place(s) — and the adjacent densely settled surrounding area — urban fringe — that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.

The basic unit for delineating the UA boundary is the census block. Census blocks are based on visible physical boundaries, such as the city block, when possible, or on invisible political boundaries, when not. An urbanized area can comprise places, counties, Federal Indian Reservations, and minor civil divisions (MCDs - towns and townships).

### How Can Status as a Regulated Small MS4 Be Determined?

The drawing below (see Figure 1) is a simplified UA illustration that demonstrates the concept of UAs in relation to the Phase II Final Rule. The "urbanized area" includes within its boundaries incorporated places, a portion of a Federal Indian reservation, an entire MCD, a portion of another MCD, and portions of two counties. Any and all operators of small MS4s located within the boundaries of the UA are covered under the Phase II Final Rule, regardless of political boundaries. Operators of small MS4s located outside of the UA are subject to potential designation into the Phase II MS4 program by the NPDES permitting authority.

Figure 1



Operators of small MS4s can determine if they are located within a UA, and therefore covered by the Phase II storm water program, by contacting one or more of the institutions listed below for more detailed information on the location of the UA boundary. At this time, the States and EPA have compiled a list of municipalities to be covered under the Phase II Rule, but the urbanized area boundaries are important in some cases for determining the specific area within a municipality’s boundaries that is covered (e.g., a county included in Phase II might only be required to implement their program for the urbanized area of the county).

**The State or NPDES Permitting Authority (may be the State or the U.S. EPA Region)**

**Storm Water Coordinators:** The NPDES permitting authority may be the State or the U.S. EPA Region. The Storm Water Coordinators for each U.S. EPA Region are listed in the *For Additional Information* section in Fact Sheet 2.9. These regional contacts can assist with UA information and provide the names of State storm water contacts. Regional and State contact information can also be obtained from OWM.

**State Data Centers:** Each State’s Data Center receives listings of all entities that are located in UAs, as well as detailed maps and electronic files of UA boundaries. The Bureau of the Census web site includes a list of contact names and phone numbers for the data in each State at [www.census.gov/sdc/www](http://www.census.gov/sdc/www).

**State Planning/Economic/Transportation Agencies:** These agencies typically use UAs to assess current development and forecast future growth trends and, therefore, should have detailed UA information readily available to help determine the UA boundaries in any given area.

**County or Regional Planning Commissions/Boards**

As with State agencies, these entities are likely to have detailed UA data and maps to help determine UA boundaries.

**U.S. EPA**

**NPDES Web Site:** EPA has developed a set of digitized maps for each urbanized area as defined by the 2000 U.S. Census. These maps are organized by state and are available at <http://www.epa.gov/npdes/stormwater/urbanmaps>.

**Enviromapper Web Site:** EPA modified a Web-based geographic program called *Enviromapper*. This allows MS4 operators to enter a location and see a detailed map of the UA boundary (called “city boundaries”). *Enviromapper* can be accessed at <http://www.epa.gov/enviro/html/em/index.html>.

## ❑ The Bureau of the Census

*Urbanized Areas Staff:* 301-457-1099

**Web Site:** The site allows users to obtain free UA cartographic boundary files (Arc/Info export format) for Geographical Information System (GIS) use at <http://www.census.gov/geo/www/ua/uaucbndy.html>.

Also, detailed UA maps are available to download in PDF for printing in large format. Each map is intended to be printed on a 36- by 33-inch sheet. For a listing of UAs for download, visit <http://www.census.gov/geo/www/maps/ua2kmaps.htm>.

## How Will Subsequent Censuses Affect the Determination of Status as a Regulated Small MS4?

Any additional automatic designations of small MS4s based on subsequent census years is governed by the Bureau of the Census' definition of a UA in effect for that year and the UA boundaries determined as a result of the definition.

Once a small MS4 is designated into the Phase II storm water program based on the UA boundaries, it can not be waived from the program if in a subsequent UA calculation the small MS4 is no longer within the UA boundaries. An automatically designated small MS4 will remain regulated unless, or until, it meets the criteria for a waiver (see Fact Sheet 2.1 for more information on the regulated small MS4 waiver option).

### For Additional Information

#### Contacts

☞ U.S. EPA Office of Wastewater Management  
<http://www.epa.gov/npdes/stormwater>  
Phone: 202-564-9545

☞ Your NPDES Permitting Authority. Most States and Territories are authorized to administer the NPDES Program, except the following, for which EPA is the permitting authority:

Alaska	Guam
District of Columbia	Johnston Atoll
Idaho	Midway and Wake Islands
Massachusetts	Northern Mariana Islands
New Hampshire	Puerto Rico
New Mexico	Trust Territories
American Samoa	

☞ A list of names and telephone numbers for each EPA Region and State is located at <http://www.epa.gov/npdes/stormwater> (click on "Contacts").

