

July 15, 2009

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RE: Comments on the Public Draft Industrial Stormwater General Permit Issued for Public Comment on June 3, 2009.

The purpose of this letter is to provide my comments on the Public Draft Industrial Stormwater General Permit (ISWGP – Draft Permit) Issued for Public Comment on June 3, 2009. I appreciate the opportunity to submit these comments, and for the opportunity to participate in this process, as I have worked with clients located throughout the entire State of Washington for over a decade to help them comply with various versions of the ISWGP.

SPECIFIC ISWGP COMMENTS:

General Comment: Please add guidance to the permit concerning leased facilities. How much responsibility does the leaseholder have concerning impacts from structural controls (e.g., the storm sewer systems and other control structures installed by the landlord) and galvanized building materials (e.g., roofs, gutters, downspouts, fencing) that are owned by the landlord not by the leaseholder? Shouldn't the owner of the facility be responsible for the impacts from galvanized building materials not the leaseholder? Why should the leaseholder be responsible for poorly designed structural controls? This is a SIGNIFICANT issue and needs to be addressed. This has been ignored in the past and should be dealt with. I don't believe that the leaseholder should be held responsible for these issues. The leaseholder should be held responsible for the industrial activities that they perform at the facility not for issues concerning building materials they don't own and/or structural controls that they can't change.

S3.A.2(b) and S3.A.2(c): Please clarify what additional information Ecology expects permittees to include to meet the requirements described in these paragraphs. It seems that compliance with **S3.A.2(a)** should be enough to meet the requirements of **S3.A.2(b) and S3.A.2(c)**.

S3.B.1(d): Please add clarification to the permit to provide permittees with guidance concerning meeting this requirement for the following situations:

- **Areas that discharge via sheet flow:** How do you want us to designate areas that discharge via sheet flow. Can we show an outline of the discharge area and identify them as DA1, DA2 etc (DA = Discharge Area)?
- **Facilities where each storm drain inlet discharges separately to an MS4 and/or an industrial park storm sewer system:** Does Ecology believe that each storm drain inlet should be considered an outfall or discharge point and must have a unique identifying number?
- **Discharge to Ground:** Do we need to assign a unique identifying number to large pooling areas (e.g., mud puddles) that discharge to ground or is this requirement for control structures (e.g., drywells) that discharge to ground?

S3.B.1(g): Please add clarification to the permit to provide permittees with guidance concerning meeting this requirement. Shouldn't this be self-evident or are you looking for something specific?

S3.B.2.c.ii: The permittee is required to assess monitoring data in many many other areas of the SWPPP. Why do we then have to update the narrative in the inventory of materials to verify the presence or absence of these pollutants? This really adds to the complexity of the SWPPP and keeping the SWPPP current for no real benefit that I can ascertain. Please consider removing the last sentence of this paragraph.

S3.B.2: Some of the requirements in this section can be met through information that will be readily available on the site map. It may be of benefit for Ecology to add a statement to this section of the permit that the SWPPP can reference the site map for some of this information. The goal should be for the SWPPPs to be as easy to develop and read as possible.

S3.B.3.b.i.3(a) – Good Housekeeping: Permittees should not be required to use specific technologies, such as vacuum sweepers, under all circumstances, without regard to site-specific conditions. This is an undue burden for facilities when it may or may not even help to minimize stormwater pollution based on site-specific conditions. There are situations where benchmarks are being met at facilities through use of other controls (e.g., detention ponds). Why should these facilities now be required to pay for street sweeping if they are already meeting benchmark levels? There are facilities that are using a combination of street sweeping tri-annually, storm drain filtration inserts and storm sewer system cleaning that are meeting benchmarks. Why should these facilities be required to increase street sweeping to quarterly? There are facilities that have small paved areas that are surrounded by gravel parking and drive areas. What will sweeping these small paved areas do to help decrease turbidity and solids in the stormwater discharging from these facilities? Please consider removing this requirement and allowing permittees to add street sweeping based site-specific conditions. In the past this has been done as part of the corrective action process to respond to benchmark exceedances and can still be part of this process during the new permit cycle.

