

FACT SHEET FOR INDUSTRIAL STORMWATER GENERAL PERMIT

SUMMARY

This fact sheet is a companion document to the revised National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities (Industrial Stormwater General Permit). The proposed permit authorizes discharge of stormwater and certain types of non-stormwater associated with industrial activity to waters of the state.

This fact sheet incorporates, by reference, the Fact Sheets for the expired Industrial Stormwater General Permit issued on August 21, 2002, and modified on December 1, 2004. These fact sheets explain the nature of the authorized discharges, Ecology's decisions on limiting the pollutants in discharges, and the regulatory and technical bases for those decisions. Public involvement information is contained in Appendix A. This proposed general permit limits the discharge of pollutants to surface waters under the authority of the Federal Water Pollution Control Act (U.S.C.S. 1251) and limits the discharge of pollutants to surface and ground water under the authority of Chapter 90.48 RCW.

The previous Industrial Stormwater NPDES and State Waste Discharge General Permit, issued by the Washington State Department of Ecology (Ecology) on August 21, 2002, and reissued on August 15, 2007, expired on May 31, 2008. Ecology proposes to reissue the expired general permit on October 1, 2008, without changes, with an expiration date of April 30, 2009.

Facilities covered under the existing Industrial Stormwater General Permit will be automatically covered under the reissued permit. New or unpermitted facilities may obtain coverage under the reissued general permit by submitting a complete permit application to Ecology and satisfying all applicable public notice and State Environmental Policy Act (SEPA) requirements (Chapter 173-226-200 WAC).

Ecology is planning to work with a collaborative external stakeholder workgroup to develop a simpler and more effective general permit for reissuance in 2009. The committee will also address a broad range of related issues, including stormwater research and development, education and outreach, compliance inspections and enforcement. More information on the external advisory committee process is available at Ecology's website at: <http://www.ecy.wa.gov/programs/wq/stormwater/industrial/index.html>.

INTRODUCTION

The Federal Clean Water Act (FCWA, 1972, and later modifications, 1977, 1981, and 1987) established water quality goals for the navigable (surface) waters of the United States. One of the mechanisms for achieving the goals of the Clean Water Act is the National Pollutant Discharge Elimination System permit program (NPDES permits), which is administered by the Environmental Protection Agency (EPA). The EPA has delegated responsibility to administer the NPDES permit program to the State of Washington on the basis of Chapter 90.48 RCW which defines the Department of Ecology's authority and obligations in administering the wastewater discharge permit program.

The regulations adopted by the State include procedures for issuing general permits (Chapter 173-226 WAC), water quality criteria for surface and ground waters (Chapters 173-201A and 200 WAC), and sediment management standards (Chapter 173-204 WAC). These regulations require that a permit be issued before discharge of wastewater to waters of the state is allowed. The regulations also establish the basis for effluent limitations and other requirements which are to be included in the proposed permit. One of the requirements (WAC 173-226-110) for issuing a general permit under the NPDES permit program is the preparation of a draft permit and an accompanying fact sheet. This fact sheet incorporates, by reference, the fact sheets for the expired Industrial Stormwater General Permit that was issued on August 21, 2002, and modified on December 1, 2004. Public notice of the availability of the draft permit is required at least thirty days before the proposed permit is issued (WAC 173-226-130). The fact sheet and draft permit are available for review (see Appendix A--Public Involvement of the fact sheet for more detail on the Public Notice procedures).

After the public comment period has closed, Ecology will summarize the substantive comments and the response to each comment. The summary and response to comments will become part of the file on the permit and parties submitting comments will receive a copy of Ecology's response. The fact sheet will not be revised. Comments and the resultant changes to the proposed permit will be summarized in Appendix D--Response to Comments.

APPENDIX A--PUBLIC INVOLVEMENT INFORMATION

Public Workshops/ Public Hearings/Public Comment:

Ecology has tentatively determined to reissue the industrial stormwater general permit to industrial activities as identified in the permit, Special Condition S2. Permit Coverage.

Ecology will publish a Public Notice of Draft (PNOD) on August 6, 2008 in the Washington State Register. The notice will also be mailed to those who currently have coverage under the industrial stormwater general permit and those identified as interested parties. Interested persons are invited to submit written comments regarding the draft permit.