#### Reference Documents

- ☞ EPA's Stormwater Web Site  
<http://www.epa.gov/npdes/stormwater>
- Stormwater Phase II Final Rule Fact Sheet Series
  - Stormwater Phase II Final Rule (64 *FR* 68722)
  - National Menu of Best Management Practices for Stormwater Phase II
  - Measurable Goals Guidance for Phase II Small MS4s
  - Stormwater Case Studies
  - EPA Urbanized Area Maps: <http://www.epa.gov/npdes/stormwater/urbanmaps>
- ☞ Census 2000 Urbanized Area Information
- General Information: <http://www.census.gov/geo/www/ua/uaucbndy.html>
  - Maps: <http://www.census.gov/geo/www/maps/ua2kmaps.htm>

	A	B	C
1	<b>2011 Regional Stormwater Program</b>		
2	Revenue Budget		
3			
4			
5	<u>Revenue</u>	Total Projected Revenue	Year to Date Rev
6	Asotin County Utility Revenue	\$ 433,367.00	\$ 211,076.34
7	City of Asotin Utility Revenue	\$ 42,625.00	\$ 17,113.31
8	City of Clarkston Utility Revenue	\$ 352,453.00	\$ 58,742.16
9	Other Revenue - Construction Permits	\$ 50,000.00	\$ 3,235.00
10	Capacity Grant	\$ 267,362.00	\$ 57,599.97
11	Utility Implementation Grant	\$ 12,525.00	\$ -
12	Equipment Purchase Grant	\$ 179,000.00	\$ 1,882.94
13	Field Guide Grant	\$ 115,000.00	\$ 27,370.10
14	Outreach Grant	\$ 58,500.00	\$ 7,141.55
15	Interfund Loan	\$ 100,000.00	\$ 100,000.00
16	<b>Total Revenue</b>	<b>\$ 1,610,832.00</b>	<b>\$ 484,161.37</b>

