

Municipal Separate Stormwater System (MS4)  
Stormwater Management Program Document

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Prepared for the Oregon Department of Environmental Quality  
Submitted by the Oregon Department of Transportation  
June 1, 2022

## ABOUT THIS DOCUMENT

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The Stormwater Management Program Document (“SMPD”) was drafted as a requirement of ODOT’s MS4 permit, DEQ File No. 101822, issued on August 11, 2020. The SMPD outlines how ODOT meets the requirements of the MS4 permit through project development, construction, and maintenance.

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## 1.0 ODOT's Responsibilities

### 1.1 Coordinate With Other Public Entities

ODOT may, at its discretion, elect to work with or delegate implementation of one or more SMP control measures to another entity. Under such an agreement, ODOT would be responsible for compliance with any permit conditions that another entity fails to implement.

### 1.2 Maintain Adequate Legal Authority

This section provides information on ODOT's legal authority to oversee its storm system. ODOT has also included in this section spending restrictions as defined in the Oregon State Constitution, which may limit some of ODOT's MS4 program activities.

- State statutes and regulations that give ODOT the legal authority to control illicit discharges to its storm system are identified in Section 2.3.1.
- The following is a summary of MS4 legal authority requirements as stated in 40 CFR 122.26 (d)(2)(i) and the state statutes that enable ODOT to address them. ODOT has different legal authority as a state agency compared to a local municipality, but has addressed the 40 CFR municipal legal authority requirements as listed.

*Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity.*

Primary authority to control introduction of pollutants to the ODOT storm sewer system and to control quality of storm water discharge is found in ORS 374.305 to 374.330. These statutes require written permission from the Oregon Department of Transportation to place or construct facilities on highway right of way. Facilities include any "approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance." Written permission is also required prior to the substantial alteration of any such facility and prior to any change in the manner of its use. This requirement applies to any storm sewer or storm connection on ODOT right of way.

ORS 374.305 to 374.330 also reference ODOT's ability to issue a facility permit. A facility permit can be conditioned upon compliance and have attached applicable standards for storm water quality and requirements for control or removal of pollutants. The current administrative rules adopted to regulate permits for miscellaneous utility connections are found in Oregon Administrative Rules (OAR) Chapter 734, Division 55.

The contracting authority set forth above and ORS 283.110 allows ODOT to enter into an interagency agreement with the Department of Environmental Quality to exercise its authorities under ORS 468B.

*Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer.*

ODOT has limited legal authority to prohibit illicit discharges and may only prohibit these discharges if they originate on ODOT property. This authority can be exercised through the permitting regulations of ORS 374.305 to 374.330. ORS 374.320 allows ODOT to take action if permit requirements are not met. This includes removal, repair or elimination of hazards if necessary, and billing the permit holder for the cost. ORS 374.307 allows ODOT to remove facilities constructed without permit authority. Violation of these statutes and the administrative rules under OAR 734-55, constitute citable offenses as a misdemeanor under ORS 374.990.

ORS 377.650 to 377.655 provide for removal actions if personal property is left or displayed on state highway. Such personal property is found to be a public nuisance under ORS 377.650. Discharge into the storm sewer system can be found to be a public nuisance and abated or enjoined by ODOT through this rule.

*Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water.*

Many discharge actions on highway rights of way are regulated through administrative rules. Prohibited activities on highway right of way are covered under OAR 734-20-095. OAR 734-20-145 covers removal of spilled loads and wrecked vehicles and OAR 734-20-150 addresses closure of highways.

Runoff that originates from property abutting ODOT right of way and then flows into the ODOT storm system is generally not regulated by ODOT due to its jurisdictional limitations. In such cases, ODOT's procedure is to first attempt to persuade the landowner or responsible party to stop the discharge, and if unsuccessful in that effort, refer the matter to DEQ or applicable MS4-permitted entity.

*Control through interagency agreements among other public entities the contribution of pollutants from one portion of the municipal system to another portion of the municipal system.*

ODOT has broad interagency contracting authority found under ORS 366.556 to 366.576, ORS 190.110 and 190.240 and ORS 283.110. Under these authorities, agreements may be executed under which ODOT and other public entities may coordinate stormwater management strategies and infrastructure.

*Require compliance with conditions in ordinances, permits contracts or orders; and carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.*

ODOT is able to exercise control over the permits it issues under ORS 374.305. Permits may be canceled if there is noncompliance with permit conditions. Permits may also require indemnification and public liability insurance from permit holders in order to cover any costs associated with permit non-compliance.

The above statutes allow ODOT the authority to carry out inspections, surveillance, or monitoring as needed to determine compliance with permit conditions (including locating pollutant discharges to the ODOT system).

ODOT has authority to regulate discharges originating within ODOT right of way. ODOT does not have legal authority to regulate illegal discharges that originate outside of its right of way or jurisdiction. ODOT must accept up-gradient stormwater discharges consistent with Oregon Drainage Law.

Article IX, Section 3A of the Oregon Constitution limits the use of revenue from gas and motor vehicle taxes.

*These taxes shall be used "...exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets, and roadside rest areas in this state..."*

## 2.0 Stormwater Management Program (SMP) Control Measures

ODOT will continue to implement all existing SMP control measures, and will begin to revise its SMP control measures, as needed, in order to implement new control measure components.

### 2.1 Public Education and Outreach

ODOT will continue to implement an education and outreach program to inform agency staff and the public about the potential impacts of stormwater on water quality around the state. Additionally, ODOT will explore new pathways to disseminate stormwater information to a broader audience, including the use of social media platforms.

#### 2.1.1 Education and Outreach Program

ODOT's public education and outreach program includes educational efforts targeting the three audiences listed in Schedule A.3.a.iv. The goal of the education and outreach program is to inform agency staff, stakeholders, and the public of the impact of stormwater on water resources and to identify potential pathways to reduce those impacts at work, while traveling on state highways, and at home.

### 2.1.2 Stormwater Education Activities

ODOT will continue to provide educational messages, trainings or activities through printed and/or electronic materials, social media platforms, or other relevant educational events or workshops at least twice per year.

**Table 2.1: Public Education and Outreach Implementation Schedule**

<b>Program Deliverables</b>	<b>Target Implementation Date</b>
Update ODOT’s Stormwater Website	June 1, 2022
Develop a Social Media Strategy to Disseminate Stormwater Information	June 1, 2023
Pursue opportunities to partner with local jurisdictions, as available	Ongoing

## 2.2 Public Involvement and Participation

ODOT will continue to implement the components described in Schedule A.3.b.ii-iii. New components will be implemented according to the dates identified in Table 2.2. If a component is deemed unfeasible, justification will be provided in the subsequent MS4 Annual Report and ODOT will consult with DEQ, as necessary.