You may download copies of the draft permit and fact sheet from the website: www.ecy.wa.gov/programs/wq/stormwater/industrial/index.html. Or you may request copies from:

Julie Robertson
Telephone: (360) 407-6575
E-Mail: jrob461@ecy.wa.gov

Submitting Written and Oral Comments

Ecology will accept written and oral comments on the draft Industrial Stormwater General Permit and fact sheet. Comments should reference specific text when possible. Comments may address the following:

- Technical issues.
- Accuracy and completeness of information.
- The scope of facilities proposed for coverage.
- Adequacy of environmental protection and permit conditions.
- Any other concern that would result from issuance of the revised permit.

Ecology prefers comments be submitted by email to industrialstormwatercomments@ecy.wa.gov. Written comments must be postmarked or received via email no later than **5pm, Friday, September 12, 2008**. You may provide oral comments by testifying at the public hearings. Submit written, hard copy comments to:

Julie Robertson
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Public Workshops/Hearings

The public workshop and hearing on the draft general permit will be held in Lacey, Washington on September 11, 2008. The purpose of the workshop is to explain Ecology's rationale for reissuing the general permit for an interim period until it issues a revised permit in early 2009. The purpose of the hearings is to provide an opportunity for people to give formal oral testimony and comments on the draft permit.

September 11, 2008 (1 p.m.) – Lacey

Washington State Department of Ecology, 300 Desmond Drive, Lacey (360) 407-6000

Driving directions: http://www.ecy.wa.gov/images/offices/map_hq_swro.pdf

Issuing the Final Industrial Stormwater General Permit

The final permit will be issued after Ecology receives and considers all public comments. Ecology expects to issue the general permit on October 1, 2008. It will be effective 30 days later.

APPENDIX B--GLOSSARY

303(d) Listed Waters – see Waters Listed as Impaired – 303(d).

Acute Toxicity--The lethal effect of a compound on an organism that occurs in a short period of time, usually 48 to 96 hours.

AKART-- An acronym for “all known, available, and reasonable methods of treatment”.

Ambient Water Quality--The existing environmental condition of the water in a receiving water body.

Ammonia--Ammonia is produced by the breakdown of nitrogenous materials in wastewater. Ammonia is toxic to aquatic organisms, exerts an oxygen demand, and contributes to eutrophication. It also increases the amount of chlorine needed to disinfect wastewater.

Average Monthly Discharge Limitation --The average of the measured values obtained over a calendar month's time.

Best Management Practices (BMPs)--Schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the State. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may be further categorized as operational, source control, erosion and sediment control, and treatment BMPs.

BOD₅--Determining the Biochemical Oxygen Demand of an effluent is an indirect way of measuring the quantity of organic material present in an effluent that is utilized by bacteria. The BOD₅ is used in modeling to measure the reduction of dissolved oxygen in a receiving water after effluent is discharged. Stress caused by reduced dissolved oxygen levels makes organisms less competitive and less able to sustain their species in the aquatic environment. Although BOD is not a specific compound, it is defined as a conventional pollutant under the federal Clean Water Act.

Bypass--The intentional diversion of waste streams from any portion of a treatment facility.

Chlorine--Chlorine is used to disinfect wastewaters of pathogens harmful to human health. It is also extremely toxic to aquatic life.

Chronic Toxicity--The effect of a compound on an organism over a relatively long time, often 1/10 of an organism's lifespan or more. Chronic toxicity can measure survival, reproduction or growth rates, or other parameters to measure the toxic effects of a compound or combination of compounds.

Clean Water Act (CWA)--The Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, 97-117; USC 1251 et seq.

Compliance Inspection - Without Sampling--A site visit for the purpose of determining the compliance of a facility with the terms and conditions of its permit or with applicable statutes and regulations.

Compliance Inspection - With Sampling--A site visit to accomplish the purpose of a Compliance Inspection - Without Sampling and as a minimum, sampling and analysis for all parameters with limits in the permit to ascertain compliance with those limits. Additional sampling may be conducted.

Composite Sample--A mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing discrete samples. May be "time-composite"(collected at constant time intervals) or "flow-proportional" (collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increased while maintaining a constant time interval between the aliquots.

Construction Activity--Clearing, grading, excavation and any other activity which disturbs the surface of the land. Such activities may include road building, construction of residential houses, office buildings, or industrial buildings, and demolition activity.

Continuous Monitoring --Uninterrupted, unless otherwise noted in the permit.

Critical Condition--The time during which the combination of receiving water and waste discharge conditions have the highest potential for causing toxicity in the receiving water environment. This situation usually occurs when the flow within a water body is low, thus, its ability to dilute effluent is reduced.

