

NISQUALLY ENVIRONMENTAL SAMPLING AND CONSULTING

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Dear Mr. Killelea

Thank you for the opportunity to provide comment on the Draft Industrial Stormwater Permit. As a consulting company representing many small and medium companies in Western Washington, we take two views to any industrial permit modifications, 1) ease of compliance to our clients, and 2) lack of ambiguity to minimize opportunities for civilian actions under the CWA. To these points, we offer the following general and specific comments:

General Comments

- 1) The cost evaluation seems incomplete for the following reasons:
 - a. It appears from the draft permit that every permittee will be required to re-write their SWPPP to include the new provisions (air emissions, inclusion of applicable SWM BMP's, etc), this will have a definite cost to all business, complete revisions to SWPPPs can cost from \$2000 to \$10,000 depending on the firm used These costs should be included in the cost evaluation.
 - b. The requirement for certification of the inspector lists a certification program that is not in place, and most likely will not be in place, by the permit implementation date. Specifically, the CISM program and certification does not exist per conversations with the department and as such, the cost of such certification does not exist. Therefore, the cost associated with the use of a PE or a CPSWQ should be used in the cost evaluation. Since most facilities do not have a PE or a CPSWQ on staff, the costs for the contract hiring of these certified professionals should be included in the evaluation. These costs should be for at least 3 hours per month and should range from \$100 to \$150 per hour (\$3600 to \$4200 per year).
 - c. The requirement that every site include a sediment filtration system, most likely a catch basin insert, should be included in the cost evaluation. Of note is the requirement under the closing of a construction stormwater permit that all socks (and all other sediment controls) be removed before closure is granted, and now the requirement that these be reinstalled seems inconsistent. With sock costs of approximately \$120 per sock, assuming 5 catch basins for small companies, 10 for medium companies, the initial cost will range from \$600 and \$1200 up front.

- d. The requirement that every site use a vacuum sweeper on all paved areas should be included in the cost evaluation. The purchase cost of a Tennant 650 vacuum sweeper is about \$30,000; the rental cost is around \$450 per occurrence. Assuming vacuuming monthly, the rental cost will be \$5400 per year. This cost is not included in the cost evaluation but should be.
 - e. The requirement that all liquid chemicals stored outside shall be included in a bermed area and roofed if possible is a cost that is not included in the cost evaluation. Additionally, the term “chemical” is not defined in the appendix. Many sites recycle non-potable water; have double walled fuel tanks, and propane tanks (liquid chemical inside the tank) outside, all of which are installed per other applicable codes. The cost to include additional secondary containment is not included in the cost evaluation but this cost will most likely affect most all Permittees. These costs should be estimated and included in the evaluation.
 - f. Many level three sites have installed treatment systems that use “chemicals”, either solid or liquid, and the requirement that these treatment systems now must be approved by the department, through a method that is not defined, is a cost that should be included in the cost evaluation.
- 2) There does not appear to be a way for Permittees to be removed from a level 1, 2, 3, or 4 statuses. If the steps taken per the permit mitigate the issue, then a procedure to be officially removed from this status seems prudent and a motivation tool for sites to comply with the permit.
- 3) Section S10 describes the prohibition to violate water quality standards, however, it appears to be possible to violate water quality standards and still be in compliance all other sections of the permit (zinc, copper, turbidity). Language was removed from the previous permit (Section S7) that stated “Compliance with water quality standards shall be presumed, unless discharge monitoring data or other site specific information demonstrates that a discharge causes or contributes to violation of water quality standards, when the permittee is: In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and recordkeeping conditions; and 2. Fully implementing storm water best management practices contained in storm water technical manuals approved by the department, or practices that are demonstrably equivalent to practices contained in storm water technical manuals approved by the department, including the proper selection, implementation, and maintenance of all applicable and appropriate best management practices for on-site pollution control.” The removal of this protective language from the permit would appear to open most all clients to lawsuits under the CWA. This original language should be returned to the new permit.