### 2.2.1 Publicly Accessible Website

ODOT will continue to maintain a publicly accessible website with information on ODOT’s stormwater programs. The website will include guidance and technical information, Illicit Discharge Detection and Elimination (IDDE) reporting, the SMPD, stormwater staff contact information, and educational materials

### 2.2.2 Public Involvement Opportunities

Public involvement opportunities are often provided or engaged at the local level. ODOT provides the following statewide opportunities:

**Table 2.2: Public Involvement and Participation Implementation Schedule**

<b>Program Deliverables</b>	<b>Target Implementation Date</b>
Develop a Social Media Strategy to Disseminate Stormwater Information	June 1, 2022
Pursue opportunities to partner with local jurisdictions, as available	Ongoing
Identify strategies for encouraging participation in ODOT’s Adopt-A-Highway Program	June 1, 2022
Update ODOT’s Stormwater Website	June 1, 2022



## 2.3 Illicit Discharge Detection and Elimination (IDDE)

ODOT will continue to implement the agency's current IDDE program while exploring opportunities to improve reporting pathways. ODOT will develop a formalized internal IDDE tracking and reporting plan and will update the Stormwater website with information on how to identify and report an illicit discharge, as outlined in Table 2.3.

### 2.3.1 Regulatory Mechanisms

ODOT's general authority to maintain the state highway system is detailed in Section 1.2 above.

Regulations regarding the placement or construction of facilities (including pipes and ditches) on state highway right of way are defined under ORS 374.305 through 374.330. Criminal penalty for violation of these rules is defined under ORS 374.990. Removal, prevention and/or repair of these facilities are defined under ORS 374.307, 374.320, and 366.455.

Rules allowing ODOT to use its authority under ORS 374.305 for the placement or construction of facilities including pipes and ditches are provided in OAR 734-55. Additional authority is provided in ORS 377.650 to 377.655.

These regulations give ODOT the authority to control what facilities are placed within state-owned right of way. Any connection to ODOT's MS4 that has not received a permit could be subject to removal, per the statutes and rules outlined above; however, an illicit discharge may enter the system through a natural flow path for which ODOT does not have the authority to regulate. In these circumstances, ODOT relies on other local, state, and federal agencies with the statutory authority to regulate such discharges.

### 2.3.2 Spill Response and Abandoned Waste

Emergency spill response procedures, objectives, and policies are detailed in existing ODOT manuals such as the [EMS Manual](#), [HazMat Program Manual](#), and the [ODOT First Responder Guide to Highway Incident Response](#).

Spill response requirements are also identified in other state and federal permits currently held by ODOT, including WCPF Permit #UIC-103167.

HazMat Groups in each Region have different spill response responsibilities. In Regions 1 and 3, Region HazMat staff provide on-call assistance that responds to highways spills around the clock. In Regions 2, 4, and 5, Region HazMat staff are called for assistance at the discretion of the District Manager if a large spill requires ongoing cleanup and the District needs technical assistance to determine whether cleanup is appropriate and protective of ODOT property and the environment.

ODOT maintenance workers, litter crews, and others who work within ODOT right-of-way occasionally find abandoned waste that may or may not be identifiable. Region HazMat staff provide technical assistance in these circumstances, including the facilitation of testing and proper disposal.

### 2.3.3 Response to Complaints or Reports

Illicit discharges to the ODOT's MS4 are identified through Road Patrols, Water Quality Facility Inspections or public complaints. Minor illicit discharges identified in the field can often be corrected upon discovery. ODOT investigates reports of illicit discharges as soon as practicable, but no later than 5 working days after notification, unless there is a threat to human health, welfare, or the environment. For discharges, including spills, that constitute a threat to human health, welfare, or the environment, ODOT will respond within 24 hours. Spills, or other illicit discharges, that may endanger human health or the environment are reported in accordance with all applicable federal and state laws, including notification to the Oregon Emergency Response System.

#### 2.3.3.1 Notification of Other Authorities

ODOT does not have legal authority over activities outside of ODOT right of way. Correcting illicit discharges may involve jurisdictional authority issues. ODOT involves other agencies as appropriate to correct illicit discharges, often referring unauthorized discharges that enter ODOT's system to DEQ. ODOT will continue to work collaboratively with other MS4 permittees to identify opportunities to improve communication between agencies in regard to IDDE. If an illicit discharge originates outside the ODOT's right of way, ODOT will notify the appropriate jurisdictional authority within five working days of becoming aware of the illicit discharge.

#### 2.3.3.2 Complaint Tracking

ODOT will maintain a complaint tracking system for all illicit discharge complaints received. The information will be kept according to the records retention requirements in the permit and is available for review upon request. The tracking system documents the following:

- Date the complaint was received;
- Staff responding to the complaint;
- Date the investigation was initiated;
- The jurisdictional authority to whom the complaint was referred to, as applicable;
- The outcome of any ODOT staff investigation; and,
- Corrective action(s) taken to eliminate the illicit discharge, as applicable.

Complaint tracking information will be summarized in each MS4 Annual Report.

### 2.3.4 ODOT Road Patrol

ODOT inspects ditches and other stormwater facilities through routine road patrols. Road patrols are conducted by ODOT maintenance workers as drive by inspections of highway features to ensure there are no immediate problems or concerns impacting highway

operations. ODOT road patrol is conducted frequently; daily in high-traffic or resource concern areas. Drainage ditch and/or illicit discharge issues discovered during road patrols are either addressed immediately by maintenance staff or are reported to the IDDE coordinator (currently the Clean Water Program Coordinator in Maintenance and Operations).

### 2.3.5 Illicit Discharge Detection and Elimination Training and Education

HazMat and other ODOT staff responsible for responding to spills and other hazardous materials that may be encountered within the state highway right of way receive specialized training to maintain certifications. ODOT maintenance crews receive training about IDDE and how to respond to a complaint through internal stormwater training, including Blue Book and EMS training classes.

**Table 2.3: Illicit Discharge Detection and Elimination Implementation Schedule**

Program Deliverables	Target Implementation Date
Develop internal reporting and tracking procedures for IDDE	June 1, 2022
Update stormwater website to include information about identifying and reporting potential illicit discharges	June 1, 2022

## 2.4 Construction Site Runoff Control

ODOT will continue to implement a construction site runoff control program to reduce the discharge of pollutants from construction sites. ODOT will continue to evaluate the existing training program to ensure ongoing compliance with all applicable standards. [ODOT’s Erosion Control Manual](#) provides ODOT staff and contractors with best management practices in erosion and sediment control for personnel involved in the design and construction and maintenance of ODOT construction projects. The Construction Section’s [Environmental Construction Inspector Certification](#) course, for Agency inspectors and [Erosion and Sediment Control Manager Certification](#) course, for contractor erosion and sediment control leads are detailed on ODOT’s website.

