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DEPARTMENT OF ECOLOGY
JUL 16 2009
WATER QUALITY PROGRAM

Mr. Jeff Killelea
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

Subject: Draft Industrial Stormwater General Permit Comments

Dear Mr. Killelea:

BNSF Railway Company appreciates the opportunity to provide our comments on the proposed revisions to the Industrial Stormwater General Permit (ISGP) posted for public review on 3 June 2009.

Specific Comments

1. S1.A.1. Table 1 – Ecology should retain the language in Appendix 1, Section C.8. of the current permit, requiring permit coverage for Transportation Facilities (SIC codes 40XX, 41XX, 42XX, 43XX, 44XX, 45XX, and 5171), which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Also retain the language in the body of the permit that “only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under one of the other 11 categories of industrial activities listed in this appendix are associated with industrial activity.” Though this language is provided by reference to 40 CFR 122.26(b)(14)(i-xi) in the glossary definition of *Industrial Activity*, the limitation of permit coverage will not be recognized by many inspectors unless clearly stated in the permit.
2. S3.B.1.g. – Does the identification of areas of pollutant contact include materials of construction (roofs, galvanized fences, drainage systems, parking lots, roadways, etc.) that are not associated with specific industrial activities? Guidance defining these common materials as pollution-generating would be helpful to BNSF.
3. S3.B.3.b.i.4.b. – Locomotives are defined as vehicles, and all vehicles leak to some degree. Discussion of incidental leakage should be included.
4. S3.B.3.b.i.5.a. –The draft states that “all chemical liquids, fluids and petroleum products, shall be stored ...” It would be appropriate to restrict the list of fluids to those that are hazardous and not include all fluids. In addition, BNSF has spill plans required under the federal spill prevention, control, and countermeasure plans (SPCC) required under the Clean Water Act. These plans do not require containment of 110% of the largest tank. Rather, the SPCC regulations require containment of the largest tank, plus sufficient capacity for rainfall. These containment requirements should be consistent.

5. S3.B.3.b.i.5.g. – If fluids are to be required to be drained from equipment and vehicles prior to onsite storage, what is the time component of ‘on-site storage’. Please define the difference between temporary and long-term storage.
6. S5.F.2. – Please define floating debris or remove the requirement. As stated, it is a permit violation for anything floating to be discharged.
7. S8.B.4.c. and S8.C.4.c. – The timeframes listed for modification of permit coverage could be problematic. If permittees must request a time extension 90 days before the corrective action deadline and Ecology has 60 days to decide, it is conceivable that permittees will only have 30 days to apply the corrective actions if Ecology denies the request. This timeframe is not possible to meet and could cause many permittees to be in violation of the Clean Water Act and subject to third-party lawsuits.
8. S8.D.1. – If permittees enter a Level 4 Corrective Action status, are they protected from third-party lawsuit while awaiting further guidance from Ecology?
9. S8.D.1.Table 6. – It will be very difficult to meet the corrective action deadlines. We will need to evaluate our operations, which may require an iterative approach. In addition, we need to budget capital improvements through our procurement process. The few months provided will not allow us to procure, much less install, capital improvements.

Finally, we should be able to install additional BMPs before we are required to sample and compare to benchmarks for counting towards corrective action levels.

Sincerely,



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