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RE: Comments on the Public Draft Industrial Stormwater General Permit Issued for Public Comment on November 21, 2007.

The purpose of this letter is to provide my comments on the Public Draft Industrial Stormwater General Permit (ISWGP – Draft Permit) Issued for Public Comment on November 21, 2007. I appreciate the opportunity to submit these comments, and for the opportunity to participate in this process, as I have worked with clients located throughout the entire State of Washington for over a decade to help them comply with various versions of the ISWGP.

**GENERAL COMMENTS:**

It has been brought up in the past by commentors on the February 2007 Draft ISWP, and it seems evident in this Draft ISWGP, that Ecology continues to assume that stormwater being discharged from facilities covered by the ISWP represent a significant source of harm to water quality. I believe, as do most other people, that stormwater is definitely ***a significant source of pollutants to surface water bodies.*** However, I agree with past commentors, and want to point out ***again,*** that stormwater from industrial facilities covered under the ISWGP is only ***a minor fraction all stormwater run-off in a watershed***. This is like trying to save the dam by sticking your finger in the hole. Not a very sound way of approaching the problem. The Port of Seattle provided a very relevant example in their comments on the February 2007 Draft ISWGP. They pointed out that in the Lower Duwamish watershed industrial outfalls represent ***less than 10%*** of the surface area within the total basin area (surface area translating to run-off volume contributed to the watershed). I don't believe that decreasing the benchmark levels, and forcing all permittees to install additional treatment BMPs to meet the benchmark levels, will ensure that water quality standards (WQSs) will be met in the receiving water. Considering the new proposed benchmark for copper there may not even be technologies that can treat stormwater to this level.

Even if all of the industrial facilities covered by the ISWGP in the Puget Sound watershed were able to meet the benchmark levels ***it would not*** ensure that Puget Sound would meet it's WQSs. The only way to ensure this is through a watershed approach. The TMDL process is the superior approach to ensure that WQSs are met. This approach identifies the significant contributors of the pollutant of concern and requires these significant sources, through waste load allocations, load allocations and control measures, to reduce their pollutant loads in order to eventually achieve WQSs. The ISWGP is not the appropriate mechanism to try to ensure that WQSs are met because it focuses on too few sources in a watershed. The only way to improve the water quality in Puget Sound is to address ***ALL urban run-off*** not just the few industrial facilities permitted under the ISWGP that are located in this watershed. It is more scientifically sound to first identify if there is an impairment using the 303(d) process then, if there is a problem, it is far superior to determine the true cause of the problem using the TMDL process (or a watershed management plan) to determine the significant pollutant sources in the watershed and then rigorously address these sources. Rather than trying to improve the quality of a water body through mandating the treatment of stormwater from very few sources in the watershed that may not even be the significant sources.

The current ISWGP seems to assume that permitted industrial facilities are a significant source, and do cause water quality violations, just because a benchmark is exceeded. This has not been proven or substantiated. This is why most state's ISWGPs are technology based and if measures such as AKART are met then it is assumed that WQSs will not be violated. The Draft ISWGP costs permittees a great deal of resources (e.g., money, time, talent) to comply with and puts them at risk to citizen lawsuits without even knowing if the facility is causing a water quality violation. The benchmarks should be used as ***very basic guidance tools***. Stormwater monitoring is not an exact science and obtaining good samples is extremely difficult, especially at facilities that discharge via sheet flow over dirt parking lots. The monitoring results can be extremely variable based on the storm event being monitored, the run-off intensity, the antecedent period, the skill of the sampler and many more issues. By assuming, without any site specific information, that the monitoring results are absolute indicators on their own of a potential for water quality violations in the receiving water is an extreme leap of non-science. If the seasonal medians continually exceed benchmark levels this should be nothing more than an alarm bell that the Region Ecology Industrial Stormwater Inspector should coordinate with the permittee and they should develop a site specific plan of action together.