<b>FUND</b>	<b>Stormwater Operations</b>	<b>Total Budget for</b>	<b>Year To Date/TD Percen</b>	<b>Remaining</b>	
<b>460.000</b>	<b>2011 Budget for Spending</b>	<b>Year - 2011</b>	<b>Spent</b>	<b>Budget For Year</b>	
<b>Payments Made through Accounts Payable (WinCams)</b>					
538.31.31	Supplies	\$ 10,000	\$ 699	7.0%	\$ 9,301
538.31.3125	Field Guide Grant - Supplies	\$ 2,000	\$ -	0.0%	\$ 2,000
538.31.41	Billing Expenses - County	\$ 21,000	\$ 5,909	28.1%	\$ 15,091
538.31.4110	Legal services - City of Asotin	\$ 4,000	\$ 150	3.8%	\$ 3,850
538.31.4111	Legal services - City of Clarkston	\$ 4,000	\$ -	0.0%	\$ 4,000
538.31.4112	Legal services - Asotin County	\$ 4,000	\$ -	0.0%	\$ 4,000
538.31.42	Communication	\$ 500	\$ 411	82.2%	\$ 89
538.31.43	Travel	\$ 2,000	\$ 47	2.4%	\$ 1,953
538.31.44	Advertising	\$ 35,000	\$ 15,440	44.1%	\$ 19,560
538.31.49	Misc costs	\$ 10,000	\$ 4,232	42.3%	\$ 5,768
538.31.49	Training	\$ 4,000	\$ 243	6.1%	\$ 3,757
538.31.5110	Management Team - City of Asotin	\$ 15,000	\$ 2,924	19.5%	\$ 12,076
538.31.5111	Management Team - City of Clarkston	\$ 15,000	\$ 1,624	10.8%	\$ 13,376
538.32.4122	Consultant - Utility Implementation	\$ 1,722	\$ 1,362	79.1%	\$ 359
538.32.4125	Field Guide Grant - Consultant	\$ 103,000	\$ 55,432	53.8%	\$ 47,568
538.32.4126	Outreach Grant - Consultant	\$ 50,500	\$ 8,296	16.4%	\$ 42,204
538.35.5110	City of Asotin O&M	\$ 3,000	\$ -	0.0%	\$ 3,000
538.35.5111	City of Clarkton O&M	\$ 98,300	\$ 16,479	16.8%	\$ 81,821
538.35.5112	Asotin County O&M	\$ 120,000	\$ 25,023	20.9%	\$ 94,977
538.36.5110	Billing Expenses - City of Asotin	\$ 22,560	\$ 9,958	44.1%	\$ 12,602
538.36.5111	Billing Expenses - City of Clarkston	\$ 40,000	\$ 16,479	41.2%	\$ 23,521
538.38.49	B&O Tax	\$ 7,800	\$ 2,394	30.7%	\$ 5,406
594.38.6401	Equipment	\$ 29,000	\$ -	0.0%	\$ 29,000
594.38.6402	Monitoring/Mapping Equipment	\$ 2,000	\$ -	0.0%	\$ 2,000
594.38.6403	Sweeper	\$ 160,000	\$ -	0.0%	\$ 160,000
<b>Salary and Benefits (per Timecard Distribution total costs)</b>					
538.31.10,22-28	Salary, Benefits, Fringe: Coordinator	\$ 68,947	\$ 39,113	56.7%	\$ 29,833
538.31.11,22-28	Salary, Benefits, Fringe: .5 FTE (Finance)	\$ 21,214	\$ 6,217	29.3%	\$ 14,998
538.31.12,22-28	Salary, Benefits, Fringe: 1 FTE (Inspector)	\$ 66,295	\$ -	0.0%	\$ 66,295
538.31.5112	Management Team/Admin - Asotin County	\$ 22,700	\$ 18,365	80.9%	\$ 4,335
538.32.4112	Mapping - Asotin County	\$ 14,300	\$ 23,939	167.4%	\$ (9,639)
			\$ -		\$ -
<b>Interfund Transfers (QUARTERLY JOURNAL ENTRIES)</b>					
538.38.45	Office Rental	\$ 4,000	\$ 1,000	25.0%	\$ 3,000
538.38.92	PBX	\$ 400	\$ 100	25.0%	\$ 300
538.38.95	ER&R - Stormwater	\$ 40,000	\$ 10,000	25.0%	\$ 30,000
538.38.96	Insurance	\$ 5,000	\$ 1,250	25.0%	\$ 3,750
538.38.99	Data Processing	\$ 2,000	\$ 500	25.0%	\$ 1,500
581.20.113	Interfund Loan	\$ 104,250	\$ -	0.0%	\$ 104,250
<b>Transfers to Capital Reserve (amounts/process to be decided on later)</b>					
597.38.10	City of Asotin	\$ 16,880	\$ -	0.0%	\$ 16,880
597.38.11	City of Clarkston	\$ 101,840	\$ -	0.0%	\$ 101,840
597.38.12	Asotin County	\$ 111,300	\$ -	0.0%	\$ 111,300
	<b>TOTAL EXPENDITURES</b>	<b>\$ 1,343,508</b>	<b>\$ 267,587</b>	<b>19.9%</b>	<b>\$ 1,075,921</b>
	<b>460.004 -Stormwater ER&amp;R</b>				
362.21.460	Revenue - Rental Rate	\$ 40,000	\$ -	0.0%	\$ 40,000
548.69.48	Expense - Maintenance	\$ 20,000	\$ -	0.0%	\$ 20,000

**BY-LAWS OF THE  
REGIONAL STORMWATER PROGRAM MANAGEMENT TEAM**

**ARTICLE I. - POWERS, PURPOSE, AND RESPONSIBILITIES**

**Section 1.1 Name.** The name of the administering body duly established pursuant to the laws of the State of Washington shall be the Regional Stormwater Program Management Team hereinafter referred to as the "Management Team". The interim offices of the Board shall be [135 2nd Street, Asotin, WA 99402.](#)

**Section 1.2 Regional Stormwater Program Permit Area.** The area within Asotin County commonly referred to as the [permit area](#), which is designated [in the stormwater utility and ILA?](#)

**Section 1.3 Powers, Purpose, and Responsibilities.** The Management Team shall have and exercise all powers, functions and rights and privileges now and hereafter given or granted to, and shall be subject to all duties, obligations, liabilities, and limitations now and hereafter imposed upon authorities of the same class, by the Constitution and laws of the State of Washington, and shall have and exercise all other powers, functions, rights and privileges usually exercised by, or which are incidental to, or inherent in, municipal corporations of like character and degree. The Management Team shall have all powers possible to have under the Constitution and laws of this state.

