

April 20, 2007

Mr. Jim LaSpina  
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Mr. LaSpina:

The Washington State Department of Transportation (WSDOT) appreciates this opportunity to express our views and provide comments on the *Public Notice Draft Industrial Stormwater General Permit* (Draft ISWGP).

WSDOT's previous discussions and correspondence regarding NPDES permit coverage with Washington State Department of Ecology (Ecology) permit writers have always been based on the understanding that the Washington State Ferries' Eagle Harbor maintenance and repair facility was the only WSDOT facility to require coverage under the ISWGP. In addition, Ecology informed WSDOT that its road maintenance facilities would be subject to the WSDOT municipal stormwater permit that is currently under development.

The following illustrates Ecology's communication of its intentions in this area:

- Page 2 of the *WSDOT Municipal Permit Application* form developed by Ecology and included as an attachment in correspondence sent to WSDOT on February 12, 2003. WSDOT's completed application for coverage under this permit was submitted to the Ecology on March 24, 2003. An April 11, 2003 letter from Ecology to WSDOT acknowledged receipt of this application submittal on March 27, 2003.

- December 19, 2005 preliminary review draft of the *WSDOT Statewide Municipal Stormwater NPDES and State Waste Discharge General Permit* states in *SI. B. PERMIT COVERAGE*:

*This permit covers stormwater discharges from state highways, maintenance facilities, ferry terminals, rest areas, and park and ride lots when the discharges are conveyed through a municipal separate storm sewer (MS3) owned or operated by WSDOT.*

- January 29, 2007 email correspondence from Bill Hashim that contained proposed NPDES permit language for *SI. B. PERMIT COVERAGE* stating that maintenance facilities would be covered under the municipal permit.

- “Background” information provided on Ecology’s website for the WSDOT municipal permit states that:

*“This general permit will cover stormwater runoff from state highways, rest areas, weigh stations, scenic view points, park and ride lots, ferry terminals, and maintenance facilities.”*

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/wsdot.html>

As further background, “storm water discharges associated with industrial activity” were defined on November 16, 1990 in the Code of Federal Regulations at 40 CFR 122.26(b)(14)(i)-(xi). These regulations identify specific categories of industrial activity that are required to submit applications.

In March 1991, WSDOT submitted a group application to U.S. EPA for cover of runoff generated from its maintenance facilities. U.S. EPA responded in July 1991 in a letter informing WSDOT that:

*“Facilities primarily engaged in the maintenance of vehicles used for highway construction and maintenance are not required to apply for storm water discharge permits. The Agency believes that such facilities are properly classified under Standard Industrial Classification (SIC) code 16. SIC code 16 includes facilities that are primarily engaged in the construction or maintenance of highway and streets, bridges, and sewers. SIC code 16 facilities are not classified as industrial activities under the storm water discharge application rule.”*

The Draft ISWGP identifies the activities requiring permit coverage in *Table 1: Activities Requiring Permit Coverage and the Associated SIC Code Groups*. Consistent with the 40 CFR 122.26(b)(14)(i)-(xi), the associated *Table 1* in the Draft ISWGP does not list SIC Code Group 16.<sup>1</sup>

Transportation vehicle maintenance facilities considered as industrial activities under the ISWGP are those where the municipality is providing a vehicle and a driver to transport passengers or freight. Consistent with this direction, the Draft ISWGP’s *Table 1* includes industrial activities associated with Railroad Transportation (SIC Code Group 40xx) and Local and Suburban Transit and Interurban Highway Passenger Transportation (SIC Code Group 41xx) facilities that have road maintenance shops (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or deicing operations. WSDOT does not operate any facilities in these SIC Groups.

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<sup>1</sup> Information on SIC Code 16 (i.e., Major Group 16: Heavy Construction Other than Building Construction Contractors) can be found on the U.S. Department of Labor’s website at: [http://www.osha.gov/pls/imis/sic\\_manual.display?id=11&tab=group](http://www.osha.gov/pls/imis/sic_manual.display?id=11&tab=group).

WSDOT found Ecology's intent to cover road maintenance facilities under the ISWGP a surprising change of direction.

WSDOT is committed to the actions necessary to protect the environment in all its business practices, as articulated in our Environmental Policy Statement and evidenced by development of our agency-wide Environmental Management System (EMS). WSDOT believes that the NPDES permits should be crafted in a manner consistent with the principles of EMS, allowing WSDOT to utilize the expertise of its staff and management to meet the goals and objectives of the Clean Water Act. These two elements should be working in a complimentary fashion if the environment is to benefit.

Thank you very much for the opportunity to share our perspective. As we have already indicated in our comments above, the intention of Ecology to cover road maintenance facilities under the ISWGP came as a complete surprise to WSDOT. This situation points to the need for timely communication between our agencies. This development took a lot of our effort over the last month that impacted our ability to complete other important work. Our collective staffs' time is a precious commodity.

WSDOT looks forward to working with Ecology to chart a course that structures NPDES permits in a manner that suits our state's need for cost-effective, common sense programs to achieve significant water quality protections and improvements. Thank you again for the opportunity to comment.

Sincerely,

Megan White, P.E.  
Director, Environmental Services Office