The ISWGP should only require facilities to comply with the BMPs outlined in their SWPPP, the reporting requirements and AKART. It should go no further than this. If monitoring indicates the ***potential for*** water quality violations, based on continual seasonal median benchmark exceedances, the Regional Ecology Industrial Stormwater Inspector should visit the facility and work with the permittee to determine the next steps that need to be taken based on site specific conditions. The Region Ecology Industrial Stormwater Inspector and the permittee may agree after the site visit that…

- An individual permit is necessary based on volume of run-off, pollutant levels in the run-off and proximity of the discharge point to the receiving water.
- The facility should complete a modified or complete engineering report in compliance with WAC 173-240-130.
- Compliance with the general requirements of the ISWGP, SWPPP and AKART are sufficient to ensure that the stormwater from the facility does not have a reasonable potential to violate WQSs due to distance and flow path to the receiving water and volume of run-off.

The bottom line is that the extreme requirements of this ISWGP, that go beyond just applying AKART, such as requiring ***all*** facilities to complete an engineering study really should not be part of a general permit. If it gets to this point the facility should be under an individual permit.

**More on the Watershed Approach:** I have worked in over 40 states to develop and implement programs to comply with NPDES/SPDES industrial stormwater general permits. The majority of them don't even require analytical monitoring, other than perhaps visual monitoring, for all permittees. For those few states that do require analytical monitoring for all ISWGP permittees it is my feeling that the approach to better water quality is using the watershed management approach. Rather than trying to get individual facilities to comply with benchmarks (as if they were effluent limits) a more useful approach is to first go through the 303d process to determine if a water body is impaired then, if impaired, using the TMDL process to determine the significant sources of the pollutant of concern in the watershed. Once the significant sources have been determined then Waste Load Allocations (WLA) can be established for these sources. This assumes that stormwater is a point source rather than a non-point source for which load allocations will be established. It is my belief that an ISWGP is not the appropriate mechanism to ensure against broader water quality problems. Currently only a little more than 1100 facilities are permitted in Washington under the ISWGP. Granted there are most likely many facilities that require permit coverage that either don't understand they need permit coverage or are potentially ignoring obtaining permit coverage. However, even if 5 times more facilities obtain permit coverage under the ISWGP there will only be 5000 to 6000 facilities in the entire state under permit coverage. Even if all 6000 hypothetical facilities meet benchmark levels it will ***NOT*** ensure that all water bodies in the state meet their WQSs. In some areas in eastern Washington there may only be one or two

industrial facilities that require permit coverage in an entire town. Having these one or two facilities spend extraordinary amounts of money trying to treat stormwater run-off to meet benchmark levels from a small dirt parking lot at a small leased facility in a small rural town seems like a futile waste of resources since meeting the benchmarks at these two little facilities will not significantly improve the water quality of the receiving water. I would rather have these permittees pay a higher permit fee that goes into funding more watershed management studies.

I think there are some citizen proponents of strict monitoring requirements (i.e., treating benchmark levels as if they were defacto effluent limits) with stiff penalties for exceeding benchmarks who think that "most" industrial facilities are actually permitted. This is absolutely not the case and all concerned parties need to understand this. They need to understand that trying to reduce the pollutant load to the receiving water by meeting the benchmark levels at only the few facilities in the watershed that are required to obtain coverage under the ISWGP will absolutely ***NOT*** ensure that the receiving water will meet WQSs. Only a watershed approach will do this. One example would be a small facility (Example Facility Description: size of a small rural post office with a small parking lot for customers and employees; barely bigger than most gas stations; may be the only permitted facility in the entire town; they are consistently not meeting the zinc and turbidity benchmarks because they leased ***part of a*** corrugated metal building and their parking lot and the City's access road are dirt; there are 10 to 15 other tenants in this small rural industrial complex and none of the other tenants are required to obtain ISWGP coverage). The one facility described above that was required to obtain coverage under the ISWGP has spent literally tens of thousands of dollars trying to put in storm drain filtration inserts, trying to figure out how to collect a sample that is representative of just their run-off since everyone in the complex discharges via sheet flow to a few common storm drains, cleaning the common use storm sewer system in their area of the industrial park and complying with the reporting requirements. It is very hard to believe that the receiving water in this town will be improved by having this one small facility meet the benchmark levels. What happens when they move out of this facility and another tenant takes over the lease and the new tenant doesn't have to obtain ISWGP coverage? The storm drain insert will be removed and all other improvements will be removed or left in disrepair. The only way to ensure that WQSs are met in this receiving water is through a watershed approach that focuses on ***specific significant sources of the pollutant of concern*** and doesn't focus on a generic list of facilities that may or may not be significant sources.

