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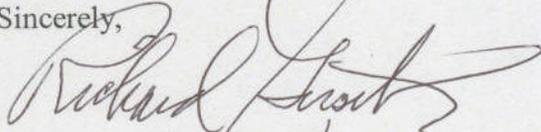
Re: WSDOT Comments NPDES Industrial Stormwater General Permit

Dear Mr. Killelea,

Thank you for the opportunity to share our perspective on the public review draft of the NPDES Industrial Stormwater General Permit. WSDOT anticipates compliance with the conditions in the proposed permit will come at greater financial cost to the agency. Given the current financial challenges that the state faces and the current shortfall of state financing to meet existing water quality regulations, WSDOT is concerned that the financial constraints of the state may affect the agency's ability to fully meet the requirements of the proposed permit. Some key areas of concern include costs associated with complying with sampling location requirements and implementing operational BMPs, monthly inspections and maintenance, increased record keeping and more formal reporting of non-compliance, and the requirement for certified stormwater inspectors.

Our enclosed comments below offer many recommendations for the draft permit that we believe will satisfy regulatory requirements and better suit our mutual need for a cost-effective, common sense program to achieve significant water quality protections and improvements. Please contact me if you would like WSDOT to discuss or provide additional clarification on our comments.

Sincerely,



FOR MEGAN WHITE

Megan White, P.E. Director
Environmental Services Office

MW:pj

Special Condition 1. Permit Coverage

S1.A.1 “The Standard Industrial Classification (SIC) groups generally, but not always, associated with these activities are listed in Table 1.”

WSDOT Comment: This sentence is unclear and should be revised.

**Table 1: Activities Requiring Permit Coverage and the Associated SIC Code Groups
“The following facilities that have road maintenance shops, equipment cleaning operations, or deicing operations:”**

WSDOT Comment: WSDOT thinks that the language used for this section in the existing permit is clearer than the proposed permit language. We suggest replacing the proposed language with the language/structure used for this section in the existing permit.

S1.A.3. Any facility that has an existing National Pollutant Discharge Elimination System (NPDES) discharge permit which does not address all stormwater discharges associated with industrial activity if Title 40 of the Code of Federal Regulations (40 CFR) Subpart 122.26(b) (14) requires the facility to have a stormwater NPDES permit, shall obtain permit coverage.

WSDOT Comment: This contains awkwardly written language. Suggest rewording to:

“Any facility qualifying as an industrial facility as listed in Table 1 and discharges stormwater to a surface water body or to a municipal separate storm sewer system, that has covered under an existing National Pollutant Discharge Elimination System (NPDES) discharge permit, other than an Industrial Stormwater General Permit or Individual Permit, which does not address all stormwater discharges associated with industrial activity if Title 40 of the Code of Federal Regulations (40 CFR) Subpart 122.26(b)(14) requires the facility to have a stormwater NPDES permit, shall obtain permit coverage under this permit.”

S1.B. Significant Contributors of Pollutants

WSDOT Comment: As written, the language in this section could be interpreted to extend beyond what was described in A.1. of this Section. Suggest rewording as follows:

“Ecology may require an industrial facility as listed in Table 1 to obtain coverage under this permit if Ecology determines the facility:

1. Is a significant contributor of pollutants to waters of the state, including ground water; or
2. May reasonably be expected to cause a violation of any water quality standard, ~~or~~
3. ~~Conducts industrial activity, or has a SIC code, with stormwater characteristics similar to any industrial activity or SIC code listed in S1.A.”~~

Special Condition 3. Stormwater Pollution Prevention Plan (SWPPP)

WSDOT Comment: Most existing facilities have stormwater management BMPs constructed and developed over years. The requirement to immediately upgrade facilities to comply with the current standards contained in the most recent eastern and western Washington stormwater manuals is impractical. Suggest including a statement requiring the permittee to meet the appropriate stormwater design standards that were required at the time the existing stormwater management facility was permitted for construction. We recommend practical compliance pathway/timelines be incorporated into the permit to bring existing facilities up to current standards.

S3.B.3.b.i.3) a) “The permittee shall vacuum paved surfaces with a vacuum sweeper (or a sweeper with a vacuum attachment) to remove accumulated pollutants a minimum of once per quarter.”

WSDOT Comment: The source of sediment at the Washington State Ferries Eagle Harbor facility is what blows in (e.g., airborne dust/pollen) or what washes off the vehicles when on the facility. WSDOT currently uses a conventional sweeper once a week at the facility. A quarterly pass with a vacuum sweeper as required by the permit will help, but represents a significant capital equipment cost with an anticipated minimal water quality benefit.

Special Condition 4. Sampling

S4.B.2.c. “The Permittee shall sample each distinct point of discharge off-site and shall analyze each sample separately; except where pollutant types, at one or more distinct point of discharge off-site, do not vary (based on industrial activities and site conditions), the Permittee may sample only the discharge point with the highest concentration of pollutants.”

WSDOT Comment: Sentence length and punctuation make this requirement unclear. Consider revising the text as follows:

The Permittee shall sample each distinct point of discharge off-site and shall analyze each sample separately. Where pollutant types at one or more distinct point(s) of discharge off-site do not vary (based on industrial activities and site conditions), the permittee may sample only the discharge point with the highest concentration of pollutants.

S4.B.2.e “The Permittee shall take all samples after the stormwater passes through on-site BMPs, as close to the point of discharge off-site that can be achieved safely.”