Dilution Factor--A measure of the amount of mixing of effluent and receiving water that occurs at the boundary of the mixing zone. Expressed as the inverse of the percent effluent fraction e.g., a dilution factor of 10 means the effluent comprises 10% by volume and the receiving water 90%.

Engineering Report--A document which thoroughly examines the engineering and administrative aspects of a particular domestic or industrial wastewater facility. The report shall contain the appropriate information required in WAC 173-240-060 or 173-240-130.

Fecal Coliform Bacteria--Fecal coliform bacteria are used as indicators of pathogenic bacteria in the effluent that are harmful to humans. Pathogenic bacteria in wastewater discharges are controlled by disinfecting the wastewater. The presence of high numbers of fecal coliform bacteria in a water body can indicate the recent release of untreated wastewater and/or the presence of animal feces.

Grab Sample--A single sample or measurement taken at a specific time or over as short period of time as is feasible.

Industrial Wastewater--Water or liquid-carried waste from industrial or commercial processes, as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feed lots, poultry houses, or dairies. The term includes contaminated storm water and, also, leachate from solid waste facilities.

Major Facility--A facility discharging to surface water with an EPA rating score of > 80 points based on such factors as flow volume, toxic pollutant potential, and public health impact.

Maximum Daily Discharge Limitation--The highest allowable daily discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. The daily discharge is calculated as the average measurement of the pollutant over the day.

Method Detection Level (MDL)--The minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is above zero and is determined from analysis of a sample in a given matrix containing the analyte.

Minor Facility--A facility discharging to surface water with an EPA rating score of < 80 points based on such factors as flow volume, toxic pollutant potential, and public health impact.

Mixing Zone--An area that surrounds an effluent discharge within which water quality criteria may be exceeded. The area of the authorized mixing zone is specified in a facility's permit and follows procedures outlined in state regulations (Chapter 173-201A WAC).

National Pollutant Discharge Elimination System (NPDES)--The NPDES (Section 402 of the Clean Water Act) is the Federal wastewater permitting system for discharges to navigable waters of the United States. Many states, including the State of Washington, have been delegated the authority to issue these permits. NPDES permits issued by Washington State permit writers are joint NPDES/State permits issued under both State and Federal laws.

pH--The pH of a liquid measures its acidity or alkalinity. A pH of 7 is defined as neutral, and large variations above or below this value are considered harmful to most aquatic life.

Quantitation Level (QL)-- A calculated value five times the MDL (method detection level).

Responsible Corporate Officer-- A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures (40 CFR 122.22).

Technology-based Effluent Limit--A permit limit that is based on the ability of a treatment method to reduce the pollutant.

Total Suspended Solids (TSS)--Total suspended solids is the particulate material in an effluent. Large quantities of TSS discharged to a receiving water may result in solids accumulation. Apart from any toxic effects attributable to substances leached out by water, suspended solids may kill fish, shellfish, and other aquatic organisms by causing abrasive injuries and by clogging the gills and respiratory passages of various aquatic fauna. Indirectly, suspended solids can screen out light and can promote and maintain the development of noxious conditions through oxygen depletion.

State Waters--Lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Stormwater--That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed infiltration facility.

Upset--An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

Water Quality-based Effluent Limit--A limit on the concentration of an effluent parameter that is intended to prevent the concentration of that parameter from exceeding its water quality criterion after it is discharged into a receiving water.

Waters Listed as Impaired, 303(d)--Listed waters refers to the specific segment of a waterbody listed by the State as required under Section 303(d) of the Clean Water Act. The most current list of impaired waters is the applicable list.

APPENDIX C—INDUSTRIAL CATEGORIES

The following categories of facilities are considered to be engaging in industrial activity subject to stormwater as listed in 40 CFR Subpart 122.26(b)(14), as of July 1, 2000, Code of Federal Regulations.