Most studies have shown, and most TMDLs reflect, that the significant contributors to an impaired water do not usually include stormwater from ***permitted*** industrial facilities. There are very few TMDLs that reflect WLAs for stormwater run-off from ***permitted*** industrial facilities. It has been shown that if stormwater is a significant source of the pollutant of concern it is ***general urban run-off*** (e.g., from highways/roads, residential areas, malls, shopping centers, banks, large office buildings, churches, etc, etc, etc), not just stormwater from permitted industrial facilities, that is the primary source. We as a society are missing the big picture and addressing the wrong problem if we assume that meeting the benchmarks will ensure that the WQSs of the receiving water will be met. The ISWGP is not the right mechanism to address surface water impairment issues.

Trying to improve water quality on a State wide basis by trying to control the stormwater run-off quality from only a relatively few facilities will not help. A better approach is the watershed management approach that is discussed above. Determine if a water body is impaired, if impaired develop a TMDL that addresses the significant pollutant contributors. Other states have grasped this approach by incorporating this requirement into their ISWGPs. These states have written into their ISWGP a clause that requires permitted facilities to determine if they are subject to a TMDL WLA, load allocation or control measure and to incorporate these requirements into their SWPPPs. Some states have indicated that if the permittees are subject to a WLA then they are no longer eligible for general permit coverage and must obtain an individual permit that takes into account the WLA. Based on the results of the TMDL process the TMDL writer may decided to address the significant sources by modifying a municipal Phase II permit requiring the City to write various ordinances to address various sources discharging into their MS4.

General industrial stormwater permits should be for facilities that have been determined to be fairly low risk to contributing to water quality violations and should therefore require facilities to develop a Stormwater Pollution Prevention Plan (SWPPP) to address general best management practices (BMPs) to ensure the stormwater discharging from the facility is as free from pollution as possible (i.e., comply with AKART). Just because the stormwater from one of these facilities exceeds a benchmark it should NOT be immediately assumed that this is causing a water quality violation in the receiving water. The benchmark exceedances should only be used as a guide to determine if BMPs at the facility are working properly and to provide Ecology region personnel with a list of priority facilities they should visit to determine the circumstances behind the exceedances and determine whether they feel that the benchmark exceedance is indicative of a reasonable potential for a water quality violation due to the volume of the run-off, the flow path to the receiving water, the proximity of the receiving water to the discharge point, current water quality data available on the receiving water and whether the facility is doing everything reasonably possible to control pollution at their facility. Reasonable is NOT having a facility in a rural area pave their tiny little parking lot and tear down their roof and replace it with a non-metal roof when they are surrounded by other facilities exactly like them that are not covered by the permit. This little facility may not even be a significant contributor to water quality impairments because there is very little volume of run-off from the facility and most of the run-off discharges to open grassy fields. The current Draft ISWGP is using benchmarks VERY much like effluent limits even though the permit indicates differently. If the benchmark were truly just a guide then they would be used first as a feedback mechanism for the permittee to see if there are improvements they can make to reduce the pollutant load, then if the seasonal median benchmark exceedances continue, the Region Ecology Industrial Stormwater Inspector could visit to make a site-specific determination. Currently, we are using a one size fits all approach as if exceeding the benchmarks would ***in every case*** result in a water quality violation in the receiving water. If that were the case then we have a much bigger problem on our hands that we are not addressing since the quiet street that we live on, the parking lot at the church, supermarket, bank, Doctor's office we go to, the roads we drive on are all causing water quality violations because stormwater from all these sources will most likely exceed the benchmarks for zinc, copper and turbidity and these sources generate a far greater volume of stormwater run-off in a watershed than the facilities under the ISWGP.