**ARTICLE II. -THE GOVERNING BODY-MANAGEMENT TEAM COMPOSITION**

**Section 2.1 Management Team Composition.** Subject to the provisions to as it presently exists or as it may be in the future amended, and the Management Team, shall consist of a six (6) members, [three](#) of whom shall be elected officials, [Asotin County Public Works Director, City of Clarkston Public Works Director and City of Asotin Mayor or designee.](#)

Comment [P1]: As identified in ILA

**Section 2.2 Alternate Representatives.** The component cities and the County Commissioners of Asotin County may appoint alternate members whose name( s) shall be forwarded to and kept on file with the Management Team. An alternate member may serve on the Management Team in the event of the selected member's absence. Such alternate member shall also be an elected official selected by and serving at the pleasure of the respective Management Team member.

Comment [P2]: Do you want to designate alternates?

**Section 2.3 Term of Office.** Each member of the Management Team shall hold office until his/her successor has been selected, unless such person is legally ineligible to hold such position.

**Section 2.4 Review of the Management Team's Composition.** After the Management Team's existence for four years, an elected representative of each city within the County and each county commissioner, shall meet to review the composition of the Management Team and change the composition of the Management Team if deemed appropriate.

**Section 2.5 Attendance of Management Team Members.** It is recognized that attendance by the designated Management Team members or alternative members is of prime public concern. Any Management Team member not able to attend a regularly scheduled meeting shall notify his/her alternate to attend and notify the Regional Stormwater Program Coordinator

### **ARTICLE III. - DUTIES OF THE MANAGEMENT TEAM**

**Section 3.1 Duties of the Management Team.** The Management Team shall provide the policy and legislative direction for the stormwater utility and its administrators. The Management Team may create such ~~departments, office~~ special committees, standing committees, or advisory ~~boards~~ groups as it finds necessary or advisable and may determine the powers and duties of each.

The Management Team shall have the following duties and responsibilities:

- Monitor the day-to-day operations and make recommendation for policies, procedures and budgets to the Parties of the Interlocal Cooperation Agreement.
- Develop specific maintenance standards and schedules to ensure proper operation of all conveyance and storage facilities, such standards and schedules are subject to review and approval by the City Councils and the Board of Commissioners.
- To assign between the Cities and the County, a geographic division of responsibility for operations and maintenance of facilities.
- To provide the employess and equipment necessary to conduct day-to-day operations according to the division of responsibility.
- To submit proposed annual budgets for review and approval of the Board of Commissioners and the City Council.
- To prepare and maintain, as part of the annual budgeting process, a six year Capital Improvement Plan (CIP) that prioritizes capital improvement projects for review and approval by the City Council and the Board of Commissioners.
- To investigate and pursue all available funding sources for projects identified in the capital improvement plan and other funding for the utility.
- To receive, review and investigate all citizen complaints and Tort claims relating to operations and maintenance of Facilities and appeals relating to rate charges with assistance of appropriate legal staff, and to make action recommendations thereon to the respective legislative authorities.
- To be responsible for complying with all Washington Public Meeting and Public Records laws.

**Section 3.2 Meetings and Meeting Notice.** All regular meetings, special and executive session meetings of the Management Team shall be conducted and notices thereof given consistent with the provisions of the Open Public Meeting Act (RCW 42.30) as now codified or hereafter amended.

**Section 3.3 Quorum.** At any regular or special meeting, \_\_\_\_\_ members of the Management Team present shall constitute a quorum for the transaction of business.

Comment [PW3]: How many members make up a quorum?

**Section 3.4 Voting/Management Team Decisions.** Every member of the Management Team shall be entitled to one vote on all issues before the Management Team. All members present may vote or abstain; the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the Management Team unless a greater number is required by law. The majority vote must have at least \_\_\_\_\_ affirmative votes in order to be a Management Team decision. Any member may require that the vote of each member on particular matter be recorded in the minutes, in which case a roll call will be taken.

Comment [PW4]: This is simple majority of those present

Comment [P5]: Depend on # for quorum?

**Section 3.5 Parliamentary Procedure.** This section shall govern the procedures to be followed by the Management Team for the conduct of Management Team meetings and the maintenance of order.

Open Public Meetings Act. As previously set forth in Section 3.2, the Management Team shall comply with the provisions of the Open Public Meetings Act, Chapter 42.30 RCW, in the conduct of all meetings to which said act is applicable.

Executive Sessions. The Management Team may discuss in executive session, the matters specified in RCW 42.30.110, as now codified or hereafter amended. No member of the Management Team or any other person present during the executive sessions of the Management Team shall disclose to any person the content or substance of any discussion which took place during said executive session.