### 2.4.1 Compliance with other NPDES permits

Stormwater discharges from ODOT construction sites is regulated through the requirements of the ODOT’s five regional NPDES 1200-CA permit registrations. The Oregon Standard Specifications for Construction is a contract document and enforcement tool in requiring contractor compliance with the NPDES 1200-CA. The 00280 Section of the Specifications, regarding erosion and sediment control is written to support the 1200-CA Permit. Similarly, the ODOT Erosion Control Manual provides guidance on compliance with the Permit and ODOT’s consultant Scope of Work template provides consultants an outline for developing Erosion and Sediment Control Plans that satisfy the Permit’s requirements. These documents will be updated to reflect the revised 1200-CA permit requirements as soon as the Permit’s final language is provided.

#### *2.4.1.1 NPDES 1200-CA Compliance Strategy*

ODOT construction projects having one or more acres of ground disturbance are currently controlled by the regional 1200-CA permits. The 1200-CA requires an erosion control plan (ESCP) that includes 29 specific elements. In addition, the 1200-CA includes 11 maintenance requirements and 14 monitoring and record-keeping requirements.

Plans for these construction projects are required to include an Erosion and Sediment Control Plan (ESCP) that includes erosion and sediment control features in appropriate locations and quantities, applicable standard specifications, special provisions and construction details. Standard Drawings and Details are available in Environmental and Hydraulics Engineering Section's [Erosion and Sediment Guidance Materials](#). Plans for construction are reviewed for content and appropriateness by subject matter experts at each submittal milestone: Design Acceptance, Preliminary, Advanced and Final Plans.

ESCPs consist of the plan, how the plan will be implemented, the monitoring, maintenance, record keeping requirements, and reporting requirements relating to the upgrade and improvement of the plan for the duration of the construction project. Contractors are directed to update the plan as necessary to adapt to the project's changing sediment and erosion control risks. Contractors control the schedule and the means and methods of construction, so they are best positioned and responsible for leading ESCP compliance. ODOT inspectors and project managers verify that contractors comply ESCP requirements, which are contract and permit conditions. ODOT's [Standard Specifications](#), Section 00280, detail the ESCP's minimum requirements for all Project Sites and conditions.

Contractors are required to designate an Erosion and Sediment Control Manager (ESCM) who is trained and certified to lead the project's erosion and sediment control work. The ESCM's duty requirements include:

- Managing and ensuring proper implementation of the ESCP;
- Accompanying Engineer during field review of the ESCP prior to construction activities;
- Monitoring rainfall;
- Inspecting the Erosion & Sediment Control (ESC) facilities for effective functioning;
- Inspections occur weekly during active construction;
- Inspections occur within 24 hours of rainfall of 1/2" or greater;
- Inspections occur every two weeks during inactive periods;
- Ensuring ESC facilities are regularly maintained;
- Mobilizing crews to enact immediate repairs of ESC facilities that are not effectively functioning or are not installed according to ODOT Standard Details;
- Recording actions taken to clean up sediment & regularly updating monitoring forms; and,
- Updating the ESCP monthly and within 24 hours of changes made on the project site.

Oregon Standard Specifications for Construction for ESC are developed to repeat and support items identified in the 1200-CA permit. The ESC specifications require that the contractor comply with the NPDES 1200-CA permit, all other applicable permits, and all federal, state and local laws, rules and regulations.

Specifications are part of the final contract documents and must be fulfilled as part of the contract agreement. Requirements in the specifications include:

- Limit disturbed areas;
- Install perimeter controls;
- Develop wet season plan for ESCP that could include work suspension;
- Stabilize disturbed areas;
- Prevent erosion (using vegetation, mulch, matting, compost or other soil cover);
- Control runoff (using check dams, slope drains, interceptor swales or dikes or other runoff control measures);
- Control sedimentation (using construction entrances, inlet protection, sediment barriers, sediment traps or other sediment control measures);
- Monitor receiving waters; and,
- Remove sediment if it has left project site, or as part of maintenance.

ESC requirements are contract requirements; therefore, if conditions are not satisfied ODOT will require the work be performed or payment will not be provided. ODOT's [Standard Specifications](#), Section 00140, Scope of Work, detail the remedies available to ODOT if the contract requirements are not met. Egregious violations will result in stop-work orders that can last until the failures that cause the violations are repaired and cleanup is completed, and may result in enforcement action by DEQ. Construction personnel that disregard construction directives may be removed from projects at ODOT's discretion.

ODOT is committed to maintaining a "trusted partner" relationship with all regulatory agencies. In that context, when permit violations occur, ODOT self-reports to the appropriate regulatory agency. In the event that a contractor's ESCM is not performing all required duties, that ESCM may be removed from the project. If the ESCM withholds information or falsifies a monitoring report, then their certification will be permanently revoked.

#### [2.4.2 ODOT Erosion Control Policy in addition to 1200-CA Requirements](#)

[ODOT Technical Advisory GE 12-01\(A\)](#) outlines a process to provide appropriate erosion control for all construction projects having the potential to cause erosion, including those construction projects not subject to the 1200-CA. This process utilizes Section 00280 of ODOT's Standard Specifications and Boilerplate Special Provisions to apply the appropriate erosion and sediment control requirements based on risk of erosion and quantity of ground disturbance. The Technical Advisory groups projects into three categories listed below:

1. No Risk – These are construction projects that do not involve any ground disturbance. Erosion control is not required.
2. Low Risk – These are projects that involve less than one acre of ground disturbance and do not exhibit high risk erosion factors such as:
  - a. Proximity to a wetland or waterway within 100 feet;
  - b. Erodible soils or disturbance of steep slopes;
  - c. Wet season construction and soil disturbance;
  - d. Multiple construction season schedule;
  - e. Probability that the area of ground disturbance will increase to an area greater than one acre; and
  - f. Stringent local requirements that affect the ESCP and monitoring requirements.These small projects still require that plans address erosion prevention, runoff control and sediment control but they do not require an Erosion and Sediment Control Manager certified by ODOT. ESC inspections are done by Agency inspectors. Frequency varies based on potential risk factors such as forecasted weather, proximity to water, etc.
3. High Risk – These are construction projects having one or more acres of ground disturbance – and thus subject to 1200-CA permit conditions – or construction projects having less than one acre of ground disturbance when high risk erosion factors (listed above) are present. Erosion and sediment control requirements of the 1200-CA are applied to these projects. Inspection frequency for high risk sites are mandated by contract at once per week on active sites, every two weeks for inactive sites and within 24 hours of rainfall events of 1/2” in a 24 hour period.