As a society we need to understand more about the source of impairments. Using zinc as an example, if a water body is impaired for zinc then the TMDL writer should determine what the significant sources of zinc are in the watershed of the impaired water body. If they determine that a significant source of zinc is from stormwater discharges from a few specific permitted industrial facilities, the TMDL can address these sources by either requiring those industrial facilities to obtain individual stormwater permit coverage or by requiring them to incorporate the WLA from the TMDL into their SWPPPs. If the TMDL writer determines general urban run-off is a significant source of zinc, which they most likely will, then we have a bigger problem that will not be addressed by requiring a few permitted industrial facilities in the watershed to meet the zinc benchmark. What do we do with all of the houses that have metal roofs and metal gutters, all of which are significant sources of zinc? What do we do about all of the cars on the road (private, commercial and industrial) that are significant cumulative contributors of zinc? Under this scenario we can decide if we need to treat metal building components (e.g., roofs, gutters, downspouts, guard rails, chain link fences, light poles) like we treated asbestos and lead in gasoline – as a major threat to public health and the environment - and regulate the source. We can also address this scenario through City/County zoning codes that only allow a certain density of metal building components before you have to use another type of building material, coat metal building material or install some kind of stormwater control structure such as a detention pond or wetland area to treat the stormwater. Trying to force only those few facilities in the watershed that are required to be covered by the ISWGP to meet the benchmark levels is ***not addressing the real problem***. Requiring small rural facilities (or even large urban industrial facilities) to install tens of thousands of dollars in treatment controls and tens of thousands of dollars on engineering studies and water quality studies is not going to ensure that water quality problems go away and is a sad waste of society's resources, focus and the time of talented people. Until you determine what the real problem is (i.e., determine which water bodies are impaired for what pollutants) and then determine what the true causes of the problem are (through the TMDL

approach) we will not get control of the water quality problems. The resources spent by industry trying to meet the benchmark levels and the time spent addressing report after report by talented people could be better spent on addressing the watershed approach noted above. Permit fees could be increased and redirected to watershed management plans. If some of the older TMDLs did not specifically address stormwater as a point source but established a general load allocation for stormwater, this money could be spent on developing a watershed management plan (I understand that Ecology doesn't have the resources to redo the TMDLs). The ISWGP should be used as a general measure to ensure against gross contamination of stormwater run-off (i.e., prevent the run-off from the industrial facilities from being more polluted than those facilities located around them and than general urban run-off from commercial and residential areas) . The ISWGP should not be used to require facilities to meet benchmark levels as if they were effluent limits since, as stated above, this will not ensure that WQSs are met in the receiving water. There are many, many other mechanisms to do this such as the water shed approach mentioned above, local zoning codes, municipal Phase II permits that result in zoning/ordinances and switching high risk facilities over to individual permits based on the expertise of the Region Ecology Industrial Stormwater Inspector.