S3.B.3.b.i.3(b) – Good Housekeeping: Please add clarification to this requirement. As written, this could include “the wind”. Consider adding “All on-site significant sources of dust...” Does this include gravel drive areas and paved areas? Does this include windblown dust from off-site? Is this requirement in general addressing dust from bag houses? If so, please clarify the requirement to only refer to bag houses.

S3.B.3.b.i.3(c) – Good Housekeeping: There are times when open-top dumpsters (e.g., roll-offs) are necessary and BMPs can be implemented to address issues associated with them. Please consider modifying this requirement to suggest dumpsters with lids unless not feasible (e.g., during building modification projects, roof repairs) and if open-tops are necessary to incorporate the appropriate BMPs (e.g., all material that can be blown out by the wind must be bagged, no materials with surface contamination = clean pallets, etc). The current language seems unduly restrictive when there are situations when open-tops can be used without the potential for stormwater pollution.

S3.B.3.b.i.5: Spill Prevention and Emergency Cleanup Plan: Please consider adding a statement that paragraphs *a* to *h* are guidance and should be applied on a site-specific basis. These requirements are again very restrictive and don't allow flexibility for site-specific conditions. The permit has already stated in the initial paragraph that the SPECIP must include BMPs to prevent spills to contaminate stormwater. Why can't the permittee determine on a site-specific basis what those BMPs shall be? If the SPECIP meets this goal, without including all of the extremely specific non-flexible BMPs outlined in paragraphs *a* to *h*, why shouldn't this be sufficient?

S3.B.3.b.i.5(a): Spill Prevention and Emergency Cleanup Plan: This requirement is far too inflexible and specific. What about cans or gallons of fluids? What about fluids that are kept inside automotive shops? Do they still need containment? What about housekeeping fluids in a closet? What about small rural facilities with dirt lots, surrounded by vegetated areas with no structural controls (e.g., catch basins) or surface water bodies nearby that store a 55-gallon drum of antifreeze outside? This should be guidance and not a requirement and should only be necessary if there is a significant risk of these fluids causing surface water and/or stormwater pollution. Again, why can't the permittee come up with site-specific BMPs that meet the goal of preventing stormwater contamination from spills? Please consider making this guidance or removing this requirement.

S3.B.3.b.i.5(b): Spill Prevention and Emergency Cleanup Plan: What if the storm drain in the fueling area discharges to sanitary? What about small rural facilities with dirt lots, surrounded by vegetated areas with no structural controls (e.g., catch basins) or surface water bodies nearby? Is this exact list of spill kit materials needed? Please add some flexibility to this requirement or make it guidance. Again, why can't the permittee come up with site-specific BMPs that meet the goal of preventing stormwater contamination from spills? Please consider making this guidance or removing this requirement.

S3.B.3.b.i.5(c): Spill Prevention and Emergency Cleanup Plan: Why is this required if there have been no spills associated with fueling at these facilities? This could be a corrective action if spills occur. Again, why can't the permittee come up with site-specific BMPs that meet the goal of preventing stormwater contamination from spills? Please consider making this guidance or removing this requirement.

S3.B.3.b.i.5(d): Spill Prevention and Emergency Cleanup Plan: Why if there have been no spills associated with fueling at these facilities is Ecology requiring that the storm drain be covered? This could be a corrective action if spills occur frequently. You have required that drain covers be in the spill kits, so why do they have to be in-place during fueling. What if the nearest storm drain is 300 feet across a dirt lot? What if the storm drains discharge to sanitary? This will be extremely difficult to implement and is unnecessary if there has been no history of spills at the facility. Again, why can't the permittee come up with site-specific BMPs that meet the goal of preventing stormwater contamination from spills? Please consider making this guidance or removing this requirement.

