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June 10, 2008

Industrial Stormwater Permit Coordinator  
Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia, Washington 98504-7696

To Whom It May Concern,

After having reviewed the proposed Industrial Stormwater General Permit, set to be issued on October 21st of this year, I found several items of concern that I wished to comment on. Some of these points are relatively minor while others are of a more significant nature. Owing to the number of issues, I have decided to list them in order as they appear in the permit instead of in order of importance.

A few issues that I would like to single out for special mention include the proposed Spill Prevention and Emergency Cleanup Plan (SPECP), the selection and requirement of assorted BMPS and the stormwater sampling standards. Though a relatively minor part of the overall permit, the SPECP concerns me as it appears like a last-minute add-on to the permit. Some more time needs to be spent refining this section in order for it to live up to its potential. I have included some such refining comments in the following pages, but in general, the Federal Spill Prevention, Control & Countermeasure regulations found in 40CFR112 could provide a very firm foundation upon which the SPECP could be built.

Another point that needs to be made is in regards to the requirement to include various operational, structural, treatment and flow-control BMPs from one of Ecology's Stormwater Management Manuals. Further clarification needs to be given regarding which BMPs are required of new and/or significantly remodeled facilities and which BMPs will be required of everyone. As the permit language stands, there is quite a bit of confusion regarding this fact.

Finally, I am very concerned that Ecology has not taken enough steps to address the fact that chemical parameters within stormwater can be highly variable as noted by Ecology itself in the Fact Sheet associated with this permit. As it stands, progression up the corrective action response tree is a one-way ladder with the only possibility of reprieve being a proposed minor step down for Level 3 facilities to Level 2. Given the highly variable nature of stormwater quality, and the fact that even stormwater system maintenance itself can be the cause of some exceedances, some additional leeway should be given to permittees.

Considering the potential costs associated with this permit, I look forward to your response to these comments and those submitted by other reviewers. If you have questions regarding this submittal, please give me a call at (206) 684-2261 or email me at talon.swanson@kingcounty.gov.

Sincerely,

Talon Swanson  
Environmental Scientist  
King County / Metro Transit

Enc

## **Comments on the Proposed Industrial Stormwater General Permit Set to be issued on October 21, 2009**

### **P. 11 S2.B.2**

It seems excessive to require permittees to go through a public notification period if the only intent of the "modification of coverage" is to request a time extension for the completion of a Level 2 or 3 response as per S8.

### **P. 14 S3.A.5**

This section references "availability requirements" as being located in S3.A.4 where they do not seem to exist. S9.E seems the more appropriate reference.

### **P. 16 S3.B.3.b.i.3.a**

No references are cited in the permit or in the attached fact sheet as to why a vacuum-assisted sweeper was determined to be the only viable option to fulfill the quarterly sweeping requirement. Transit presently operates one mechanical and one vacuum-assisted sweeper, both of which are truck-mounted units. Both sweepers appear to operate fairly equivalently, which is to say fairly well on gross pollutants (sand, pop bottles, etc.), but not nearly so well on fines as a high-efficiency sweeper. Specifying a specific technology-base for sweepers will greatly influence our future sweeper truck purchases, so please ensure the justification for this requirement.

### **P. 17 S3.B.3.b.i.4.a**

The term "catch basin" should be generally defined either in this section and/or in Appendix 2. Such a definition should be limiting enough to eliminate "inlets" (a structure without an appreciable sump) yet broad enough to include manholes and other structures (possibly vaults?) that are equipped with catchment/treatment sumps and may be part of a stormwater management system.

### **P.17 S3.B.3.b.i.5.a**

As written, this section seems to cover chemical storage not only outdoors, but also indoors and even underground. Obviously, diked/bermed storage is more applicable to outside storage and, even then, diked/bermed storage is not the only means available to protect stormwater. Seemingly a spin-off from the EPA Spill Prevention, Control and Countermeasure regulations (40CFR112), this section completely ignores the other containment options allowable under 40CFR112, specifically double-walled containers and secondary containment. Such measures offer comparable levels of protection to diked/bermed storage. Though well-intentioned, much more of 40CFR112 should be transferred over into this section in order for it to be a useful addition to a SWPPP, such as the addition of the above-noted alternatives and language better specifying those chemicals which need to be stored in accordance with this section. Such a definition might include wording such as "chemicals stored in locations that, owing to their relation to a stormwater management system, have a high likelihood of contaminating stormwater during an accidental release".