**Reporting Requirements:**
The reporting requirements in this ISWGP are unnecessarily onerous and very confusing. I suggest that they be simplified to one DMR per year due in June so that the seasonal median can be reported and all of the rest of the new reports (e.g., Forms 4, 5 and 6) be eliminated. I also suggest deleting the requirement for the engineering report under the Step B Corrective Action unless it is determined by the Region Ecology Industrial Stormwater Inspector and the permittee that this is the right course of action at this specific facility based on site specific conditions. Just because a facility submits one of these new reports isn't a good indicator of their overall compliance with the permit. Increasing the reporting requirements often results in less compliance because of confusion and the permittee being overwhelmed by just the sheer volume of reports they need to track, develop, implement and submit. I work with several companies with multiple facilities located all over the state. It is going to be a nightmare to just track the due dates for all these reports. These onerous and confusing reporting requirements also subject the permittee to the liability of citizen lawsuits just because of paperwork issues. It will seem to some that just because a report is not done on time or not done properly that that permittees is automatically a "polluter" and should be punished. This is NOT always the case.

I am a proponent of decreasing and simplifying the reporting requirements to ensure permittees can understand and comply with the requirements. It seems to me that the Draft ISWGP requires reports about reports and that it assumes all permittees are, and have been, non-compliant and must stand in the corner like naughty school children. How does this ensure that the WQSs are met? I would rather have the permittees spend their time and financial resources on investigating new treatment BMPs, on storm sewer cleanouts and maintaining their existing BMPs, not on producing reports to placate those who have never even had to write a Stormwater Pollution Prevention Plan (SWPPP), implement a SWPPP or develop/implement a stormwater monitoring program. I don't know of any other state that requires this many reports to be completed and submitted and I am not sure what good it is supposed to do other than address the concerns of a few citizens who don't really fundamentally understand the whole process, how difficult it is and that not all permittees are non-compliant. Increasing the complexity of the reporting requirements does not ensure WQSs are met and requires permittees to spend their limited financial and time resources on requirements that have no significant environmental benefit.

If you think this is easy you try it for a year at several Ecology regional offices. I suggest implementing all of the ISWGP requirements (e.g., monitoring, reporting, everything) to experience the level of difficulty in complying with the Draft ISWGP. This exercise would provide valuable feedback to Ecology concerning whether the benchmarks are met at a representative outfall and whether the reporting requirements were easily implemented and of any benefit. If any citizens are interested in implementing the program I would be happy to provide some assistance in setting up the monitoring program with them so that they could test the stormwater at the end of the street they live on.

**Please address in your response to comments:**

1) Comment on the above watershed approach and whether or not it would not be a better use of resources and to ensure that all of the water bodies in the State of Washington meet their water quality standards.

2) Explain why the benchmarks should not be used as just guidance, as they are intended, so that the facility can make adjustments to their BMPs then, if improvement is not made, the Region Ecology Industrial Stormwater Inspector can make a trained professional judgment based on site-specific conditions on whether or not additional measures are required or if an individual permit is required rather than the one size fits all approach assuming that exceeding a benchmark automatically results in a water quality violation in the receiving water.

3) Please have someone from Ecology's TMDL Watershed Group respond to the following questions and please provide their name and title in the response to comments:

   a. If all of the current facilities covered by the ISWGP, and those facilities that potentially need permit coverage but don't have it, meet their benchmark levels continually will this ensure that water quality standards are met in all of the states water bodies?

   b. If all of the current facilities covered by the ISWGP meet their benchmark levels continually will this make a significant improvement in the quality of the water bodies in the state?

   c. Will the watershed approach noted above be a better approach to ensure that impaired water bodies in the state improve and eventually meet their WQSs by addressing significant sources rather than a generic list of facilities in the watershed? If not, why not?

   d. Has the TMDL group contributed to this Draft ISWGP to ensure that the two programs are coordinating their goals? The ISWGP should be blended into the watershed management approach rather than standing alone. The two programs should be complementing and building on each other's respective knowledge to meet the same goal – having all water bodies in the state meet their WQSs.