S3.B.3.b.i.5(e,f,g): Spill Prevention and Emergency Cleanup Plan: Again, why can't the permittee come up with site-specific BMPs that meet the goal of preventing stormwater contamination from spills? Please consider making this guidance or removing this requirement.

S3.B.3.b.i.5(h): Spill Prevention and Emergency Cleanup Plan: Define "spill". Do you really want permittees to spend time and effort on recording the cleanup of dribbles and leaks? Shouldn't permittees be focusing their limited resources on the goal of preventing stormwater pollution not on doing paperwork? What purpose does this serve?

S3.B.3.b.i.7(c): Inspections and Recordkeeping: What purpose does this serve? It is unclear how we are supposed to meet this requirement because it should be self-evident. How detailed do we have to be to meet this requirement? Exactly what is expected of permittees to define how we will get a signature and why is this important as long as the signature is obtained? Why can't the permittees just meet the signature requirement and not have to explain in the SWPPP how we are going to do this? This adds to the complexity of the SWPPP and makes it more and more unreadable, unmanageable and unimplementable. The more a permittee has to "describe" in the SWPPP the less flexible it becomes in allowing the permittee to just simply meet the goal of reducing stormwater contamination.

S3.B.3.b.i.8: Illicit Discharges: Many permittees have already met this requirement during previous permit cycles. Please add clarification that the evaluations conducted in previous permit cycles can be used during his permit cycle if the evaluation is still valid and accurate.

S3.B.3.b.iv: Stormwater Peak Runoff Rate and Volume Control BMPs: Do paragraphs 2, 3 and 4 apply to all permittees or just to new facilities and facilities that have significant process change?

S3.4: Erosion and Sediment Control BMPs: First Paragraph - Please consider adding clarification that the BMPs should prevent “significant” erosion that may contribute to or cause a water quality violation in the receiving water. The current language can be interpreted, by some parties, to mean all erosion even if it doesn’t result in stormwater pollution, all off-site turbidity (0 NTUs) and all off-site sedimentation (0 TSS).

S3.4(b): Erosion and Sediment Control BMPs: Permittees should not be required to use specific technologies, such as filtration BMPs, indiscriminately and under all circumstances, without regard to site-specific conditions. This is an undue burden for facilities when it may or may not even help to minimize stormwater pollution based on site-specific conditions. There are situations where benchmarks are being met at facilities through use of other controls (e.g., detention ponds). Why should these facilities now be required to install filtration BMPs if they are already meeting benchmark levels? There are facilities that are using a combination of street sweeping and storm sewer system cleaning that are meeting benchmarks. Why should these facilities be required to install filtration BMPs? The permit already requires permittees to maintain these control structures so why are filtration BMPs being required in addition? Please consider removing this requirement or making it guidance.

S3.5(d): Sampling Plan: Please consider removing paragraph *d*, as this information should be included in meeting the paragraph *b*. Simplifying these plans should be a goal.

S3.5(e): Sampling Plan: Please provide clarification on what is required for the visual inspection check list. If this information is contained in another section of the permit, please consider adding a reference to the applicable section to this paragraph.

S.4.B.2.e: Sample Location(s): Currently there are few storm drain filtration inserts that are well designed to allow for sample collection through the filter insert. Therefore, there are circumstances where the insert must be removed for sample collection. Please consider adding some flexibility to this paragraph.

S.4.B.6: Consistent Attainment:

Achieving Consistent Attainment: Please consider allowing consistent attainment to be achieved if the mean of eight consecutive quarterly results is equal to or less than the benchmark or is within the specified pH ranges. This allows for variability in storm events and sample collection issues that impact the results (e.g., new samplers that do not collect the samples properly).

Retention of Current Consistent Attainment: If a facility has attained consistent attainment for certain parameters during the current permit cycle please consider reducing the requirements to retain consistent attainment status for these parameters. Why does a permittee have to monitor for eight more consecutive quarters to regain consistent attainment for these parameters when it has been shown during the current permit cycle that stormwater discharges from this facility are at low risk for contamination from these parameters? Please consider allowing permittees to retain consistent attainment status for those parameters currently under consistent attainment after two results that are equal to or less than the applicable benchmark, or within the specified pH ranges, after the effective date of the new permit.