### **P. 17 S3.B.3.b.i.5.b.i**

Based on personal field experience, to absorb 15-gallons of fuel would require several

bundles of absorbent pads and/or several bags of diatomaceous earth (aka- floor dry, kitty litter, etc.). My present estimate is roughly 1 bag of diatomaceous earth or one 12" stack of absorbent pads per 2 gallons of spilled fuel. Though we are not opposed to having such a hefty supply of absorbents on hand, space restrictions might limit the ability to store such a large quantity of materials within 25' of all fueling stations. Perhaps change the requirement of this section to requiring that such a stockpile be kept "on site".

P.17 S3.B.3.b.i.5.b.iii

Similar to the above comment except that a containment boom capable of realistically containing 12-gallons of fuel would have to be much longer than 10'. Once again, storage of such a large boom might be problematic. I would also question the need to have such a boom for each and every fueling station.

P. 17 S3.B.3.b.i.5.b.iv

Specifying a shovel is pointless if the absorbent of choice is absorbent pads. Personal protective gear, however, should be addressed despite the fact that this is an environmental regulation. At a bare minimum, chemical-resistant gloves and goggles should be specified.

P. 17 S3.B.3.b.i.5.b.v

Given the quantity of absorbents involved, two five-gallon buckets would be pointless. If the intent of this entire section is to ensure the permittees' readiness to address "incidental" spills (as indicated by the two five-gallon bucket requirement), then the above-referenced 15-gallon and 12-gallon volumes should be down-graded to 1-2 gallons. If the 15-gallon/12-gallon limits are to remain, change this requirement to one 55-gallon barrel.

P 17 S3.B.3.b.i.5.c

Does this apply to indoor and outdoor fueling stations or only those that have the potential to cause a spill to stormwater? It sounds like fueling stations in areas that don't drain to storm would be exempt, but this is not very clear. Determination could drastically alter our fueling operations as all 1,500+ buses and 200+ non-revenue vehicles in our fleet are fueled with locking auto-off nozzles. It would seem excessive to remove this feature from fuel dispensers as the attendant otherwise potentially has to hold the dispenser for a --long-- time. This would promote an atmosphere where employees would try to bypass the trigger, perhaps using twist-ties to lock the trigger in the "on" position. This would certainly be contrary to the intent of this requirement. Perhaps a better solution would be to require that the attendant remain within line of sight of the dispenser or within a certain distance. Also, topping off tanks as they are being refueled is frequently the only way to know that the tank is full without re-entering the vehicle. Requiring an employee to leave the dispenser and re-enter the vehicle during the refueling process is inviting disaster.

P. 17 S3.B.3.b.i.5.d

Though requiring the use of a stormwater grate cover is well-intentioned, this would be very unlikely to be performed on a regular basis. We have one situation where the affected catch basin is over 100' away; I can not imagine an employee routinely walking to and from this catch basin every time they fueled a vehicle. Another fact that this requirement does not take into consideration is locations where fueling takes place on a near-continuous basis. Our vehicles are usually re-fueled by a specific crew during a specific shift which could result in fueling taking place continuously for four 2-hour stretches during the day (an 8-hour day

broken up with two 15-minute breaks and a lunch). If it was to be raining heavily during one or more of these 2-hour stretches, where would the stormwater go? The requirement to have a nearby spill kit equipped with a drain cover is much more practical and should provide adequate protection.

P. 18 S3.B.3.b.i.5.e

Language should be clarified to indicate whether or not a fueling operation is considered a "transfer operation". The required use of drip pans during fueling operations would be excessive.

P. 18 S3.B.3.b.i.5.f

Storage of damaged or otherwise leaky equipment indoors is sometimes not feasible. We frequently have several damaged buses in our yard at a given time, exceeding our indoor storage capacity. Provide for alternatives such as the use of drip pans and/or secondary containment.

P. 18 S3.B.3.b.i.5.g

The first line in this sub-section seems to be part of section "f" above. Compliance with the second line of this requirement is not always legally feasible as warranty claims and/or other on-going investigations might specifically prohibit us from removing fluids from a vehicle before said investigation is concluded. Provide for alternatives such as the use of drip pans and/or secondary containment where needed.

P. 18 S3.B.3.b.i.5.h

Include a minimum cut-off for this requirement, otherwise every spilled drop of oil will technically need to be included in the spill log. Recommend that the word "significant" be added to this requirement once the term has been properly defined ("significant amount" as defined in Appendix 2 might be suitable).