Work Sessions. The Management Team may, as it deems necessary, conduct work sessions for the purpose of in-depth review and discussion of specified issues. Final disposition shall not be taken at designated work sessions.

Voting Procedure. All members of the Management Team shall have one vote. The only non-voting participant is the Stormwater Program Coordinator.

Questions of Parliamentary Procedure. Questions of parliamentary procedure not covered by these Rules shall be governed by Robert's Rules of Order, Revised (1979 Edition)

**Section 3.6 Management Team Acting as a Body.** The Management Team shall act as a body in making its decisions and announcing them. No member shall speak or act for the Management Team without prior authorization of the Management Team, except as otherwise provided for in these By-laws.

**Section 3.7 Records of the Management Team Meeting Minutes.** The proceedings of the Management Team meetings shall be recorded and maintained in the offices of the Regional Stormwater Program. The minutes shall consist primarily of a record of the action taken. Prior to the adoption of the minutes, copies of the proposed minutes shall be forwarded to all Management Team members prior to the next regular meeting for their reference and/or correction. At the next regular meeting, the Management Team shall consider the minutes, make any necessary corrections, and adopt as corrected or read.

**Section 3.8 Committees.** The Chairperson, with the approval of the Management Team, may form such standing or special committees as shall be necessary or appropriate.

Standing Committees. The Management Team, acting as a whole, may form standing committees of the Management Team. Such standing committees shall be formed by resolution. Such resolution shall contain provisions for the specific purpose of the committee and its membership. Provided that in no event shall a standing committee membership constitute a quorum of the Management Team for the transaction of business. The general purpose of such standing committees shall be to recommend actions to the Management Team as a whole.

Standing committee of the Management Team may contain citizen electors residing within the boundaries of [Permit Area](#).

#### **ARTICLE IV. - SELECTION AND DUTIES OF THE CHAIRPERSON AND VICE-CHAIRPERSONS**

**Section 4.1 Selection of Chairperson and Vice-Chairperson.** The Management Team shall select a Chairperson and a Vice-Chairperson at the first meeting of the year. The Chairperson shall hold office until his/her successor is elected. Election of successors shall be deemed to occur at 12:01 a.m. of the day following the vote upon the question.

Comment [P6]: Should the Chair be an elected official?

**Section 4.2 Typical Duties of Chairpersons.** The Chairperson shall preside at all meetings of the Management Team. In the event of the Chairperson's absence or inability to preside, the Vice-Chairperson shall assume the duties of presiding over the meetings of the Management Team; however, if the Chairperson is to be permanently unable to preside, the Management Team shall select a new Chairperson for the remainder of the Chairperson's term. In the event that the Vice-Chairperson is selected as the new Chairperson, then a new Vice-Chairperson shall be selected for the remainder of the vacated Vice Chairperson's term.

**Section 4.3 Other Duties of Chairperson.** The Chairperson shall act as spokesman for the Management Team and shall act as its representative at meetings with other organizations, committees, and other such activities. The Chairperson may delegate to any Management Team member the duty of being spokesman or representative. Such spokesman or representative shall make no pronouncements that will obligate or commit the Management Team except pursuant to prior authorization of the Management Team.

## ARTICLE V. - GENERAL PROVISIONS

**Section 5.1 Checks.** All disbursements of the Regional Stormwater Program shall be by check drawn by the appropriate administrative director as per Management Team resolution or as otherwise directed by law. All requests for checks shall be signed as directed by Management Team resolution.

Asotin County shall be the lead agency for the employment of the Regional Stormwater Coordinator and other employees of the program, fiscal management and project administration.

**Section 5.2 Notes.** All notes or other evidence of the indebtedness, including bills, issued or incurred in the name of the Management Team shall be signed by such officer, member, agent or employee in such a manner as shall from time to time be determined by Management Team resolution.

**Comment [P7]:** May not be policy of Management Team. May follow Regional Stormwater Program policies. Will check with legal staff.

**Section 5.3 Other Legal Documents.** The Management Team may authorize any officer or officers, agent or agents of the Management Team to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Management Team and such authorization may be general or may be confined to specific instances. All written contractual obligations of the Management Team, including, but not limited to, contract, leases and assignments, are to be maintained by the Regional Stormwater Coordinator.