1. FACILITIES SUBJECT TO STORMWATER EFFLUENT LIMITATIONS GUIDELINES, or NEW SOURCE PERFORMANCE STANDARDS specified in 40 CFR Subchapter N, or TOXIC POLLUTANT EFFLUENT STANDARDS under 40 CFR Subchapter D (except facilities with toxic pollutant effluent standards which are exempted under category 11 below).
2. FACILITIES LISTED UNDER THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATIONS (SIC):
 - 24 Lumber and Wood Products (except 2434 - Wood Kitchen Cabinets, see Category 11)
 - 26 Paper and Allied Products (except 265 - Paperboard Containers; and 267 - Converted Paper and Paperboard Products, see Category 11)
 - 28 Chemicals and Allied Products (except 283 - Drugs; and 285 Paints, Varnishes, Lacquers, Enamels, and Allied Products, see Category 11)
 - 29 Petroleum and Coal Products, (except 2951 - Asphalt Concrete Plants, must apply for the sand and gravel general permit)
 - 311 Leather Tanning and Finishing
 - 32 Stone, Clay and Glass Products (except 323 - Glass Products made from purchased glass, see category 11) and (except 3273 - Ready-Mixed Concrete, must apply for the sand and gravel general permit)
 - 33 Primary Metals Industries
 - 3441 Fabricated Structural Metal
 - 373 Ship and Boat Building and Repairing
3. FACILITIES CLASSIFIED AS SICs 10 THROUGH 14 (mineral industry) listed below, including active or inactive mining operations [except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) Subchapter N (Coal Mining Point Source Category: BPT, BAT, BCT Limitations and New Source Performance Standards) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas on noncoal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990] and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come in contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations. Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites

where minimal activities are undertaken for the sole purpose of maintaining a mining claim.

- 10 Metal Mining
 - 12 Coal Mining
 - 13 Oil and Gas Extraction
 - 14 Mining and Quarrying of Nonmetallic Minerals, except Fuels (except 1411 - dimension stone; 1422 - Crushed and Broken Limestone; 1423 - Crushed and Broken Granite; 1429 - Crushed and Broken Stone, Not Elsewhere Classified; 1442 - Construction Sand and Gravel; 1446 - Industrial Sand, 1445 - Kaolin and Ball Clay; 1459 - Clay, Ceramic, and Refractory Minerals, Not Otherwise Classified; 1499 - Miscellaneous Nonmetallic Minerals, Except Fuels; must apply for the sand and gravel general permit)
4. HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES, including those operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA).
 5. LANDFILLS, LAND APPLICATION SITES, AND OPEN DUMPS that receive or have received any industrial wastes (waste that is received from any of the facilities described in this appendix) including those subject to regulation under Subtitle D of RCRA.
 6. RECYCLING FACILITIES, facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093.
 7. STEAM ELECTRIC POWER GENERATING FACILITIES, including coal handling sites.
 8. TRANSPORTATION FACILITIES classified under SICs below, which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. 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.
 - 40 Railroad Transportation,
 - 41 Local and Interurban Passenger Transportation,
 - 42 Motor Freight Transportation and Warehousing (except 4221 - Farm Product Warehousing and Storage; 4222 Refrigerated Warehousing and Storage; and 4225 - General Warehousing and Storage; see Category 11),
 - 43 United States Postal Service,
 - 44 Water Transportation,
 - 45 Transportation by Air,
 - 5171 Petroleum Bulk Stations and Terminals;

9. TREATMENT WORKS treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge, that are located within the confines of the facility, with a design flow of one million gallons per day or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the CWA.

10. CONSTRUCTION ACTIVITIES are not covered under the industrial stormwater general permit.

11. FACILITIES UNDER THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATIONS:
 - 20 Food and Kindred Products
 - 21 Tobacco Products
 - 22 Textile Mill Products
 - 23 Apparel and Other Textile Products
 - 2434 Wood Kitchen Cabinets
 - 25 Furniture and Fixtures
 - 265 Paperboard Containers and Boxes
 - 267 Converted Paper and Paperboard Products
 - 27 Printing, Publishing and Allied Industries
 - 283 Drugs
 - 285 Paints, Varnishes, Lacquers, Enamels, and Allied Products
 - 30 Rubber and Miscellaneous Plastic Products
 - 31 Leather and Leather Products (except 311 - Leather Tanning and Finishing, see Category 2)
 - 323 Glass Products Made of Purchased Glass
 - 34 Fabricated Metal Products (except 3441 - Fabricated Structural Metal, see Category 2)
 - 35 Industrial and Commercial Machinery and Computer Equipment
 - 36 Electronic and Other Electrical Equipment
 - 37 Transportation Equipment (except 373 - Ship and Boat Building and Repair, see Category 2)
 - 38 Measuring, Analyzing, and Controlling Instruments, Photographic, Medical and Optical Goods; Watches and Clocks
 - 39 Miscellaneous Manufacturing Industries
 - 4221 Farm Product Warehousing and Storage
 - 4222 Refrigerated Warehousing and Storage
 - 4225 General Warehousing and Storage.