P. 19 S3.B.3.b.ii.1

The wording in this statement does not seem to allow the same freedom as the SWMM itself does. For example, under "BMPs for Fueling At Dedicated Stations" as shown within the SWMM for Western Washington, the "applicable" structural source control BMPs are only mandatory if the site is new or if a significant remodel is conducted at the site. If the intent is to truly require these "applicable" source control BMPs at all locations, then July 2010 (S3.B.3.b) does not provide nearly enough time to budget for and accomplish this body of work. Such work might not even be necessary if the facility is able to meet benchmark levels with its existing infrastructure.

P.19 S3.B.3.b.iii

It should be made clear that treatment BMPs only need to meet current standards if the site is significantly redeveloped and/or if it is not meeting discharge limits (as in Levels 3 and 4). Otherwise, it is hoped that the intent of this section is not to require existing facilities to comply with current standards (e.g.- the elimination of any "grandfather" rights).

P. 20 S3.B.3.b.iv

The layout of the various sub-segments (1 through 4) is somewhat confusing as to who is supposed to do what. On first glance, it appears that everyone needs to include "appropriate"

flow control BMPs and a narrative for their site. Should this not instead read that "appropriate" flow control BMPs are only required of new and significantly modified facilities?

P. 20 S3.B.4

Add language to sub-section "a" to specify "as needed". Sub-section "b" makes it sound as if it is the filtration BMPs that would be "doing" the maintenance of removing sediments from catch basins, sumps, etc. Language should be clarified to reflect that filtration BMPs are a preventative measure.

P. 21 S4 General comments

1) The loss of the ability to average out samples during a given quarter greatly reduces the ability to compensate for unusual events ("outliers", if you will) in the data set. Several highly likely scenarios exist that can produce such outliers including: sampling during a particularly heavy storm after a long dry spell, sampling after stormwater pond maintenance, sampling after sanding has been conducted during the winter, etc. The Fact Sheet associated with this permit admits to such circumstances and the high variability of stormwater quality runoff, but as-is the permit does not provide sufficient means to address these outliers. Considering that an exceedance will remain on a permittees "record" for the life of the permit, some additional leeway should be given. The ability to take a sample at any time during a storm event is a step in the right direction, but not necessarily a large enough one when every single sample taken is supposed to be reported to Ecology and could potentially form the basis for an exceedance.

2) It seems wasteful that facilities which have reached consistent attainment for a given parameter under the old permit must resume sampling even though the sampling requirements for the 4 core sampling parameters have been loosened as compared to the old benchmarks. If Ecology's standpoint is that this is a new permit, requiring re-verification of compliance, than this is also an argument in favor of re-setting everyone's corrective action level to "0".

P. 22 S4.B.2.e

Requiring that all samples must be taken downstream of on-site BMPs ignores the fact that not all downstream sample points might be safe and accessible during storm events. Perhaps allow for "primary" and "secondary" sample locations along the same outfall "train". We have had several occasions where the primary sampling location has been flooded out, forcing us to move upstream along the same stormwater management system to take samples at a secondary sample point. Under the existing permit, such a change in location would create a gap in our sample records (eliminating our "consistent attainment" count) even though we were sampling from the same stream of water. If anything, the only detriment to allowing a secondary sample point such as this would be to us, the permittee, as the secondary sample point might be upstream from treatment. Language could be inserted such that all secondary sample locations must be downstream of any "T"s or similar joining of distinct flows.

P. 22 S4.B.4

Under the proposed language, permittees will quickly realize that a 3-ring binder is not sufficient; the "SWPPP binder" will quickly become the "SWPPP box". In an effort to conserve paper and reduce storage requirements, especially at multi-facility organizations, it is recommended that Ecology allow a summary report to be kept in the on-site SWPPPs instead of full lab reports.

P. 23 S4.B.5

It is recommended that Ecology allow the original records to remain at a separate location other than the permitted site to allow for improved document protection. We have had more than one field copy of a SWPPP disappear as various people have decided to clean out an office space.

P. 23 S4.B.6

It is recommended that the same process of consistent attainment be used for reducing a facility's response level. Otherwise, it would be possible for a facility to have achieved consistent attainment for a parameter (perhaps due to facility improvements) yet still remain at Level 3 indefinitely. In Ecology's own language as per the associated Fact Sheet, having achieved consistent attainment is a good indication that the given parameter is well under control at that particular site. Admittedly, having only one response level per facility complicates matters when there are multiple parameters being sampled for (e.g.- one parameter might reach CA while another still remains troublesome). The solution to this would be to have different levels of response for each parameter. This would complicate record-keeping, surely, but I am certain that most permittees would gladly agree to the added complexity in exchange for having a method to reduce their response level.