**Comment [P8]:** May be deleted. Will check with legal staff.

**Section 5.4 Deposits.** All funds of the Regional Stormwater Program shall be deposited in the appropriate accounts established by resolution. The Treasurer shall be custodian of the funds and is, subject to approval by Management Team resolution, authorized to invest such funds in the manner provided by law.

**Comment [P9]:** May be deleted or reworded. Will check with legal.

**Section 5.5 Gifts.** The Management Team may accept on behalf of the Management Team any contribution, gift, or bequest (so long as conditions are consistent with State law), for any purpose of the Management Team.

**Section 5.6 Travel.** Members of the Management Team, in order to conduct official business properly and fully, may travel and incur expenses. Management Team members shall receive no reimbursement for travel or meals within Asotin County. Management Team members will receive reimbursement for reasonable expenses incurred while engaged in official business out of County in accordance with ~~RCW 36.57A.050 and~~ the adopted travel policy which applies to all County and City employees. Out-of-state travel by members will be authorized by the Chair subject to annual budget restraints.

## ARTICLE VI. - SEVERABILITY

If any provision of these by-laws, or its application to any person or circumstance is held invalid, the remainder of these by-laws, or the application of the provisions to other persons or circumstances is not affected.

**ARTICLE VII. - ENACTMENTS SUPERSEDED**

These by-laws shall supersede such Management Team enactments, provisions, and constitutive authority as may be affected by these by-laws. In the event that such conflicts may arise in the exercise, intent, or interpretation between these by-laws and prior Management Team enactments, provisions and constitutive authority then these by-laws shall have preference and authority over such other enactments, provisions, and constitutive procedures.

**ARTICLE VIII. - PROTECTION OF MANAGEMENT TEAM MEMBERS, OFFICERS, AND EMPLOYEES FROM LIABILITY**

**Section 8.1 Goal.** The Management Team members serve the people of Asotin County as public servants. It would frustrate the purpose of the Regional Stormwater Program if its Management Team members, officers or employees subject to individual legal liability for actions taken on behalf of the Regional Stormwater Program.

**Section 8.2 Scope or Protection.** Except as otherwise provided by state law, no Management Team member shall be individually liable for any action taken in such capacity as provided in paragraph 8.3. Accordingly, and consistent with the proviso noted above, the MANAGEMENT TEAM shall defend and hold harmless all Management Team members, officers and employees of the MANAGEMENT TEAM against whom a claim or suit may be brought by a third party. In the event such a suit is brought, the MANAGEMENT TEAM shall pay the reasonable and necessary expenses actually incurred and connected with the defense, settlement, or monetary judgment, including costs, disbursements, and reasonable attorneys' fees arising out of any action, claim, or other proceeding within the standard of conduct referred to in paragraph 8.3 herein, and for which notice has been given pursuant to paragraph 8.4. The Management Team, excluding the member(s) involved in such claim or action, shall be the sole judge of the reasonable and necessary expenses to be borne by the MANAGEMENT TEAM.

**Section 8.3 Standard of Conduct.** Protection shall be limited to any action, claim, or other proceeding threatened, pending, or instituted against any person who was, or is, at the time of the alleged conduct, an elected or appointed Management Team member, officer, or employee, and arising out of such person's performance, purported performance, or failure to perform in good faith the duties for the MANAGEMENT TEAM.

**Section 8.4 Notice.** Any Management Team member, officer or employee against whom any action, claim, or other proceeding is threatened, pending, or instituted as provided in Section 8.3 above, shall provide written notice of such action, claim, or other proceeding to the Chairman of the Management Team within ten days of being served with the notice of such action, claim or other proceeding.

**Section 8.5 Insurance.** The MANAGEMENT TEAM, pursuant to RCW 36.16.138 and Chapter 48.62 RCW, as currently codified or hereafter amended, may contract for insurance coverage in order to carry out the provisions of this article.

**Section 8.6 Non-waiver Provision.** Through this article, the corporation seeks only to establish a formal mechanism to protect its Management Team members, officers and employees as stated above. The MANAGEMENT TEAM does not waive any defenses or immunities to which its Management Team members, officers or employees may be entitled under the laws of the United States and the State of Washington.

**ARTICLE IX. –AMENDMENTS**

These by-laws, as adopted by the Management Team of the Asotin County MANAGEMENT TEAM may be revised or amended at any regular or special meeting of the Management Team, with the provisions that members receive copies of the proposed change(s) at least two (2) weeks prior to the meeting.

The foregoing by-laws of the Regional Stormwater Program Management Team have been adopted and approved by the majority of the total Management Team on this \_\_\_\_\_ day of \_\_\_\_\_ 2011.