### 2.4.3 Construction Runoff Control for Maintenance Activities

Routine maintenance activities that cause ground disturbance are guided by the [Blue Book](#). Stormwater management best management practices (BMPs) that apply to all maintenance activities are described. BMPs related to specific maintenance activities are also included as appropriate in those sections.

### 2.4.4 Additional Permits

Construction site runoff is also managed by adhering to requirements set by other permits, including:

- Clean Water Act (CWA) Section 404 permits;
- CWA Section 401 water quality certifications (WQCs); and
- Oregon Department of State Land’s (DSL’s) Oregon Removal/Fill Permit.

These permits and certifications regulate in-water work and sediment entering Waters of the State and Waters of the United States. Conditioned biological opinions, including ODOT’s Federal Aid Highway Programmatic biological opinions (FAHP).

The FAHP biological opinions issued by National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) provide take coverage under the Endangered Species Act (ESA) and the Magnuson-Stevens Act for federally-funded projects. Protecting threatened or

endangered fish requires that ODOT prevent pollution from our projects or facilities from impacting the aquatic habitats of these species. Most rivers in the state provide potential habitat for endangered species and sediment is considered a pollutant, so control of construction site runoff is integral with the FAHP.

#### 2.4.5 Construction Runoff Control Training and Education

ODOT will ensure that all staff responsible for ESCP reviews, site inspections, and enforcement of ODOT’s requirements are trained or otherwise qualified to conduct such activities.

ODOT’s [Environmental Construction Inspector Certification course](#) provides inspectors with practical knowledge and standard industry practices for conducting inspections. Inspectors gain an understanding of their responsibilities to verify compliance with project requirements as well as mandates set forth by ODOT or the federal government, or both. The Inspector Certification is valid for five years.

ODOT’s [Erosion and Sediment Control Manager Certification](#) course that provides contractor’s ESC managers with an understanding of the 1200-CA permit requirements and practical knowledge of standard industry practices for performing erosion and sediment control management activities on ODOT projects. Participants must pass a test to receive ESCM certification. Certification is required to perform ESCP reviews and inspections. The ESCM is valid for five years, ensuring training will occur at least once during the permit term.

**Table 2.4: Construction Site Runoff Control Implementation Schedule**

Program Deliverables	Target Implementation Date
Assess Training Program Effectiveness	June 1, 2022
Renew Regional 1200-CA permits	June 1, 2023
Update Erosion and Sediment Control Program elements of SMDP upon issuance of 1200-CA permit	June 1, 2023

## 2.5 Post-Construction Site Runoff Control

ODOT will continue to implement a post-construction site runoff control program to reduce discharges of pollutants from existing transportation infrastructure. ODOT will continue to evaluate the existing training program to ensure ongoing compliance with all applicable standards.

### 2.5.1 Other Regulatory Mechanisms

In addition to the MS4 permit, post-construction stormwater management is required by the following regulatory mechanisms:



#### *2.5.1.1 CWA Section 401 WQCs*

Individual projects that entail discharges of fill material into waters of the United States frequently require WQCs under CWA Section 401. For most projects that involve the development or redevelopment of impervious surfaces, the WQC requires preparation of a stormwater management plan documenting that the project’s design includes all available and reasonable BMPs necessary for the project to meet state water quality standards.

#### *2.5.1.2 Endangered Species Act & Magnuson-Stevens Fishery Conservation & Management Act*

Highway projects that are likely to affect listed species have take authorization under one or more biological opinions (BOs). The specific BO(s) applicable depends on whether the project conforms to the limits of programmatic BOs, the species affected, whether a US Army Corps of Engineers permit is required, and whether the project is federally funded. These regulatory mechanisms specify that projects with certain triggering features (including development and redevelopment of impervious surfaces) include all available and reasonable best management practices necessary to minimize impacts to protected species. These include:

- FAHP BO (NMFS);
- FAHP BO (USFWS);
- Programmatic BO to Standard Local Operating Procedures for Stormwater, Transportation or Utilities; and,
- Individual project BOs.

#### *2.5.1.3 Routine Road Maintenance Water Quality and Habitat Guide (“The Blue Book”)*

The Blue Book, which is developed and maintained by ODOT in consultation with NMFS and DEQ, specifies BMPs to be used when carrying out myriad maintenance activities that could otherwise have a deleterious effect on water quality and other environmental resources. Use of the BMPs described in the Blue Book ensures that ODOT’s Routine Road Maintenance Program is exempt from ESA take provisions, and that the Program is adequate to protect and conserve listed fish. The maintenance activities described in the Blue Book include both maintenance of installed post-construction stormwater BMPs, as well as stormwater management principles generally.

#### *2.5.1.4 Local ordinances and permits*

ODOT projects are subject to city, county, and special district ordinances and permits, which may impose additional post-construction stormwater management requirements.

#### *2.5.1.5 CWA Section 404 and DSL’s Oregon Removal/Fill permits*

Typically, CWA Section 404 and state removal/fill permits do not directly regulate stormwater management. However, occasionally a project’s stormwater management features are part of the range of activities proposed as mitigation for aquatic impacts. When approved by the issuance of a CWA Section 404 or removal/fill permit, implementation of the mitigation plan—including stormwater management BMPs—becomes a condition of the permit.



### 2.5.2 Prioritization of Low Impact Development Requirements

Preference of low-impact development (LID) stormwater management techniques is a core principle of ODOT's post-construction stormwater management program. LID techniques are required to be considered in the previously-described regulatory instruments, and has consequently been prioritized as part of ODOT's BMP selection practices since 2008. LID principles—including mimicking natural hydrology, preserving natural resources, and dispersing and infiltrating stormwater close to where it falls—are manifested not only in the referenced regulatory mechanisms, but also in the BMP selection tool first established by the Stormwater Action Team, an interagency cooperative through which ODOT's modern stormwater program was established. This principle continues to be propagated in internal guidance we use routinely:

- **The Blue Book:** The Blue Book requires promoting sheet flow for stormwater wherever appropriate through such actions as corrective blading or grading.
- **Water Resources Specialist Manual:** This manual is used by project environmental staff to ensure that project designs conform to regulatory requirements, and specifies that BMPs are preferred which rely on infiltration as a primary pollutant removal mechanism (e.g., natural dispersion, bioslopes, infiltration basins, permeable pavement, etc.).
- **Hydraulics Manual:** This manual is used by ODOT hydraulics engineers to choose and design stormwater management system elements as part of highway project design. It specifies that LID BMPs should be evaluated for feasibility on all projects, and includes a section providing guidance on LID elements, prioritization, site suitability evaluation, and LID options.

