



March 14, 2012

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Sent electronically to: industrialstormwatercomments@ecy.wa.gov

RE: Draft Modified Industrial Stormwater General Permit

To whom it may concern,

Thank you for the opportunity to review and comment on the Draft Modified Industrial Stormwater General Permit. The Port of Tacoma (Port) appreciates Ecology's effort to provide guidance to permitted facilities and clarify the rulings made by the Pollution Control Hearings Board, which requires changes to the sampling and corrective action requirements. Generally, our comments request clarification to aid in the implementation of the requirements and address concerns regarding proposed modifications.

We have formatted our comments to show the proposed permit language changes in blue italics and the Port's comments immediately follow each section of the proposed changes.

INDUSTRIAL STORMWATER GENERAL PERMIT

S2. Application for Coverage

B.1. Apply for modification of coverage at least 60 days before implementing a significant process change; or by ~~June~~ April 1st prior to a Corrective Action deadline, if requesting a Level 2 or 3 time extension or waiver request per Condition S8.B-D.

Comment:

This proposed change for the due date of the modification will inhibit the ability of the permittee to complete an appropriate analysis of potential source control Best Management Practices (BMPs). Ecology's *Modification of Permit Coverage Form* requires the Level 2/ Level 3 extensions requests provide a "technical basis for extension" and include "proposed timeline for completion and describe issues that affect completion date; for example, state/local permits, study, design, financing, professional services and contracting, etc."

Reducing the submission schedule does not allow enough time to provide all of the **technical** information that is needed for selecting BMPs that will solve the problem, provide source control and improve water quality.

The Port suggests that Ecology not change the application due date to ensure there is adequate time for facilities to investigate/analyze the problem, select appropriate source control BMPs and support the intent of this permit, which is to improve water quality stormwater discharges at industrial facilities.

S4. General Sampling Requirements

B.6.b.iii Permittees who suspended sampling based on consistent attainment of benchmarks for four consecutive quarterly samples must resume/continue sampling until four more consecutive quarterly samples (for a total of 8) demonstrate consistent attainment of the applicable benchmark.

Comment:

The purpose of this section is to prove the facility meets or exceeds the standard for stormwater discharge. Four quarters equates to an entire year of a five-year permit cycle. If the permitted facility has shown to consistently meet benchmarks over an entire year then that facility should be able to suspend sampling for those parameters. Retroactively requiring resuming sampling for an additional four consecutive quarters in the middle of the permit cycle is onerous for those facilities that have been in consistent attainment.

The Port requests clarification about when sampling needs to resume, since there is no effective date to this change.

S8. Corrective Actions

B.1. Within 14 days of receipt of sampling results that indicate a benchmark exceedance:

a. Conduct an inspection to investigate the cause.

Comment:

This change will inhibit permittees from sampling for water quality purposes through-out the quarter, then average results for the Discharge Monitoring Report. The permit currently requires monthly inspections; facilities will be less inclined to conduct sampling more than once a quarter if a Level One response is required for each sampling event.

Example: A facility begins sampling at the beginning of the quarter and the results indicate they are slightly above benchmarks. They conduct the inspection within 14 days, review, modify and recertify the SWPPP. The facility waits till the end of the quarter before sampling again because they do not have the resources to conduct another “Level One” response, (modify and recertify the SWPPP) more than once in a quarter.

*S8.C.4. **Level 2 Deadline:** The Permittee shall fully implement the revised SWPPP according to Permit Condition S3 and the applicable Stormwater Management Manual as soon as possible, but no later than ~~September~~ July 30th the following year.*

Comment:

This proposed change will jeopardize constructability during the driest months of the year; requiring facilities to begin construction during the wettest season; and increasing the potential for turbid runoff during construction activities. The Port is a public agency and therefore has a very public and lengthy process for procurement of engineering firms, Commission approvals for projects, design-bid-build process for hiring contractors, etc. If the permittee reaches a Level Two Corrective Action and starts the public process at the beginning of the year, July 30th does not allow sufficient time to coordinate and construct the required Level Two Structural Source Control BMPs and concurrently eliminates the ability to construct the BMP during the summer months.

This issue will require the permittee to apply for a permit modification for time extension and subsequent Administrative Order. As discussed in an earlier section, the modification for

extension requires the facility to have a “technical basis”. If the intent of this permit is to improve the quality of stormwater discharges, the permittee needs the appropriate amount of time to:

1. Analyze the problem;
2. Investigate potential solutions;
3. Initiate a project scope;
4. Perform the cost analysis;
5. Get budget approval (for public entities this process is lengthy)
6. Contract with a design engineer
7. Apply for and obtain permits
8. Contract with general contractor
9. Complete construction

This process takes more than 4 to 7 months to complete. The permittee would rather complete the Level 2 Corrective Action in a timely manner, without having to be under an Administrative Order. This would also reduce the amount of time Ecology would have to spend for the administration of the Order.