Consistent Attainment Accounting: There have been many issues with the way that Ecology counts whether a facility has achieved consistent attainment that are not specified in the current permit. Currently, Ecology restarts the count back to zero if a permittee doesn't collect a sample during a quarter when there was a discharge during a qualified event. This is contentious because it is not specified in the current permit, or in this draft permit, that the count has to go back to zero under these circumstances. It is my belief that the logic behind why a permittee is allowed to waive the monitoring requirement for a specific parameter is that the monitoring results show the stormwater discharging from the facility is consistently and reasonably not at risk of being excessively contaminated with a specific pollutant. Based on this goal, it seems that missing a sample during a quarter should not negate the fact that the overall results indicate the parameter is not a problem. Consider allowing the facility to collect two monitoring samples during the next quarter that there is a discharge to make up for a sample that is missed during a quarter. Many permittees are trying very hard to meet the current permit requirements and are not trying to "get away with something" when they don't collect a sample during a quarter. Making the "rules" more flexible makes it easier for permittees to meet the goal of monitoring their stormwater and reducing stormwater contamination. Shouldn't the goal be reduction of stormwater pollution not how well permittees can meet the "rules" of the monitoring requirements? Also, does the word "consecutive" mean that when a discharge doesn't occur during a quarter and you don't have an opportunity to collect a sample Ecology will role the count back to zero? Please provide additional clarification on when permittees have to restart the count back to zero.

S.4.B.6.c: There are many parameters that will never be below detection (e.g., dissolved oxygen) and many parameters for which a small amount is well below water quality standards. Please consider allowing these facilities to use the same criteria as other facilities to achieve consistent attainment (paragraphs a and b), which indicates that the facility is unlikely to cause or contribute to a water quality violation.

General Comment: Please consider revising the monitoring program to increase the permittees flexibility in meeting the basic goal of this program. Consider replacing quarterly monitoring with the requirement to collect four samples throughout the wet season (Oct 1 to May 31). The permit could require several weeks of separation between sample-collection to spread collection throughout the wet season. Or, consider allowing additional samples throughout the calendar year to make up for quarters when samples were not collected and there was a discharge. This would go a long way to assisting permittees in complying with the monitoring requirements and would not diminish the goal of reducing stormwater pollution.

S5. Table 2:

Turbidity: Please consider revising the turbidity benchmark to 50 NTU's, which is the EPA's benchmark level in the MSGP 2008 for sectors that require monitoring for turbidity. The fact that the current benchmark level of 25 NTU's was based on field observations by Ecology staff seems to be a peculiar way of determining a scientifically valid (not arbitrary and capricious) way of establishing a benchmark.

Oil Sheen: Please provide practical guidance on how permittees should determine what constitutes a reportable oil sheen (a "Yes" on the DMR). Is it only a reportable "Yes" on the DMR if there is a visible sheen floating on the top of the grab sample? Is this observation limited to the grab sample or does it include runoff that is flowing toward the collection point? What if a very small string of sheen is visible on otherwise clear runoff coming toward the collection point that was caused by a small dot of oil no bigger than a quarter that came from a customer's car or an employee's car?