**SPECIFIC ISWGP SECTION COMMENTS:**

**S3.B.3(a)(v)(E) - Employee Training:** "The Permittee shall attend at least one Ecology-approved industrial stormwater training session…" Who exactly is the "permittee" in this statement? If a company has multiple facilities can the permittee send one person that coordinates the program at all of the company's facilities throughout the state? What exactly is an "approved industrial stormwater training session"? Where will these be located? How much will they cost? Can Ecology provide this training on-line so that it can be done without travel expenses and so that time off work is limited? If Ecology keeps this requirement in the ISWGP please provide an on-line free training that can be done at the convenience of the permittee with only minimal expense.

**S3.B.3(c )(ii) - Treatment BMPs:** "At a minimum the SWPPP shall include a narrative that describes how the permittee determined that treatment BMPs are required." Please provide clarification concerning this requirement. I am not sure what Ecology would like the permittee to include in the SWPPP to comply with this requirement.

**S4.B.1.b**: I recommend that the requirement to obtain one sample from the first discharge in September be revised to require the permittee to collect a sample from a discharge "in September". The revised sentence would read, "The Permittee shall take at least one sample from each designated location during a discharge in September." It will be very difficult at some facilities to actually be aware of the first event that produces a discharge in September (e.g., there are only 5 people working at the facility and they are only there for a few hours in the morning and a few hours in the evening; the offices of the facility monitoring personnel are located inside the building with no windows; the person trained to monitor at this facility is sick or on vacation that day). We understand the desire to sample the first seasonal flush; however, this requirement will be extremely difficult to comply with for a lot of permittees.

**S5.A.6:** Please provide a specific due date (e.g., within 24 hrs) instead of using "immediate" to describe the required threshold notification.

**S5. Table 2:** Revise the turbidity benchmark to 50 NTU's, which is the EPA's benchmark level in the proposed MSGP 2006. The fact that the current benchmark level of 25 NTU's was based on field observations by Ecology staff seems to be a peculiar way of determining a scientifically valid (not arbitrary and capricious) way of establishing a benchmark. Increase the copper and zinc benchmarks using a reasonable dilution ratio, such as 6 used by Oregon.

**S5.B. Air Transportation**

**Comment - Table 3:** Footnote "e" indicates ammonia and nitrate/nitrite as nitrogen are only required if the permittee uses more than 100,000 gallons of glycol-based de/anti-icing agent or more than 100 tons of urea on an average annual basis. Do these threshold values also apply to $BOD_5$?

**General Comment**: **Tenants of Airport Facilities** – Please modify this section of the permit to indicate that permittees that are tenants at airport facilities waive the monitoring requirements in S5, as they should be able to fall under the Airport's monitoring program that is in compliance with S5. It makes more sense to monitor the stormwater runoff at the outfalls of the entire airport complex, downstream of the treatment BMPs installed by the Airport, rather than in common use areas (e.g., ramp areas) that are impacted by many tenants and activities that are not the responsibility of the permittee. Monitoring at the outfall of the entire airport complex is a better representation of the effluent that impacts the receiving water and this should be the representative point for all permittees that are located at airport facilities. The tenants can comply with the visual monitoring requirements and all other requirements of the ISWGP.

**S5.D.2.c:** Do you have to dechlorinate potable water sources if you are just washing off the outside wall of a small building located at a small strip mall to get dust and spider webs off the bricks? Do you have to dechlorinate if you are washing off a sidewalk in front of your industrial facility (which just looks like an ordinary store front in a strip mall) to remove dust and debris so that it looks nice? Please clarify when the permittee must dechlorinate potable water sources and provide examples of easy methods to do this.

**Section S6. General Comments**

**Determination of Dischargers to Impaired Waters:** Please provide specific clarification in the ISWGP concerning how Ecology determines if a permittee must comply with the additional permit requirements for discharges to impaired waters. Currently the permittee is not made aware of the process that Ecology uses to determine if they discharge to an impaired water. This process should take into consideration the distance of a facility from the receiving water and the flow path to the receiving water, whether the ultimate discharge point is above, within or downstream of the impaired segment. There are examples of very small facilities located several miles from the receiving water that discharge the majority of the stormwater from the facility to surrounding grassy fields or to a vegetated roadside ditch located miles away from the receiving water. An example of this methodology is given in the Georgia general industrial stormwater permit. The Georgia EPD only requires permittees to comply with the impaired water body permit requirements if stormwater from the facility discharges to, or within one linear mile upstream of and within the same watershed as, a water body listed on the current Georgia 303(d) list.