P. 23 S4.B.6.c

It is highly unlikely that a given chemical would not be detected in any concentration. Please provide a site-specific benchmark level which would allow one to potentially reach consistent attainment for a 303(d) chemical, otherwise a facility might be committed to continual sampling for a given parameter even if it is only present at miniscule levels. The Fact Sheet associated with this draft of the permit seems to partially address this short-coming by stating "when analytical detection levels are lower than the pollutant criteria", but no such language was carried over into the permit itself.

P. 23 S5 General comments

- 1) The very low limits for metals, especially for copper, will likely push facilities to seek local sewage lines as a discharge option, a potential challenge for local wastewater agencies and Ecology. This may not be a bad thing, but such ramifications should be monitored and considered.
- 2) The tables in S5 (tables 2-5) appear to have parameters inconsistently listed which could lead to confusion and potential calls by users. It would be good if Ecology fixes them. For example, when ammonia is listed in table 4 and in table 3, #4- Air Transportation, it's not specific to type of ammonia whereas in table 3, #3 - Hazardous Waste Treatment, it is very specific (ammonia, total, as nitrogen); in table 3, lead is listed as *Lead, Total* with analytical method specified as 200.8 and then in same table arsenic is listed as *Arsenic, Total Recoverable* with the same analytical method 200.8. This type of inconsistency could lead one to believe there is a difference but "total recoverable" is the same as "total". We recommend Ecology to review tables closely and standardize them to avoid confusion and reduce the risk of receiving incorrect data.

P. 24 S5.A.2

There appears to be no differentiation between a natural/organic sheen and a petroleum-based

sheen. Admittedly, natural sheens are much less likely in flowing water (as seen during a storm event), but that does not void their existence. We have frequently seen such non-petroleum sheens in our water quality vaults in between periods of rainfall. This sheen behaves a bit differently than petroleum sheens, "cracking" and acting more like a solid than a liquid, but it is definitely a sheen.

P. 25 Table 3

Based on our own "limited" set of sampling under the current permit, the 14µg/L requirement for total copper seems unreasonably low and is not necessarily representative of a facility in the metals fabricating business. In fact, our one facility which does fall under SIC 34XX would be the one least likely to exceed this standard while our other facilities, where copper might originate from tire dust, atmospheric deposition, brake dust, sand, etc., would be the ones most likely to fail. Thankfully, the vast majority of sites are not expected to meet this total copper standard under the current permit, but since future "back-sliding" would not be allowed, we ask that the benchmark level for this parameter be more slowly ratcheted down so as to give permittees, and treatment technologies, time to catch up.

P. 26 S5.C.1

No "following activities" are listed.

P. 27 S5.D

It would seem that Ecology could provide some standardized guidance for some of these conditionally authorized non-stormwater discharges instead of making each and every permit holder conduct a relatively thorough analysis of such common measures as fire system flushing, irrigation drainage and foundation drainage. Either these discharges are a problem for which standard BMPs should be created (SWMM) or these discharges are not reasonably expected to pose a threat. It seems impractical to expect every typical small business owner to evaluate what pollutants might be present in their foundation drainage water.

P. 29 S5.F.2

Please specify "man made floating debris" lest this statement be interpreted to include natural floating debris such as leaves and pine needles. In this sense, "trash" alone might be sufficient as it usually denotes a man-made material.

P. 32 S7.A.1

Speaking as someone who is responsible for overseeing 6 permitted facilities, visiting each site monthly will have an appreciable impact on my workload, not necessarily due to the length of the inspection, but due to the amount of travel time involved. Unfortunately, establishing a person at each site to conduct these inspections is not practical in our organization owing to the division of labor. Recommend that the visual inspection frequency remain quarterly or, at most, twice quarterly. If twice quarterly, one site visit could be conducted during a storm event (in conjunction with the collection of stormwater samples) while the other could be conducted during a dry day.

P. 32 S7.A.2

Based on past experience with Ecology's ability to deliver a product (specifically, an eDMR), it is unfair to require permittees to comply with a program that Ecology has yet to develop.

Though a reasonable requirement in itself, this is one that should be deferred until the next permit revision so as to ensure such a certification program is actually in place before the deadline stated in the permit.