Specific Comments

1. In the section where it is stated “all equipment and vehicles shall be inspected for leaking fluids...during monthly site inspections. Leaking equipment shall be taken out of service...” It appears that only “equipment” is required to be repaired or taken out of service, while “vehicles” are excluded. If vehicles are included, then employee vehicles should be specifically excluded from this requirement. If this is not the intent, then this section should be clarified.
2. The term “chemical” should be specifically defined and the requirements for secondary

containment should be consistent with local codes. Propane, reclaimed water, fuel, all are chemicals, on many sites, and are generally stored per local codes. Additionally, the section is not specifically clear that this section only applies to chemicals stored outside, but rather applies to “chemicals that can contaminate stormwater”. Therefore, the storage of all chemicals, delivered in bottles, drums, totes, etc, whether stored inside or outside, are required to have a secondary containment berm. This section adds additional burdens that are not required by local and other state and federal codes. This section should be clarified to include a list of chemicals that this is required of (HPM’s for instance), where it applies (outside only), and allowances to demonstrate that secondary containment is not required (double walled tanks for fuel for example).

3. In the section where it is stated “All treatment BMPs that include the addition of chemicals to provide treatment must be approved by Ecology before beginning construction/installation.” Includes the word “chemicals” but “chemicals” is not defined. All treatment systems use chemicals in some degree, and the “approval” method is not provided in the permit. This should be clarified in the permit.
4. The removal of the oil and grease sampling and replacing it with monitoring for “oil sheen” is a good attempt to save money for the Permittees and is appreciated; however, there are issues with this attempt. Specifically, where the oil sheen is to be observed is not specific in the permit and the loss of the quantification tool to control zinc seems detrimental to the clients. Many clients monitor their discharge through manholes or culverts that either have the storm water monitoring location many feet below grade or the water is moving very quickly. Monitoring for sheen in these locations would be almost impossible. If it is the intent of the department to monitor for sheen at any location on the site, then this would open all clients to civilian lawsuits under the CWA as almost all locations will have an employee vehicle that will have a fluid drip that will appear as sheen. Finally, with the zinc issues in Western Washington, the loss of the quantification of the oil and grease levels in the stormwater with the removal of sampling requirements will remove one of the tools the permittee can use to reduce their zinc levels (recall that most oil and grease sources on industrial sites contain about .75 percent of zinc). The department should either specify the location of the “oil sheen” monitoring or remove this requirement and revert back to the sampling of this parameter.
5. The permit states “If installation of *Structural Source Control BMPs* is not feasible or not necessary to prevent discharges that may cause or contribute to a violation of a water quality standard, Ecology may waive the requirement for *Structural Source Control BMPs* by approving a *Modification of Permit Coverage*.” However, *modification of permit coverage* is not defined in the permit appendix. Is it the intent that the permittee be moved to an individual permit or will the general permit be modified for that specific permittee? This process should be clear in the permit.
6. In the section defining the level four processes, the requirement to submit a “receiving water study” is listed; however, the definition of such a study is not defined. This should be made clear either through definition or reference to the applicable WAC code.
7. In the “Non-Compliance” section, the permit states “In the event the Permittee is unable to comply with any of the terms and conditions of this permit that could result in the discharge of pollutants in a significant amount, or any bypass or upset, the Permittee shall:” and then lists a series of steps the permittee must perform. This seems inconsistent with section G25 where allowed bypasses are described as “Bypass of stormwater is

consistent with the design criteria and part of an approved management practice in the applicable stormwater management manual.” In one section, all bypass and upset must be reported, in section G25, bypasses that are consistent with the design criteria are allowed. This ambiguity should be clarified in the permit.

8. The additional requirement that all permittees inspect their industrial site on a monthly basis appears to be an attempt to increase awareness of potential issues to the sites management. This increase in inspection frequency may be warranted for sites that enter into a level 1,2, 3, or 4 status but seems to be an unnecessary burden and cost to those sites that are full, or nearly full, compliance. Perhaps this requirement should be a step that is used when a site enters a level 2 or higher status, and not required for those sites that are in compliance.

Clarification of these items will help in obtaining compliance from the Permittees and will help remove ambiguity that can lead to lack of compliance and therefore civilian lawsuits under the clean water act. The cost evaluation performed and presented to the State Government severely underestimates the potential costs to small, medium, and large businesses in the area and, with the current economic climate, may be detrimental to the economy. At the least, the costs should be estimated accurately so that our lawmakers can make informed decisions.

We appreciate the opportunity to make comments to the proposed permit and hope that these comments are helpful in the department’s decision on the final permit. If you have questions, you can reach us at the number listed above.

Sincerely,

Nisqually Environmental and Consulting