WSDOT Comment: WSDOT compliance with this condition will be difficult due to the design of the existing stormwater management system. At the Eagle Harbor Maintenance Facility, sampling is conducted in a stormwater catch basin because off-site discharge locations are in an intertidal area that cannot be reliably and safely accessed for sampling. Filter socks are used in these catch basins to further reduce sediment and particles in discharges. Since stormwater sampling requires removal of the filter socks, turbidity of the sample would potentially increase and would not be representative of the actual operating conditions. Modifying the stormwater system to facilitate sampling downstream of the existing BMPs (filter socks) would require a major capital expense with no anticipated benefit to water quality. This condition should be revised to allow an alternate method of sampling in situations such as the one at Eagle Harbor.

S4.B.6. After the effective date of this permit, the Permittee may suspend sampling for one or more parameters based on consistent attainment of benchmark values when:

WSDOT Comment: As worded, this language would not allow prior sampling to be used to determine consistent attainment of benchmark values. While we think that this approach is reasonable and appropriate for new parameters or parameters with new benchmarks, prohibiting the use of prior sampling results offers no additional environmental protection for parameters whose protocols and/or benchmark values that are not changing from the current ISWGP. WSDOT recommends allowing previous constant attainment status to be carried forward for parameters that have had no change in protocols or benchmark values.

S5. Benchmarks and Effluent Limitations

WSDOT Comment: WSDOT recommends adding sampling for hardness when sampling for metals as hardness is critical in determining the potential toxicity of the metals in stormwater runoff. WSDOT believes that it is inappropriate to use a median state-wide hardness given the disparate geology of the state and the wide variability of hardness in stormwater and receiving waters. The benchmarks used should account for the variability in hardness.

Condition S5.A.Table 2 “Benchmarks and Sampling Requirements Applicable to Discharges to Non-303(d)-listed Water Bodies.”

WSDOT Comment: The draft permit proposes eliminating the existing permit requirement calling for oil and grease sampling along with the previous benchmark of 15 mg/L and replace it with a visual assessment of petroleum contamination using a qualitative observation of visible oil sheen. Using "evidence of oil sheen" as a visual indicator has the potential to trigger reporting and corrective action requirements without the benefit of factoring in the source, nature, or magnitude of the contributing contamination (e.g., a oil sheen can result from a very minute drop of oil in a puddle of rainwater, but the actual concentration may not pose any threat to the receiving water environment). WSDOT recommends adding flexibility so that in the event that a visible sheen is observed, the permittee can follow-up with sampling to assess whether the magnitude of that incident exceeds the existing oil and grease sampling benchmark. Exceeding that benchmark would then trigger the permits corrective action requirements.

Comment S5.B.Table 3. Additional Benchmarks and Sampling Requirements Applicable to Specific Industries

The proposed benchmark for copper in the draft permit has been lowered from 63.6 µg/L to 14 µg/L and 32 µg/L for Western and Eastern Washington, respectively. The lowered benchmark will trigger escalating response levels that may be impossible for the regulated community to feasibly meet. The study used to derive the benchmarks also raises some questions in terms of its representativeness to real world conditions and WSDOT suggests comparing the approach used in the study with other approaches that have been employed for these purposes.

Special Condition 8 Corrective Actions.

WSDOT Comments: Some stormwater management maintenance tasks may temporarily degrade effluent quality for a short period of time. General Condition 21 recognizes that some maintenance activities might cause degradation of stormwater effluent. However, there appears to be no mechanism to allow for the permittee to cycle out of the tiered response action plan as a result of exceedences occurring during the maintenance period. In our view, permittees should be allowed to temporarily suspend monitoring during such maintenance activities or be temporarily released from the permit's tiered response action plan for exceedences occurring during and immediately following such maintenance activities so long as the maintenance is in accordance with methods approved by Ecology.

S8.C. Level Three Corrective Actions

WSDOT Comments: The ISWGP only allows permittees 12 months to implement all practical treatment BMPs at the level three response. For most operations, obtaining the necessary funds and resources required for compliance may be more than a 12 month process. Such a compliance timeline could be challenging given the state agency biennial budgeting process. WSDOT recommends adding permit language that would allow the permittee to submit a timeline to Ecology within 12 months explicitly stating how long it will take to complete the Level 3 response along with the justification for that response time.

Appendix A -Definitions

WSDOT Comments: As a general comment, the definitions within this section should be consistent with terms and definitions used in other regulations and permits issued by the State of Washington. The term "stormwater" discussed below, is an example of a disparity.

Significant Amount means an amount of a pollutant in a discharge that is amenable to available and reasonable methods of prevention or treatment; or an amount of a pollutant that has a reasonable potential to cause a violation of surface or ground water quality or sediment management standards.

WSDOT Comments: This definition, as written, implies that discharging pollutants in amounts that do not violate surface water, groundwater, or sediment standards, but are

amenable to treatment would be considered a “significant amount.” WSDOT recommends modifying this definition by deleting the language:

“an amount of a pollutant in a discharge that is amenable to available and reasonable methods of prevention, control, or treatment; or”

This will clarify that discharge of a pollutant is not automatically considered a significant amount just because the pollutant is amenable to available and reasonable treatment.

Significant Contributor of Pollutant(s) means a facility determined by Ecology to be a contributor of a significant amount(s) of a pollutant(s) to waters of the state of Washington.

WSDOT Comments: It is not clear what basis Ecology will use to determine a significant amount(s)? WSDOT recommends describing the criteria that Ecology will use to decide that a facility is a significant contributor of pollutant(s).

Stormwater means 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 stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

WSDOT Comments: The term “stormwater” in the WSDOT municipal stormwater permit is defined as:

Means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, and interflow.

WSDOT suggests that the term “stormwater” should have one definition across all permits and regulations.