### 2.5.3 Post-Construction Stormwater Management Requirements

ODOT is unique among Oregon MS4 permittees in that it has no regulatory authority to impose or enforce stormwater management requirements or technical standards on private property owners. ODOT does engage in analogous activities however, including:

- Performing reviews of plans for private development projects adjacent to highways that involve expanding or reconstructing highway surfaces (for example, to add a turn lane into a newly-constructed parking lot) to ensure that they include highway stormwater management features where appropriate.
- Reporting to regulatory authorities any third parties who are discovered to be discharging suspected pollutants to the public waters via ODOT's drainage infrastructure.

Additionally, for ODOT's own projects, ODOT implements site performance and treatment standards specified by the regulatory mechanisms described above, implements structural stormwater control design specifications through the Hydraulics Design Manual, and implements stormwater mitigation options on- and off-site where necessary.

### 2.5.4 Post-Construction Site Runoff Plan Review

As a non-regulatory agency, ODOT does not review the runoff plans of other entities, except as described in 2.5.3 above. However, for projects that affect stormwater, post-construction

runoff is documented primarily through four types of documents, each having their own purposes, audiences, and review mechanisms:

**Table 2.5.a: Post-Construction Site Runoff Plan Review**

<b>Document</b> (prepared by)	<b>Purpose</b>	<b>Audience</b>	<b>Review Mechanism</b>
<b>Hydraulics report</b> (hydraulics engineer)	Documents design goals, engineering calculations, and solutions for projects with engineered BMPs	Project development team (PDT; internal) and project files	Peer reviewed by another engineer; input provided by water resources specialist in ODOT region environmental unit
<b>Post-construction stormwater management plan (SWMP)</b> (water resources specialist / permit coordinator)	Documents how project design meets 401 stormwater criteria	DEQ <sup>1</sup>	Peer reviewed by region environmental staff and water resources program leader; SWMPs for projects covered by individually-permitted projects are reviewed by DEQ as part of its WQC process.
<b>FAHP stormwater report</b> (water resources specialist / biologist)	Documents compliance with FAHP BOs	NMFS	Peer reviewed, then submitted to NMFS liaison; take is reported annually
<b>Project development and construction plan sheets</b> (project designers)	Design and communication tool during project development, then a construction tool	PDT, construction office, and contractor	Reviewed by entire PDT at several stages, finalized by specification engineer

<sup>1</sup> Most SWMPs—for projects approved under nationwide permits—are reviewed by the water resources program coordinator to ensure 401 compliance, and may occasionally be reviewed by DEQ to support 401 certification. DEQ is therefore considered the audience for all SWMPs.

### 2.5.5 Long-Term Operation and Maintenance (O&M)

ODOT's Hydraulics Program tracks stormwater facility assets, the operations and maintenance (O&M) manuals for each facility, and related program data. As of 2020, ODOT maintains more than 1,200 facilities statewide. Stormwater facilities include:

- Stormwater treatment facilities such as swales, ponds, filter strips, sedimentation basins, bioslopes, proprietary structures that use vaults and oversized manholes or tanks, and pretreatment manholes;
- Stormwater storage facilities such as ponds, tanks, and vaults;
- LID BMPs; and,
- Underground Injection Control (UIC) systems.

Each stormwater facility is assigned a unique drainage facility identification (DFI) number. The DFI number is used to link the stormwater facility with an O&M manual and with ODOT's asset management systems. ODOT's stormwater inventory is available through TransGIS, a web-based program accessible to the public.

Each stormwater facility is required to have a dedicated O&M manual that provides information about facility maintenance and operation. Copies of the facility manuals are distributed to the maintenance district where the facility is situated. Each manual includes:

- The facility type;
- How the facility operates;
- The inspection schedule;
- A list of required maintenance work;
- Waste material handling and contacts;
- Appendix A: A facility operational plan, profile and details; and,
- Appendix B: As-constructed facility plans and details.

In addition to assigning a DFI number, field markers are also installed at each facility site to help locate and identify the stormwater facility, and support asset management data collection. DFI field marker guidance is provided in the [ODOT Hydraulics Manual](#).

There are three types of markers used to identify ODOT facilities or alert maintenance crews of the location of stormwater facility maintenance areas. A Type S1 marker is used to indicate the start and end of stormwater facility maintenance areas. The purpose of the Type S2 marker is to display the facility drainage identification number.

Maintenance crews refer to the appropriate O&M manual using the ID number assigned to each facility. A Type S3 marker is used to stamp a drainage facility identification number onto the top of access covers of underground treatment and storage facilities that use vaults, oversized manholes, and tanks.

ODOT Maintenance Crews are generally responsible for the ongoing maintenance of these facilities as required in the facility O&M manuals and the maintenance tables provided in ODOT's Maintenance Guide. Facilities are inspected annually and necessary maintenance is completed as soon as practicable after discovery of a deficiency. These actions are documented on inspection forms which are entered into the Water Quality Facility Program database.

#### 2.5.6 Training and Education

ODOT provides training and education as needed through a variety of means to employees who deal with post-construction stormwater management features.

Water resources specialists and biologists:

- Water resources specialist manual;
- Biology manual;
- FAHP User's guide;
- Direct organizational communication of urgent issues;
- Quarterly discipline meetings;
- Discipline leads providing formal training; and,
- Sharing information internally about additional training opportunities provided by outside providers.

Hydraulic engineers:

- Hydraulics Manual;
- ODOT Policies;
- Standard Construction Specifications;
- Standard Drawings;
- Standard Details;
- Qualified Products List;
- O&M manual templates;
- FAHP User's guide;
- Direct organizational communication of urgent issues;
- Monthly senior engineer discipline meetings;
- Quarterly statewide discipline meetings;
- Discipline leads providing formal training; and,
- Sharing information internally about additional training opportunities provided by outside providers.