P. 33 S7.D

It seems very harsh to require the permittee to contact Ecology as outlined in S9.D for every minor infraction that would count towards "non-compliance". Considering that non-compliance might include such simple items as a mop bucket having been pushed outside or a bulk storage pile being temporarily uncovered, such contacts would likely be constant and trivial. Unless the infraction is repeated or is otherwise significant, the only requirement should be to have the matter addressed in-house as quickly as possible.

P. 33 S8 General comment

In general, it is disappointing to see that there is no way to drop down on the corrective actions list. A permittee could have just spent \$20 million on installing additional stormwater treatment units and you would still be listed as Level 2 or 3 (or now 4) with all of the penalties that entails. The downgrading of Level 3 facilities to Level 2 is a nice gesture, but better still would be for all Level 3 facilities to go to Level 2 with all Level 2 facilities dropping off of the list in Appendix 6 all-together. The fact sheet associated with this permit points to the varied nature of stormwater, but this one-way progression of response levels does not allow any wiggle-room for outlying data points associated with maintenance, sampling errors, etc. (see additional comments related to this topic throughout).

P. 33 S8.A

Though it initially seems good that a Level 1 response can only be called for once, our experience has shown them to be a useful tool for taking a closer look at a given facility and what might have caused the exceedance. By removing the requirement to conduct a Level 1 response with every exceedance, a lot of impetus is removed to re-examine a facility until Level 2 is reached. Perhaps an appropriate change in semantics would be to eliminate the official Level 1 response all-together and replace it with the requirement to produce a "follow up report" for all exceedances with this report being, in essence, a Level 1 report as it exists under the existing permit.

P. 36 S8.D

I applaud the addition of a Level 4 that requires involvement on the part of Ecology. In many cases a facility has progressed this far along in the process because the property manager does not know what else to do. By bringing in an expert from Ecology, the entity could hopefully receive the attention that it needs.

P. 38 Table 6

Six months is insufficient time for the addition of new structural and/or treatment BMPs. In our organization, large-scale projects might have to be scheduled into the next biennial budget cycle which could defer its completion for several years. Even though completing a *Modification of Permit Coverage* could extend this timeline appropriately, the fact that the extension must be submitted 60 days before the 6 month deadline means that a permittee would only have 4 months (or possibly less if the sample was taken near the end of a quarter) to determine if you even need an extension.

P. 40 S9.D.1

Countless stormwater systems have been designed over the years with intentional bypass systems for when storm levels exceed a set design threshold. The current language of this section would have permittees notify Ecology whenever one of these bypass systems is operated as designed (note that this same language exists in G25.a.4). Such a requirement seems excessive for a properly designed stormwater system. If the intent was to only require such notification in the case of a bypass during "stormwater events below the design criteria for stormwater management", as per G25, then this extended definition of "bypass" should be explicitly spelled out. The definition of "bypass" in Appendix 2 should also be appropriately modified.

P. 41 S9.E

There is no mention in this section of the ability to withhold confidential information from the public as is mentioned in S3.B. Considering this is the section that specifically deals with "Access to Plans and Records", this would seem to be the appropriate place to mention this.

P. 48 G21

This section appears to be a nod towards the fact that stormwater systems do need periodic maintenance and that said maintenance may in fact temporarily impair discharge water quality, but there is no indication as to what Ecology will do with the notification of anticipated non-compliance. This attitude promotes the tactic where maintenance is deferred until the point of system failure instead of promoting routine maintenance as permittees must fear each and every single exceedance as it counts towards a "lifetime limit" of exceedances on the one-way road to Level 2, 3 and 4 responses. A perfect example of why this system needs to be remedied is stormwater pond maintenance, a task which even in the best circumstances (a dry stretch during mid-summer; work followed by appropriate erosion control BMPs; etc.), will likely result in turbidity exceedances for the next 2 quarters. As-stated, what motivation does the permittee have to perform preventative maintenance to prevent the failure of the stormwater pond? It is strongly recommend that Ecology provide a way for sampling of certain parameters to be temporarily waived and/or ignored in light of expected exceedances. Another example would be the sampling of turbidity following a major snow event where sand was likely used; could there not be a waiver in deference to this short of the *Modification of Permit Coverage* process?

Fact Sheet

The Fact Sheet attached to this draft of the stormwater permit does not appear to have been updated properly since the preliminary draft. The section covering G21 in the fact sheet, for example, does not refer to G21 as in the permit. If this document is to become part-and-parcel of the permit, then all such discrepancies should be corrected as possible.