S.7.A.2: Inspections: Please indicate, in this section of the permit, what a Certified Industrial Stormwater Manager (CISM) is and how to obtain this certification. The only place I could find this information was in the Fact Sheet and this information was lacking. The fact sheet also indicates that "Certified Industrial Stormwater Manager" is a tentative title. Therefore, before we start writing SWPPPs with this title in them we would greatly appreciate either a firm decision on the name or additional language in the permit indicating "or equivalent" or something to provide flexibility so that all the SWPPPs don't need to be changed later. Please add the flexibility for permittees to certify someone of their own choosing who can then certify individuals as CISM's within their own organization at any time that schedules allow and can be an employee to keep costs down. Some permittees will need to train up to 50 people within their organization at locations throughout the entire state. These permittees should be able to certify a **"trainer"** within their organization, or an outside person/consultant of their choosing, who can then certify other employees whenever necessary during the permit cycle. This will ensure that permittees are not faced with unnecessary costs to certify individuals as CISM's and will ensure quick certification of new CISM's throughout the permit cycle as a result of personnel changes. This option can be in addition to the other options Ecology has proposed (e.g., courses taught by Ecology throughout the state, on-line courses, video courses). Permittees should be provided all flexibility possible to meet the goal of having qualified personnel perform the inspections. The goal is what is important, not how you get there. To restrict certification to only Ecology courses, even on-line or video courses, places an unnecessary financial and scheduling burden on permittees, especially those that have multiple facilities all over the state. To allow "in-house trainers" that can then certify personnel at facilities all over the state allows permittees to more economically meet this requirement and provides the flexibility to meet very difficult personnel work-schedules at remote facilities. Throughout the permit cycle personnel changes will require that new CISM's be certified and an in-house trainer is better able to respond to this situation.

S.7.A.2: Inspections: The Certified Professional in Stormwater Quality (CPSWQ) is a national certification program that requires specific qualifications in stormwater management. Just because someone has a Professional Engineering (PE) license does not necessarily mean they have a background in stormwater management or are even qualified to perform these inspections. I have a BS in Chemical Engineering and a MS in Environmental Engineering and have been working in the stormwater industry since 1990. I am not a licensed PE. However, I do have a CPSWQ, as I felt this certification better reflected my engineering experience, my educational background and my current work. An engineer can obtain a PE license in many different areas of expertise. Is a PE that took the electrical engineering exam or the mechanical engineering exam qualified to do these inspections? Maybe, based on their background and experience, but not based on the PE license alone. Please consider removing the PE license from this requirement or adding clarification that the PE should be in an applicable area of expertise and that they should have similar backgrounds and experience levels of a CPSWQ.

S.7.C.1.c and d: Inspection Results: Please clarify what Ecology considers a "non-compliance" (or refer to a part of the permit that provides this clarification). Is a dumpster lid being left open a non-compliance with

permit conditions? If there wasn't a storm drain cover in the spill kit is this a non-compliance with the permit conditions? Please provide some examples of what can be considered an inspection finding (e.g., dumpster lid is open, drain cover is missing) that IS and IS NOT a non-compliance with the permit conditions. As currently worded, any inspection finding could constitute a non-compliance with permit conditions no matter how insignificant or quickly correctable the finding is. Why can't we just comply with paragraph S.7.C.1.d and delete paragraph S.7.C.1.c? Please consider revising paragraph S.7.C.1.d to "If the site inspection indicates findings....." instead of "is out of compliance".

S.7.D: Reports of Non-Compliance: It would be nice to have additional clarification in this section of the permit concerning what Ecology considers a "non-compliance" that would require reporting under Condition S9.D. [refer to comment above.]

S.8. Corrective Actions:

General Comment: This is incredibly complicated. Do all these reports really ensure that stormwater pollution will be reduced, or is this just "paperwork" that seems to provide proof to those who never had to write or comply with SWPPP that the permit is being complied with. Isn't this the chicken and egg dilemma? If you make a permit more complex and harder to comply with won't you then be disappointed by permittees who don't comply? Maybe the fact that the current permit requires an onerous amount of confusing reports has caused the appearance of gross non-compliance thus making some want even more reports to show compliance? The bottom line is will these reports, especially the **Appendix 3 –SWPPP Certification Form**. It doesn't seem to me that this certification form serves any purpose at all. In accordance with the BASIC permit requirements this SWPPP is supposed to be in compliance with the permit requirements and we are supposed to modify the SWPPP as necessary to bring monitoring results down to below benchmarks. Why add this additional layer of paperwork with is REALLY difficult to comply with when you have multiple facilities. I can provide MANY examples of situations when the SWPPP does not need to be updated just because a benchmark has been exceeded. We should only have to recertify the SWPPP, in accordance with requirements that are already in other areas of the permit, if we feel modifying the SWPPP is necessary to ensure further pollutant reductions. Please reconsider these reporting requirements in this section and simplify them. Again, please consider the goal of stormwater pollutant reduction. Is adding to the paperwork nightmare really helpful or does it actually withdraw resources and attention away from this goal.