Maintenance:

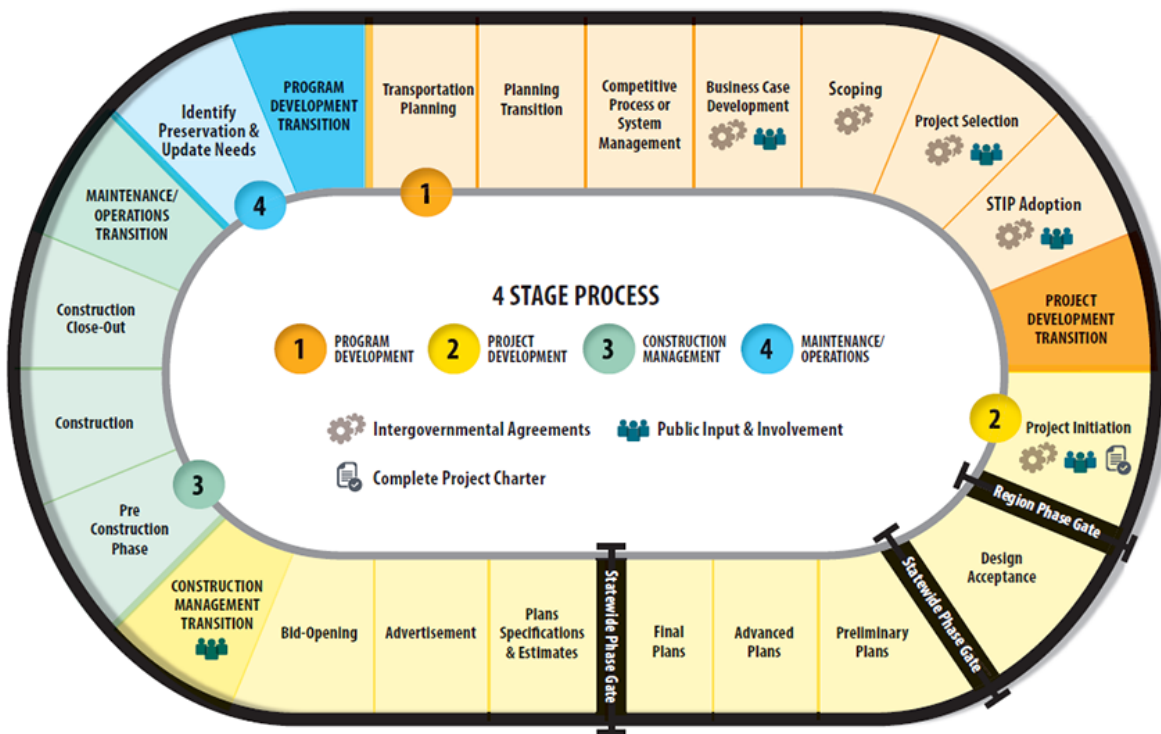
- Blue Book Training: The maintenance activities described in the Blue Book include both maintenance of installed post-construction stormwater BMPs, as well as stormwater management principles generally.
- Water Quality Facility Work Group: Maintenance staff, technical experts, and statewide program leads are part of a work group that meets to discuss treatment facilities, maintenance strategies, and emerging technologies.

Table 2.5.b: Post Construction Program Implementation Schedule

Program Deliverables	Target Implementation Date
Assess Training Program Effectiveness	June 1, 2022
Continue to Evaluate Innovative Stormwater Mitigation Options	Ongoing
Explore Opportunities to Improve Stormwater Treatment through the Project Delivery Process	June 1, 2023

The [Project Delivery Guide](#) explains the Project Delivery Process in detail. Stormwater is addressed from scoping through design and construction and, ultimately, handoff of constructed facilities to maintenance

## TRANSPORTATION SYSTEM PROJECT LIFECYCLE



### 2.6 Pollution Prevention and Good Housekeeping

ODOT will continue to implement and adaptively manage the Environmental Management System (EMS) Program, Spill Prevention Control and Countermeasure (SPCC) Program, and other relevant programs to minimize potential impacts to stormwater generated on ODOT-owned facilities.

### 2.6.1 Operation and Maintenance Strategy for Existing Controls

Please see Section 2.5.5 above. The Operation and Maintenance Strategy for existing controls is the same as the Long-Term Operation and Maintenance Strategy for post-construction controls.

### 2.6.2 Environmental Management System Program

ODOT developed an Environmental Management System Program in 2004 to provide consistent direction and expectations for the storage, handling, and disposal of materials typically found at ODOT Maintenance Facilities. This program has continued to be implemented through [Highway Policy MAI-31](#), Environmental Management and Operations of Maintenance Compounds, and is updated every 5 years.

### 2.6.2 Integrated Vegetation Management Program

The ODOT Integrated Vegetation Management (IVM) program is required under Oregon statute ORS 634.660. The program develops agency guidance for managing noxious weeds, landscape plantings, roadside timber, and other vegetation issues associated with ODOT rights-of-way. Goals of the ODOT IVM program include encouraging self-sustaining vegetation and reducing the need for herbicides, fertilizers, and irrigation. ODOT continually explores new vegetation management practices, technologies, and partnerships to improve its IVM program. Specific actions to meet this requirement will be included in the annual report.

### 2.6.3 Litter control, including Adopt-a-Highway

ODOT cleans up litter and debris found along state highways using its own employees (permanent or temps), contractors, and volunteers. The litter control work is managed individually by District. The Adopt-A-Highway program provides an opportunity for volunteers to clean up litter and remove noxious weeds along state highways. Activities may also include graffiti removal and maintenance of existing landscaped areas. ODOT will explore opportunities to encourage participation in the Adopt-A-Highway program.

### 2.6.4 Material and waste disposal

ODOT has developed guidance for appropriate materials disposal and documentation. The guidance is outlined in the EMS Manual. Hard copy tracking logs are available upon request.

### 2.6.5 Spill Prevention Control and Countermeasure Program

Program elements are written in site-specific SPCC Plans that describe controls and procedures that have been implemented to prevent oil from reaching nearby waterbodies if a spill occurs. ODOT Maintenance yards that have aggregate storage of more than 1,320 gallons of oil or fuel in containers that are 55 gallons or larger, provided the facility is sited where a potential spill could impact navigable waterways (as defined in the Oil Pollution Act) have fully implemented the elements of the Plans.

### 2.6.6 Training and Education

Training and yard audit details for ODOT Maintenance Facilities are provided in the EMS Program Manual. Other training requirements are completed as part of Blue Book training.

Table 2.6: Pollution Prevention and Good Housekeeping Implementation Schedule

Program Deliverables	Target Implementation Date
Analyze effectiveness of EMS training	June 1, 2022
Submit EMS Annual Report as part of the MS4 Annual Report	Annually

## 2.7 Winter Maintenance Program

ODOT will continue to implement the existing Winter Maintenance Program components while exploring opportunities to improve efficiency and limit impacts to receiving waters.

