



July 27, 2015

Amy Moon
Water Quality Program
Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

RE: Port of Vancouver USA Comments on the Draft National Pollutant Discharge Elimination System Construction Stormwater General Permit

Dear Ms. Moon:

The Port of Vancouver USA (port) would like to provide comment on the draft National Pollutant Discharge Elimination System (NDPES) 2016 -2021 Construction Stormwater General Permit (CSWGP, draft permit) released for comment July 1st, 2015. The port takes environmental stewardship seriously, and it is our commitment to strive for programs and policies that allow nature and industry to successfully coexist. Thank you for the opportunity to review and comment on the draft permit and we look forward to the response to comments for further clarification.

- Fact Sheet - Fact sheets accompany draft permits to record how the permit writer derived requirements. Federal and state laws require fact sheets to describe the proposed discharge, Ecology's decisions on limiting pollutants, and the regulatory and technical basis for decisions. The Fact Sheet does not explain why the new language surrounding "contaminated sites" is included. The new language is vague and requires further explanation and clarification in both the fact sheet and corresponding draft permit.
- S1.B.2.c – The port suggests including geotechnical and archaeological investigations with activities that are not required to seek coverage under the draft permit. These types of investigations need to happen early in the design phase before construction begins and typically have minimal impacts and therefore should be exempt.

- S2.A.1.c – Currently, applicants are not notified that their application is complete. If an applicant does not hear from Ecology within 31 days of the 2nd public notice, they assume they are covered under the permit and start work. The port recommends Ecology establish a response time to inform the applicant whether the NOI is complete or not. PARIS is not a reliable source to determine if Ecology deems the application complete. The draft permit should be revised to include the following language: Ecology shall respond to the applicant within seven (7) business days following the date of the second Public Notice to notify whether the application is considered complete. Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day; unless Ecology specifies a later date in writing within the 30-day comment period.
- S2.A.1.f – The port requests Ecology define “contaminated soils and/or groundwater”. Without a quantifiable definition of what Ecology considers to be “contaminated”, any site with above natural background levels could be considered contaminated. Furthermore, the presence of a contaminant does not necessarily mean a site as a whole is contaminated. Some areas have naturally occurring concentrations of contaminants that are above “natural background”.
- S2.A.1.f – The draft permit does not include an Ecology timeframe for the new review process of applications of construction sites with known contamination. This failure to establish a proper review time for Ecology could result in major unnecessary delays (i.e. it recently took Ecology over 5 months to review a construction application for a rain garden). The port also suggests an expedited review process for sites that have already gone through an Ecology-approved clean-up process or have approved Restrictive Covenant Master Plans.
- S2.A.1.f.i - Listing all known contaminants is excessive and reinforces the ideology that presence of a contaminant equates to site wide contamination. Presence of contaminants does not mean the soil and/or groundwater is “contaminated”. Having a consistent definition of what “contaminated” means allows applicants to prepare a NOI that is accurate and complete prior to submittal.
- S4.B.2 – The port requests clarification for reduced inspection frequency. Does the reduced frequency begin upon the day of stabilization or does the permittee need to wait until the Permit Fee Activity Status Change form has been processed by the fees department?

S9.D.5 – The port recommends Ecology consider alternative stabilization requirements for fill sites. Fill projects that are phased over several years due to coordination of favorable weather conditions and availability of local fill make scheduling and stabilization much more dynamic than planned construction projects. For example, a recent port fill project received fill from different local projects at various times so even though the project may have appeared inactive at times additional fill was scheduled to be delivered shortly thereafter; therefore, continuously spending time and money to stabilize when additional fill is scheduled to be received is neither applicable nor practical especially where there aren’t any discharges leaving the site. The port

suggests fill sites have a stabilization schedule of completion of fill or if discharge above benchmarks.

- G.3.C – The port requests clarification of Ecology’s “Right of Entry” and Ecology’s proper regulatory inspection notification procedures. From a safety point of view, the port is a heavy industrial area with large equipment, rail traffic, and other industrial activities along with complex national security requirements. An unescorted visitor, no matter his/her level of experience, may not be aware of the danger inherent in some areas of the port. The port requests that Ecology inspectors notify port staff or port tenants upon entry to ensure safe working conditions.
- G.6 – The port requests additional clarification as to who makes the determination that discovered contamination may impact discharge? The 60 day timeframe for reporting a modification prior to proposed changes is not practical. Due to potential economic impacts associated with delays; work that was initially intended for dry season getting pushed into wet season, the port requests additional contamination clarification and suggests reducing the time frame to 30 days.
- Appendix A – Definitions:
 - The definition for benchmark includes the term indicator value. Please define indicator value.
 - Please include a definition for “contaminated”.
 - WAC 173-340-200 is not helpful in defining what contaminant means. Port recommends Ecology develop a guidance document that includes most commonly encountered “contaminants” and concentrations that would trigger “contaminated” soil/groundwater.
 - Hazardous substance is mostly defined by reference. It would be very helpful for Ecology to also include definitions.
 - The definition for uncontaminated is not helpful. If Ecology intends to use MTCA standards for the definition of uncontaminated, they need to also use the appropriate MTCA cleanup action levels according to land use (i.e., industrial, unrestricted, etc.).

Sincerely,



Phillip Martello
Environmental Specialist
Port of Vancouver, USA

Cc: Matt Graves, Monty Edberg, Patty Boyden – Port of Vancouver