S.8.A: Level One Corrective Actions: Please consider simplifying this requirement and allowing the permittee to record the cause of the exceedance and corrective actions they are taking on the DMR (a report they are already required to submit) and deleting all other language in this section. **Please don't add to the already onerous reporting requirements when we can just include information on the DMRs to explain the causes of the exceedances and the corrective actions we determine best address these causes.** The corrective actions can include SWPPP revisions if the permittee determines they are needed **based on the cause(s) of the specific exceedance.**

S.8: Level Two, Level Three and Level Four Corrective Actions: Please consider simplifying these requirements and allowing the permittee to record what they are doing to address exceedances on the DMR each quarter. **Please don't add to the already onerous reporting requirements when we can just include information on the DMRs to explain the causes of the exceedances and the corrective actions we determine best address these causes, including structural BMPs.** This puts all the information in one place, on a single document, the DMR, which makes it easier for everyone to follow the monitoring results, the causes of exceedances and the corrective actions completed during each quarter. All these additional reports spread this information out, create confusion, unnecessarily increase costs and don't really ensure that stormwater pollution will be reduced. Can't we reduce the reporting burden and get all the information needed

by all parties on ONE PLACE and on one document? The DMR can serve this purpose. Also, why do we even need these reporting levels? If all the information is on the DMR, can't Ecology use the DMR information to determine when to set up site visits with permittees to develop site-specific actions that will address consistent exceedances? Ecology could base these site visits on the number of benchmark exceedances, the actual results and how far they exceed benchmark, the listed causes of the exceedances and the corrective actions taken to address these causes. Based on a meeting with the permittee and a site inspection Ecology could then determine on a site-specific basis if the actions listed in Level Four Corrective actions (S.8.D.1) are needed instead of including them in the permit without flexibility. Please consider removing all four level reporting requirements and including the pertinent information on the DMR so that Ecology and the permittee can work together to determine what actions best suit each facility.

S.8.C.3: Level Three Actions: Please reconsider the requirement to have a Professional Engineer (PE) design and stamp portions of the SWPPP that address stormwater treatment structures or processes. This is a VERY restrictive and costly requirement for permittees to comply with and won't ensure that these treatment structures or processes are designed correctly. If you would like to ensure that a qualified person designs the treatment structures and/or processes, please consider broadening this requirement to include professionals certified under the Certified Professional in Stormwater Quality (CPSWQ) program and/or professionals that have appropriate educational and professional backgrounds in stormwater quality. This is an extremely restrictive requirement and excludes many very qualified professionals from performing this function, with no reason or ensured benefit. As stated above, a CPSWQ is a national certification program that requires specific qualifications in stormwater management and should be allowed perform this function. Just because someone has a Professional Engineering (PE) license does not necessarily mean they have a background in stormwater management or are even qualified to perform this function. I have a BS in Chemical Engineering and a MS in Environmental Engineering and have been working in the stormwater industry since 1990. I am not a licensed PE. However, I do have a CPSWQ, as I felt this certification better reflected my engineering experience, my educational background and my current work. An engineer can obtain a PE license in many different areas of expertise. Is a PE that took the electrical engineering exam or the mechanical engineering exam qualified to perform this function? Maybe, based on their background and experience, but not based on the PE license alone.

Thank you for the opportunity to comment on the Draft ISWGP. If you have any questions concerning my comments please contact me at the number listed below.

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