### 2.7.1 Winter Materials Management

ODOT will continue to store all winter maintenance products in compliance with the guidelines detailed in the EMS Program. Details about storage and training requirements for winter materials can be found in the EMS Program document.

### 2.7.2 Winter Maintenance Strategy

ODOT's current Winter Maintenance Strategy includes phasing in the use of solid salt in keys areas, defining principles to guide further expansion, and evaluating and adaptively managing environmental best practices to reduce impacts to water quality. The 2019 Strategy and all subsequent Strategy updates can be found at <http://www.oregon.gov/ODOT> or by contacting ODOT's Maintenance and Operations Branch – Environmental Section at (503) 986-3008.

### 2.7.3 Winter Maintenance Annual Report

ODOT will continue to produce a Winter Maintenance Annual Report which will be included as an appendix to the MS4 Annual Report. Data metrics may change over time due to availability and reporting, but will generally include information about the type and quantity of materials used by geographic area.

### 2.7.4 Training and Education

ODOT provides Winter Maintenance Training through two primary venues:

- Winter Maintenance Training for operators/applicators; and,
- EMS annual training and auditing relating to proper storage of winter maintenance materials.



Table 2.7: Winter Maintenance Program Implementation Schedule

Program Deliverables	Target Implementation Date
Provide copies of SPR 812	Upon Completion
Develop and implement a calibration manual for material application equipment	June 1, 2022
Continue to participate in ODOT and/or other research projects	Ongoing
Submit Winter Maintenance Annual Report as part of the MS4 Annual Report	Annually

## 2.8 Stormwater Retrofit Strategy

ODOT will initiate the development a Stormwater Retrofit Strategy during this permit cycle. This program will include prioritization methodology, screening criteria, and funding options.<sup>2</sup> A list of prioritized projects may be completed, if practicable, during this permit cycle.

### 2.8.1 Stormwater Retrofit Strategy Components and Objectives

The Stormwater Retrofit Strategy may address, but is not limited to, the following stormwater components:

- ODOT’s TMDL Implementation Plan;
- Existing Facility Maintenance and Replacement (including Flow Control Requirements);
- Inclusions of treatment of runoff emanating from contributing impervious areas that extend beyond a highway project’s stormwater trigger areas; and,
- Innovative stormwater mitigation alternatives that extend beyond project-by-project mitigation.

The components included in the Stormwater Retrofit Strategy will be determined during the program’s development. ODOT may solicit feedback from DEQ and other regulatory agencies during the development of the program, as appropriate.

### 2.8.2 Project Prioritization Methodology

ODOT will develop methodology to aid in the prioritization of projects that meet the objectives of the program. The resulting prioritized list will be used to assign funding, highlight potential cost-sharing opportunities with other MS4 permittees, and identify regional stormwater treatment needs.

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<sup>2</sup> Some retrofit concepts may require review to determine consistency with the aforementioned Constitutional expenditure limits.



### 2.8.3 Stormwater Retrofit Strategy Document

ODOT will develop a Stormwater Retrofit Strategy Document to capture the prioritization, rationale, and identification of project locations, including which program component(s) the project will address.

Table 2.8. Stormwater Retrofit Strategy Implementation Schedule

Program Deliverables	Implementation Date
Develop a statewide Stormwater Retrofit Strategy, including funding and prioritization methodology	June 1, 2024

## SCHEDULE B - MONITORING AND REPORTING REQUIREMENTS

### 1. Compliance Evaluation

ODOT will provide an annual evaluation of compliance as outlined in Schedule A and Schedule D as part of the MS4 Annual Report.

### 2. MS4 Annual Report

No later than June 1 each year, ODOT will submit an MS4 Annual Report to DEQ as specified in Table B.1 below. The reporting period for the MS4 Annual Report is from January 1 through December 31 of each year. Reporting periods for subsequent MS4 Annual Reports is specified in Table 2 below.

Table B.1. MS4 Annual Report Deadlines

MS4 Annual Report	Reporting Period	Due Date
1st Year Annual Report	January 1, 2020 - December 31, 2020	June 1, 2021
2nd Year Annual Report	January 1, 2021 - December 31, 2022	June 1, 2022
3rd Year Annual Report	January 1, 2022 - December 31, 2023	June 1, 2023
4th Year Annual Report	January 1, 2023 - December 31, 2024	June 1, 2024
5th Year Annual Report	January 1, 2024 - December 31, 2025	June 1, 2025

### 3. Monitoring Requirements

ODOT submitted its 2021 MS4 Monitoring Plan to DEQ on January 15, 2021. Results will be provided as they are received and reported on in the following annual report.

### 4. Submissions

ODOT will provide DEQ with one hard copy of the MS4 Annual Report until e-reporting is initiated and any supplemental information required by the due date in Table B.1, above.

Additionally, all Annual Reports, attachments, and other required submittals will be sent to DEQ at [MS4Stormwater@deq.state.or.us](mailto:MS4Stormwater@deq.state.or.us).

### 5. Recordkeeping/Records Retention

ODOT will retain records and copies of all information pertinent to the requirements of the MS4 permit for a period of at least five years after the permit's expiration date.

## SCHEDULE D - SPECIAL CONDITIONS

### 1. MS4 Data Compilation

Since 1999, ODOT has collected an array of stormwater data for permit compliance, litigation, and other program-specific needs. These data collection efforts have often fulfilled a singular requirement or need and have not been compiled into one database for evaluation.

### 2. Stormwater Data Compilation

During this permit term, ODOT will compile all available data relevant to the MS4, including characterization, research, mapping, and other applicable data sets. This data may include, but is not limited to, the following:

- All available outfall inventories that are within Phase 1 and II Communities completed since 1999;
- All available highway stormwater runoff characterization data collected by ODOT or consultants contracted by ODOT since 1999;
- All available monitoring data collected by ODOT or consultants contracted by ODOT since 1999; and,
- Other Relevant Stormwater Data collected by ODOT or consultants contracted by ODOT since 1999
- Other sources of data may include:
  - Water Quality Facility Program;
  - Winter Maintenance Program;
  - Integrated Vegetation Management Program;
  - EMS Program; and,
  - Data received from other MS4 permittees, DOTs, and state and federal agencies.

### 3. Stormwater Data Review and Gap Analysis

Upon completion of Schedule D.1.i., ODOT will develop a database (e.g., Excel spreadsheet or other), and/or GIS interface to be used to manage available ODOT stormwater data. This database will be used to conduct an evaluation and analysis of all known stormwater data to identify any data gaps. Data gaps may include geographic gaps (i.e., regional data needs) or subject area gaps (i.e., pollutant-specific data). A GIS interface may also be used to conduct spatial analyses and to display data points such as outfall locations. This analysis will be provided to DEQ no later than June 1, 2024.