If the appropriate amount of time is not allotted to a permittee, the consequences would be that the source control BMP that was chosen in haste to meet the permit deadline does not work and the permittee will repeat the same process the next year, causing undue costs and constraints to the facility, to Ecology and will not provide a quality or efficient corrective action solution.

S8.C.5. Additional Corrective Actions May Be Required: Permittees that continue to exceed benchmark values after a Level 2 Corrective Action has been completed must complete additional corrective actions per S8.B, C or D.

Comment:

The permittee should be allotted the appropriate amount of time to investigate and implement the appropriate Level Two Corrective Action BMP to avoid being required to repeat the process as discussed above.

S8. D.2. Make appropriate revisions to the SWPPP to include additional Treatment BMPs with the goal of achieving the applicable benchmark value(s) in future discharges. The revisions shall be based upon monitoring, assessment or evaluation information to determine whether further modification of the Level 3 Treatment BMPs or additional BMPs are necessary to meet the goal of achieving the applicable benchmark value(s) in future discharges.

S8. D.3. Summarize the Level 3 Corrective Actions (planned or taken) in the Annual Report (Condition S9.B). Include information on how monitoring, assessment or evaluation information was (or will be) used to determine whether further modification of the BMPs or additional BMPs are necessary to meet the goal of achieving the application benchmark value(s) in future discharges.

Comment:

The Level 3 Corrective Action is due to be completed by September 30. This does not allow enough time to monitor/assess/evaluate the success of the newly installed treatment BMP. If the goal is to achieve benchmarks in all future discharges, the permittees need sufficient time for monitoring after implementation.

The Port suggests allowing the Level 3 Corrective Action due date to be extended to November 30 to allow for construction during the dry season and assessment and monitoring of the new system during the “First fall storm event”, per Section S4.B.1.b., General Sampling Requirements, of the current permit. This will allow permittees to determine any modification(s) are necessary to protect future discharges prior to the Level 3 deadline.

S8. D.4.c To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to Ecology in accordance with Condition S2.B, by ~~June~~ April 1st prior to the Level 3 Deadline. Ecology will approve or deny the request within 60 days of receipt of a complete Modification of Coverage request.

Comment:

This proposed change for the due date of the modification will inhibit the ability of the permittee to complete an appropriate analysis of potential source control Best Management Practices (BMPs). Ecology’s *Modification of Permit Coverage Form*, ECY 070-361 (Rev. 04/2011), requires the Level 2/ Level 3 extensions requests provide a “technical basis for extension” and include a “proposed timeline for completion and describe issues that affect completion date; for example, state/local permits, study, design, financing, professional services and contracting, etc.”

Reducing the submission schedule does not allow enough time to provide all of the technical information that is needed for selecting BMPs that will solve the problem, provide source control and improve water quality.

The Port suggests that Ecology not change the application due date to ensure there is adequate time for facilities to investigate/analyze the problem, select appropriate source control BMPs and support the intent of this permit, which is to improve water quality stormwater discharges at industrial facilities.

*S8.D.5. **Additional Corrective Actions May Be Required:** Permittees that continue to exceed benchmark values after a Level 3 Corrective Action has been completed must complete additional corrective actions per S8.B, C or D.*

Comment:

The Level 3 Corrective Action is due to be completed by September 30. This does not allow enough time to monitor/assess/evaluate the success of the newly treatment BMP. If the goal is to achieve benchmarks in all future discharges, the permittees need sufficient time for monitoring after implementation.

The Port suggests allowing Level 3 Corrective Action due date to be extended to **November 30th** to allow for construction during the dry season and completing the necessary assessment and monitoring of the new system during the “First fall storm event”, per Section S4.B.1.b., General Sampling Requirements, of the current permit. This will allow permittees to determine any modification(s) necessary to protect future discharges prior to the Level 3 deadline.

The proposed changes do not address whether a permittee that has completed the Level 3 Corrective Action (installed treatment) begins the next sampling event with a “clean slate” or restarts the clock at the stage before a Level 1 Corrective Action is reached.

Example: If the permittee completes implementation of treatment and samples for the first quarter, the data shows the facility to be above benchmarks, the permittee then completes a

Level 1 Corrective Action and in done until the following quarter. OR does the permittee remain in the Level 3 Corrective Action?

The Port requests clarification as to whether installing treatment completes the Level 3 Corrective Action and restarts the clock for future sampling events.

Overall Comment:

The Port is concerned that the proposed modifications and schedule of implementation does not give the permittees adequate time to prepare and budget for the changes in operations necessary to ensure compliance with the new permit. Modifying the permit as part of the regular permit cycle would have allowed facilities to adapt their operations to prepare for implementation and provide enough time for facilities to plan/update their program budgets to account for the additional sampling, staff/consultant time for inspections, the shortening of the implementation schedule for Modification applications and Level 3 Corrective Action deadlines.

The Port feels these mid-cycle/mid-budget year proposed modifications will be difficult and costly to permittees and limit their ability to plan for effective source control solutions.

Please feel free to contact me with your questions at 253.383.5841, ext. 379.

Sincerely,

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