**Impaired Segment Information:** Please provide the impaired segment boundaries of the receiving water in Appendix 4 and Appendix 5 listings so that the permittees can verify Ecology's determination that they discharge to the impaired segment. It would be very beneficial if the information either included latitude/longitudes of the segment boundary or landmarks (see the Georgia EPD list for industrial permittees).

**S7.B.1 through 3**: Please clarify if the monthly inspections during the applicable reporting period have any specific restrictions concerning whether they should be performed during a storm event or during a dry day. S7.B.1 requires observations to be made at the stormwater sampling locations, S7.B.2 requires observations of discharges to ground and S7.B.3 requires observations for the presence of various pollutant types – do these required observations apply to the monthly inspections required by S7.A.1? If so, does that mean we are required to perform the monthly inspections required by S7.A.1 during a rain event? What happens if it doesn't rain (e.g., ice and no snowmelt) during the month? I can understand requiring the inspection components to include S7.B.1 through 3 during the inspections required during sample collection (S7.A.2) but not for S7.A.1. Please clarify. Perhaps more information is needed to clarify the type of inspection that Ecology requires during the wet season (e.g., dry day vs wet day; does S7.B.1 through 3 apply to the inspections conducted in accordance with S7.A.1).

**S7.B.2:** What observations are we supposed to make concerning discharges to ground? Does this include all discharges to ground at the facility (e.g., lawns, mud puddles) or just through discrete conveyances such as drywells? If we need to observe detention ponds what do we observe? If we need to observe mud puddles what do we observe?

**S7.C.4:** If the dry season inspection is conducted on a dry day how are we supposed to make the observations required by S7.B.2 and 3?

**S7.D:** Please revise the second sentence of the first paragraph in this section to read, "The Permittee shall ensure each inspection report includes the ***applicable*** observations listed in S7.B."

**S7.D.3 –** It would be very helpful to understand what exactly Ecology means by "out of compliance with the SWPPP or permit". Please provide clarification in this section of the permit. If one of the SWPPP Housekeeping BMPs is to keep dumpster lids down, are we out of compliance with the SWPPP if the dumpster lids are found up during the inspection? This hardly seems worthy to report this as a non-

compliance. If there is a small stain on the pavement from a few drops of oil from a vehicle and this is noted on an inspection so that the facility will address the issue is this considered non-compliance? Please add clarification to this section of the permit indicating that a non-compliance is considered a gross failure of BMPs resulting in a release of pollutants to waters of the state.

**S7D.3 and S7.D7:** These are exactly the same paragraphs. Is that what Ecology intended?

**S8.A.3.b:** Please delete this requirement. The permittees should be allowed to close out the existing permit requirements and then start fresh with the new permit monitoring requirements. The new requirements will provide the permittee with an opportunity to obtain potentially better data due to the flexibility in the storm event criteria and will allow the permittee to use the seasonal median value, which takes into consideration the variability of stormwater monitoring results. If Ecology will not delete this requirement, please clarify what is meant by being "*in a Level 2 Response*". If we have submitted the Level 2 report are we no longer "*in a Level 2 Response*" or if a Level 2 Response was initiated at any time during the previous permit period are we still "*in a Level 2 Response*".