### 4. Additional Data Collection

Upon completion of Schedule D.1.ii, ODOT may, in consultation with DEQ, elect to collect additional stormwater data necessary to close any identified data gaps. Data collection efforts may include, but are not limited to, the following:

- Research projects;
- Literature reviews;
- Partnerships with other permittees, DOTs, and/or other state and federal agencies;

- Computer modeling;
- Physical data collection; and,
- GIS analysis.

**Table D.1: MS4 Data Compilation Implementation Schedule**

<b>Program Deliverables</b>	<b>Implementation Date</b>
Identify Known Existing, Applicable Data Sets	June 1, 2022
Develop Database and/or GIS Platform for Data Management and Analysis	June 1, 2023
Input all Data into Database/Platform(s) and Conduct Data Gap Analysis	June 1, 2024

**5. Total Maximum Daily Load (TMDL) Implementation Plan**

ODOT and DEQ will work collaboratively to update ODOT’s most current TMDL Implementation Plan. Work to update this plan will commence during this permit term. ODOT will submit a draft plan to DEQ by June 1, 2023.

## Summary of Changes to SMPD

Date	Section	Summary of Changes
7/26/2021	2.4 Construction Site Runoff Control	Corrected information about certification courses
7/26/2021	2.4.1 Compliance with other NPDES permits	Corrected references to 1200-C permits
7/26/2021	2.4.1.1 NPDES 1200-CA Compliance Strategy	Clarified responsibility for ESCP
7/26/2021	2.4.2 (2) ODOT Erosion Control Policy in addition to 1200-CA Requirements	Corrected information regarding development of ESCPs on projects that are not covered under the 1200-CA (less than 1 acre of disturbance)
7/26/2021	2.4.2 (3) ODOT Erosion Control Policy in addition to 1200-CA Requirements	Provided more detailed information regarding the frequency of inspections of high risk projects
7/26/2021	Schedule D.5	Added language regarding TMDL Implementation Plan
5/16/2022	1.2	Deleted "is a state agency and not a municipality"
5/16/2022	Table 2.1	Changed Target Implementation date for Social Media Strategy to from 2022 to 2023
5/16/2022	Table 2.4	Corrected references to 1200-C permits  Added program deliverable: Update Erosion and Sediment Control Program elements of SMDP upon issuance of 1200-CA permit
5/20/2022	2.4.1	Modified paragraph: Stormwater discharges from ODOT construction sites are regulated through the requirements of the ODOT's five regional NPDES 1200-CA permit registrations. In 2021, ODOT has begun the process of negotiating conditions of the 1200-CA update for its construction sites. This document will be updated to reflect the 1200-CA permit requirements as soon as those permits are in effect.  To: Stormwater discharges from ODOT construction sites is regulated through the requirements of the ODOT's five regional NPDES 1200-CA permit registrations. The Oregon Standard Specifications for Construction is a contract document and enforcement tool in requiring contractor compliance with the NPDES 1200-CA. The 00280 Section of the Specifications, regarding erosion and sediment control is written to support the 1200-

		CA Permit. Similarly, the ODOT Erosion Control Manual provides guidance on compliance with the Permit and ODOT’s consultant Scope Of Work template provides consultants an outline for developing Erosion and Sediment Control Plans that satisfy the Permit’s requirements. These documents will be updated to reflect the revised 1200-CA permit requirements as soon as the Permit’s final language is provided.
5/16/2022	2.4.3	Inserted “best management practices”
5/16/2022	2.4.4	Replaced “regulated” with “managed”
5/22/2022	2.4.5	<p>Modified paragraph:  ODOT’s Environmental Construction Inspector Certification course provides inspectors with practical knowledge and standard industry practices for conducting inspections. Inspectors gain an understanding of their responsibilities to verify compliance with project requirements as well as mandates set forth by ODOT or the federal government, or both. The Inspector Certification is valid for five years</p> <p>To:  ODOT’s Erosion and Sediment Control Manager Certification course that provides contractor’s ESC managers with an understanding of the 1200-CA permit requirements and practical knowledge of standard industry practices for performing erosion and sediment control management activities on ODOT projects. Participants must pass a test to receive ESCM certification. Certification is required to perform ESCP reviews and inspections. The ESCM is valid for five years, ensuring training will occur at least once during the permit term.</p>
5/16/2022	2.5.1.1	Deleted “best management practices” replaced with “BMPs”

5/16/2022	2.5.1.4	<p>Modified sentence: Occasionally, ODOT projects may be subject to city, county, and special district ordinances and permits, which impose additional post-construction stormwater management requirements.</p> <p>To: ODOT projects are subject to city, county, and special district ordinances and permits, which may impose additional post-construction stormwater management requirements.</p>
5/16/2022	2.5.2	<p>The last bullet referring to PD-05 was removed.</p> <p>PD-05 is being updated. The current draft directs project delivery teams to use the two manuals already referenced in this section.</p>
5/16/2022	2.5.4	Deleted "e.iv"
5/16/2022	Table 2.5.a	In the cell: "Post-construction stormwater management plan (SWMP)" deleted "biologist" and added "permit coordinator"
5/16/2022	Page 14, footnote 1	<p>Modified sentence:</p> <p>Most SWMPs—for projects approved under nationwide permits—are reviewed by the water resources program coordinator to ensure 401 compliance, and may be subject to DEQ review to support 401 certification. DEQ is therefore considered the audience for all SWMPs.</p> <p>Most SWMPs—for projects approved under nationwide permits—are reviewed by the water resources program coordinator to ensure 401 compliance, and may occasionally be reviewed by DEQ to support 401 certification. DEQ is therefore considered the audience for all SWMPs.</p>
5/16/2022	2.5.5	Deleted "best management practices" with "LID BMPs"
5/16/2022	2.6	Modified deliverable from "Analyze participation in the Adopt-A-Highway program" to "Analyze effectiveness of EMS training"

8/9/22	1.2	<p>Changed:</p> <ul style="list-style-type: none"><li>• State statutes and regulations that give ODOT the legal authority to control illicit discharges to its storm system are identified in Section A.3.c.ii.A.</li></ul> <p>to correct reference:</p> <ul style="list-style-type: none"><li>• State statutes and regulations that give ODOT the legal authority to control illicit discharges to its storm system are identified in Section 2.3.1.</li></ul>
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