APPENDIX D--RESPONSE TO COMMENTS

Appendix D

Response to Comments for Reissued ISWGP – October 15, 2008

Comment 1. Air Products and Chemicals

I have the following question: Because this is the same permit, will a facility continue to claim “Consistent Attainment” for storm water parameters, or does all previous storm water sampling results go away?

Response: When the permit is reissued, facilities can continue to claim “consistent attainment” for applicable stormwater parameters. Previous stormwater sampling results do not go away, and apply towards achieving “consistent attainment”; previous sampling results that exceed benchmarks and/or action levels to initiate corrective actions, if applicable.

Comment 2. Association of Washington Business

The Association of Washington Business (AWB) commends Ecology for reissuing the current Industrial Stormwater General Permit (ISWGP) as an interim measure while a stakeholder committee collaborates to develop a simpler and more effective general permit for reissuance in 2009 as described in this announcement:

"The previous Industrial Stormwater NPDES and State Waste Discharge General Permit, issued by the Washington State Department of Ecology (Ecology) on August 21, 2002, and reissued on August 15, 2007, expired on May 31, 2008. Ecology proposes to reissue the expired general permit on October 1, 2008, without changes, with an expiration date of April 30, 2009."

AWB members are concerned that the proposed expiration date for the reissued permit of April 2009 will not allow enough time for the stakeholder group to adequately address the important issues identified by Ecology without resorting to previous permit mechanisms that have not been successful. We recognize that despite a strong commitment by Ecology and the members of the stakeholder group that more time is needed to develop a durable and acceptable permit. AWB recommends that the expiration date of the permit should be extended at least until September 2009.

This extension will allow several important actions to occur related to permit development:

- 1) Supports the ISWGP stakeholder group effort to develop a durable permit during the period of intense time constraints from legislative activity;

- 2) The legislative session will be completed, during which important issues affecting the ISWGP will be addressed, including agency funding and fees, revised SB 6415ISWGP language and municipal storm water permit legislation;
- 3) Ecology's permit fee stakeholder process will have been completed and this group's recommendations, which are essential to developing a sustainable ISWGP program, will have been provided to the department and the Legislature;
- 4) The Puget Sound Partnership Action Agenda will have been issued and reviewed by the Legislature. This Action Agenda may provide either guidance or resource opportunities affecting the development of the ISWGP;
- 5) Current legal actions on municipal permits should be completed and the appeal status should be known.

AWB recognizes that RCW 90.48.555(7)(a) requires the department to modify the ISWGP to require compliance with "appropriately derived numeric water quality-based effluent limits" by May 1, 2009. AWB suggest that three of the four options suggested by the department can be implemented using administrative orders in lieu of a new permit and do not drive the need to reissue a permit in April 2009. A permit extension till September 2009 or later, would provide time for legislative debate on "Option 4" - requesting an extension to 2013 for the limits to impaired waterbodies. Providing an opportunity for this legislative debate would in effect support Ecology's own evaluation of the value from Option 4 along with the need to provide adequate resources:

"OPTION 4: REQUEST AN EXTENSION TO THE DEADLINE FROM 2009 UNTIL 2013

The final option, a deadline extension, would require legislative action. Such an extension, if granted, should be for the five-year permit cycle, until 2013. This period would allow Ecology to establish protocols for determining reasonable potential for: 1) stormwater discharges and; 2) for groups of facilities. The extension would also allow permittees and Ecology to gather additional stormwater monitoring data. Ecology could enhance its understanding of acute and chronic conditions during "stormwater events".

The Option 4 also provides an opportunity to integrate the results from legislation and legal activity for all categories of stormwater dischargers including industrial, construction, municipal, industry specific and transportation related permittees - thus allowing time to write a harmonized ISWGP that is effective, efficient and enforceable, and an affordable component of Ecology's overall stormwater program.

Response: Ecology gave serious consideration to changing the expiration date of the reissued permit to September 1, 2009, or later. AWB's proposal includes compelling reasons to support this recommendation. However, Ecology is concerned that such an expiration date would be in direct violation of RCW 90.48.555(7), which requires the modified ISWGP to contain

appropriately derived water quality-based numeric effluent limitations by May 1, 2009. Previous counsel from the Attorney General's Office has informed Ecology that administrative orders are not a legally defensible way to impose numeric effluent limitations to permit holders. Therefore, Ecology is concerned that reissuing the permit with an effective beyond May 1, 2009 would be inconsistent with the law, and could lead to a time consuming permit appeal, which could interfere with the ISWGP Stakeholder Work Group Process that is currently underway. Therefore, the permit expiration date will remain April 30, 2009.