**S8.A.3.c:** Please delete this requirement. The permittees should be allowed to close out the existing permit requirements and then start fresh with the new permit monitoring requirements. The new requirements will provide the permittee with an opportunity to obtain potentially better data due to the flexibility in the storm event criteria and will allow the permittee to use the seasonal median value, which takes into consideration the variability of stormwater monitoring results. If Ecology will not delete this requirement, please clarify what is meant by being "*in a Level 3 Response*". If we have submitted the Level 3 report are we no longer "*in a Level 3 Response*" or if a Level 3 Response was initiated at any time during the previous permit period are we still "*in a Level 3 Response*".

**S8.C:** Please delete all of the reporting requirements with the exception of a final report due 18 months after the initiation of the Step A Corrective Action. These reporting requirements are onerous, confusing, costly and cause increased liability for lawsuits driven by not completing paperwork and don't ensure protection of the receiving water or ensure increased permit compliance. So why is Ecology requiring them? Those permittees that were complying with the permit reporting requirements under the current ISWGP will be the ones that comply with these new confusing, onerous reporting requirements and those permittees that didn't comply before will not comply with the new reporting requirements. Ecology is just penalizing the permittees that are actually trying the hardest.

**S8.D:** Please delete the requirement to complete an engineering report and indicate that continual seasonal median exceedances of benchmarks may result in a site inspection by the Region Ecology Industrial Stormwater Inspector to coordinate with the permittee on what to do next (e.g., individual permit, modified engineering report, implementing SWMM treatment BMPs that the permittee had not addressed, implementing new treatment BMPs that Ecology has become aware of recently, no action required).

The engineering report required by a Step B Corrective Action could cost the permittees between $10,000 and $25,000 to complete. Would it not be more prudent to have a Region Ecology Industrial Stormwater Inspector meet with the permittee so that he/she could understand site specific conditions that may have lead to the Level 3 Response for existing permittees or Step B response under the draft ISWGP? It will allow the Region Ecology Industrial Stormwater Inspector to determine, with the permittee, whether a full or partial engineering report would be of any value given the size of the facility, the volume of run-off produced from the facility the water quality information already known about the receiving water the flow path to the receiving water and perhaps TMDL information. The report should NOT be required automatically for all facilities without some kind of site specific assessment by the Region Ecology Industrial Stormwater Inspector. Then it should be up to the Region Ecology Industrial Stormwater Inspector and the permittee to develop a site-specific action plan that may include applying for an individual permit, completing a full or partial engineering report, installing SWMM treatment BMPs that the permittee had not recognized, assessing the full implementation of AKART

based on full compliance with the SWMM requirements. The cost of the engineering report could exceed the profit of a small business for an entire year. I again refer to the watershed approach as the superior method to ensure WQSs are met. It doesn't make sense to require facilities to pay this much for an engineering report if they are not a significant source contributing to the impairment. It would be much better to determine the best course of action on a case-by-case basis considering site specific conditions.

**S8.C.3 and S8.D.1:** What if we can't find technologies to meet the benchmarks, like for the new copper benchmark? What if a facility doesn't have the size to retrofit and build treatment BMPs? What if a facility is a leased facility and the landlord will not allow the installation of treatment BMPs? Some facilities are very small, as described above, some are located in small rural strip malls, some are located in small industrial parks where they are one of many tenants. Under these circumstances is it justified to automatically believe that the stormwater from the facility is violating water quality standards and that expensive engineering studies must be completed and expensive treatment BMPs must be installed?

**S9.A**: The October (west) and November (east) DMR submittals seem of little value other than being a mechanism for the submittal of the appropriate reports (e.g., Forms 3, 4 and 5). Permittees will not be able to report the seasonal median on the fall DMR and only if samples were collected prior to mid-September will the permittee have the results back in time to include them in the fall DMR. It seems to make more sense to limit the DMR submittal to only one report per year that enables the permittee to include the seasonal median. Please eliminate the fall DMR and only require permittees to submit the spring DMR.

Thank you for the opportunity to comment on the Draft ISWGP. If you have any questions concerning my comments please contact me at the number listed below.

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