



# Frequently Asked Questions about Municipal Stormwater Co-Permittees

from Ecology's Water Quality Program

**Q:** What is a co-permittee?

**A:** "Co-permittee" means any operator of a regulated small municipal separate storm sewer system (MS4) that applies jointly with one or more other applicants for coverage under a municipal stormwater permit. A co-permittee owns or operates a regulated small MS4 located within or adjacent to another regulated MS4. A co-permittee must comply with the conditions of this permit relating to discharges from the MS4 the co-permittee owns or operates.

**Q:** What are some examples of who might qualify to be a co-permittee?

**A:** Any combination of the following may become co-permittees: cities, counties, primary and secondary permittees, or permittees in another city or county.

**Q:** What kinds of advantages might co-permittees gain?

**A:** Some entities may find sharing permit conditions advantageous even if there is some distance between them. If the entities are similar, (for example, universities or school districts) they may find that sharing responsibilities for permit requirements is mutually beneficial. Several cities and counties may want to be co-permittees with one another. Adjacent MS4s may choose to be co-permittees even when a county line divides them. Another advantage is that only one fee applies to all co-permittees, so they can share in the cost of the permit. The fee equals the highest fee of the individual entity fees. Permittees may also save money by implementing a combined program and have a cooperative advantage in sharing resources.

**Q:** If my jurisdiction does not require permit coverage, may I still partner with another permitted entity?

**A:** Yes, you may agree to cooperate with a permittee to meet the requirements without seeking permit coverage.

**Q:** How does a co-permittee submit its annual report?

**A:** Each entity will need to submit annual report information to the lead entity to compile and submit to Ecology. The *lead* co-permittee (no matter which entity) must submit the compiled annual reports.

**Q:** What are the challenges of being a co-permittee?

**A:** Co-permittees will need to cooperate with each other to develop, implement, and report on their programs. One entity accepts lead entity status and responsibility for submitting reports to Ecology. Each permittee should evaluate how it will benefit from this arrangement. Co-permittees with different permits may have different permit conditions and timelines.

**Q:** When can my jurisdiction become a co-permittee?

**A:** Multiple jurisdictions may become co-permittees at anytime during this permit cycle. Co-permittees may also terminate or revise the agreements at any time during this permit cycle if they coordinate with Ecology.

**Q:** How do co-permittees apply?

**A: If no entities have submitted a Notice of Intent (NOI):**

- All entities submit a single joint NOI to Ecology (Appendix 5 of the permit). Each entity completes pages 2, 3, and 4. The NOI must indicate who will be lead entity.
- Include a **summary of the permit obligations** (interlocal agreement) that co-applicants will carry out jointly.
- The summary must identify each entity and the lead entity. All co-applicants must sign the summary.
- Submit a copy of the two public notices.
- Include jurisdictional maps.
- Ecology's regional office staff will assign individual permit numbers to each entity, and send applicants a letter that identifies the lead entity. Ecology's headquarters office will determine the permit fee.

**If one entity already has permit coverage (a number) and the new entity has *not* submitted an NOI:**

- The new applicant(s) submits a single NOI. Each new applicant completes pages 2, 3, and 4, indicating who will be the lead entity.
- Include a **summary of the permit obligations** (interlocal agreement) that co-permittees will carry out jointly.
- The summary must identify each entity and the lead entity. All co-applicants must sign the summary.
- Submit a copy of the two public notices explaining that the new applicant(s) will be co-permittees with the existing permittee.
- Include jurisdictional maps of new applicant(s).
- Ecology's regional office will assign an individual permit number to new entity and notify all applicants with a letter that identifies the lead entity. Ecology's Headquarters office will determine the permit fee.

**If all entities have submitted NOIs and have permit coverage and numbers:**

- Submit a new single NOI (S1.D.3) with pages 2, 3, and 4 filled out for each entity and identify the lead entity,
- Include a **summary of the permit obligations** (interlocal agreement) that co-applicants will carry out jointly.
- The summary must identify each entity and the lead entity. All co-applicants must sign the summary.
- Submit a copy of the two public notices explaining that all entities will become co-permittees.
- Ecology will send all applicants a letter that identifies the lead entity. Ecology's headquarters office will determine the permit fee.

**Q:** What does the **summary of the permit obligations** (interlocal agreement) look like?

**A:** The agreement may take any form; it may be similar to an interlocal agreement or a Memorandum of Understanding (MOU). The agreement details each entity's responsibilities for permit and reporting requirements and identifies the lead entity. Each co-permittee is the responsible official and must legally authorize and sign the agreement.

**Q:** What responsibilities will my jurisdiction have as a co-permittee?

**A:** Responsibilities will vary by agreement and will depend on how you organize the work. Some requirements of the Stormwater Management Program (SWMP) may belong to each individual entity. However, one entity covering several jurisdictions can fulfill others.

**Q:** What happens if one of the co-permittees fails to meet one or more of its obligations to another co-permittee?

**A:** All permittees must meet all of the requirements in the permit. If one co-permittee fails to fulfill its commitment to another co-permittee, the second entity must fulfill all the permit conditions.

**Q:** How does the co-permittee relationship described in Part 5 of the Notice of Intent differ from that in Part 6, "Relying on another entity to satisfy permit requirement(s)?"

**A:** The difference is: co-permittees described in Part 5 will all be jointly responsible for satisfying the permit conditions and have one permit fee. In Part 5, all permitted entities bear ultimate responsibility for satisfying all permit conditions. Permittees that rely on another entity to satisfy one or more of their permit obligations remain responsible for permit compliance if the other entity fails to implement the permit conditions. Part 6 allows a permitted entity to rely on a **non-permitted** entity or entities (such as a conservation district) to satisfy one or more of the permit obligations. The non-permitted entity **must agree** to take that responsibility and implement specific permit requirement(s).

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