Comment 3. Cowlitz Indian Tribe

The Natural Resources Department wishes to state its interest with regards to the project mentioned above. We have no concerns at this time.

Response: Ecology appreciates the Tribe's interest in the industrial stormwater permit.

Comment 4. Michelsen Packaging

My comment concerns the scope of coverage of the General Permit

A. Who is Required to Have Coverage Under the Industrial Stormwater General Permit?

This is a statewide permit for facilities conducting industrial activities.

Why are non-industrial sites exempt? My company owns a building that was constructed with a galvanized roof. Runoff from that roof contains large quantities of zinc. We took extraordinary measures to capture the rainwater from that roof and prevent it from reaching the Yakima River. This was necessary only because the building is an industrial site. If that same building housed a retail operation no such measures would have been expected. The zinc in the runoff would have been the same; it results from the material of construction of the roof and not from any industrial activity. My company is concerned about the environment and clean water. Every land-owner, not just industry, should be required to meet clean water standards.

Response: Non-industrial sites are exempt because they were not included in the US Environmental Protection Agency (EPA) Phase I and II stormwater rules that required 29 different industrial sectors nationwide to obtain NPDES permit coverage – unless they qualify for a “conditional no-exposure exclusion”. These industrial sectors are based on the EPA definition of "stormwater discharge associated with industrial activity" found at 40 CFR 122.26 (b)(14)(i)-(ix), (xi). Ecology agrees that every landowner, not just industrial facilities, should ensure that their runoff does not cause water quality standards violations. Even though non-industrial landowners (e.g., retail, commercial, etc.) are not required to obtain a discharge permit for their stormwater discharges, the state water quality standards do apply statewide. Ecology's newly issued Phase I and II Municipal Stormwater Permits regulate stormwater runoff that drains into, and discharges from, municipal separate storm sewer systems. These permits apply to

stormwater systems in the most populous cities and counties statewide, and require local stormwater management standards equivalent to Ecology's Stormwater Management Manuals to protect water quality from new development and redevelopment.

Comment 5. United States Department of the Interior – Bureau of Reclamation

It is the Bureau of Reclamations policy that "Emphasis shall be placed on discouraging the discharge of non-agricultural type waste water into the Area's [Upper Columbia Area's] natural and constructed irrigation infrastructure, and/or tributaries." Reclamation has a permitting process for proposed discharges into our facilities. A permit must be obtained from Reclamation and the managing irrigation district prior to any discharge.

Two of Reclamations largest projects are within the Central and Eastern Washington regions, Section 402 of the Clean Water Act (CWA) "does not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit."

Of primary concern to Reclamation and the operating entities is preservation of the agriculture return flow exemption under Section 402 (I) 1 of the CWA. Reclamation will not approve discharges which may negatively affect this exemption. Therefore, a fundamental prerequisite to obtaining Reclamation's approval for any waste water discharge is the proponent's full compliance with the requirements of the CWA and issuance of a National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge (SWD) permit when required by other law, Prior to approval, Reclamation and the operating entities must be assured that the exemption for agricultural return flows will not be adversely affected by the proposed discharge.

Reclamation, as the owner, and the Columbia Basin Irrigation Districts, as the managers and operators, of a constructed water delivery system, are concerned with the outcome of this permit due to the possible constraints which may be placed upon the operation and maintenance of our irrigation facilities. The constraints referred to are; the ability to maintain a high standard for the water quality, as well as the capacity of the facilities for the proposed storm water discharge.

The policy is based on protecting the Project's water supply and maintaining the authorized Project purposes. In line with this, there is growing awareness regarding water supply and agricultural production. The Washington State Department of Agriculture's Good Agricultural Practices (GAP) program is an example of this increased awareness. The GAP program requires farmers to certificate the quality of the product produced by submitting water quality sample results of the water used to irrigate their crops.

Response: Ecology appreciates the USDI BOR's interest in the industrial stormwater permit, and the role BOR plays to ensure that discharges into irrigation systems to not adversely affect the agriculture return flow exemption under Section 402 of the Clean Water Act. Ecology wishes to work with BOR to ensure that industrial stormwater discharges into the irrigation systems 1) do

not cause or contribute to violations of water quality standards or degrade the suitability of the water to irrigate crops in the Columbia Basin, and 2) do not negatively impact the capacity of the irrigation system.