

Industrial Stormwater General Permit

Addendum to Fact Sheet: Appendix D

Response to Public Comments on the Draft Permit

December 3, 2014

The Washington State Department of Ecology (Ecology) received 59 public comment letters on the draft Industrial Stormwater General Permit (ISGP) that was released for public comment on May 7, 2014. Ecology also accepted oral testimony provided by Katelyn Kinn of Puget Soundkeeper Alliance on June 16, 2014 at the South Seattle Community College in Seattle. Public comments were submitted by a wide range of stakeholders and interested parties, prior to the close of the public comment period on July 11, 2014.

Ecology has assembled summaries and excerpts from public comments into this document, and organized them by topic and/or permit condition. Ecology has provided a written response to comments on proposed permit conditions, and indicated where revisions were made to the ISGP. Underlined language is used to indicate new final ISGP language compared to the draft 2014 ISGP. When multiple parties commented on the same subject matter, Ecology grouped the summarized and/or excerpted comments into a “Summary of the Range of Comments”. This allowed Ecology to respond to the range of comments collectively.

Numerous commenters provided introductory statements and general comments along with more detailed questions and comments on specific permit conditions. These statements and comments provided important perspective and context that ultimately helped Ecology finalize the ISGP. Due to the volume of background statements and general comments, Ecology limited written responses to specific comments on the draft permit, and did not provide written responses to background statements and general comments.

Copies of all public comment letters, emails, and oral testimony are posted on Ecology’s Industrial Stormwater General Permit website:

<http://www.ecy.wa.gov/programs/wq/stormwater/industrial/index.html>

Public Comments on the May 2014 Draft Industrial Stormwater General Permit

The following comments on the [Draft Industrial Stormwater General Permit](#) have been submitted to Ecology during the public comment period. Ecology has also posted comments received on the [Washington Public Ports Association - Washington State Marine Terminal AKART and ISGP Corrective Action Guidance Manual Public Review Draft](#), but Ecology did not respond to those comments in this document.

Commenter	Comment
Alcoa	Letter
AMEC Environment & Infrastructure	Letter
APM Terminals	Letter
Automotive Recyclers of Washington	Letter
Association of Washington Business	Letter
BNSF Railway	Letter
BNSF Railway/Everett Yard	Email Attachment
Boeing	Letter
Bridwell, Katherine	Email
Cedar Grove Composting and Emerald Services	Letter
Citizens for a Healthy Bay	Letter
City of Bellevue	Email
City of Bellingham	Email
Dawson Consulting LLC	Letter
DNR	Email
DNR2	Letter
Envirocert International, Inc	Letter
EPA	Email
Georgia Pacific, LLC	Letter
GeoEngineers	Letter
Glacier Northwest, Inc. dba CalPortland	Letter

Gordon Thomas Honeywell	Letter
Hecla	Letter
Imperium Grays Harbor	Email
King County	Letter
Lynden	Letter *
MacMillan-Piper, Inc.	Email
Manufacturing Industrial Council	Letter
Millman, Gerry	Email
Nisqually Environmental Sampling and Consulting	Letter
Nucor Steel Seattle, Inc.	Email
Oleson, Melvin W.	Letter
Pacific Merchant Shipping Association	Letter
Port of Everett	Letter
Port of Longview	Letter
Port of Olympia	Letter
Port of Seattle	Letter
Port of Tacoma	Letter
Port of Vancouver	Letter
Puget Soundkeeper Alliance	Hearing Testimony
Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, WA Environmental Council, Waste Action Project, RE Sources for Sustainable Communities/North Sound Baykeeper	Letter
SSA Marine	Letter
Tonge, Carl	Letter
Total Terminals International, Inc.	Letter
Vigor Marine	Letter
WaferTech	Letter
Washington United Terminals	Letter

Waste Management	Letter
WaterTectonics	Letter
Washington Dept. of Fish and Wildlife	Letter
Westergreen, Tom	Email
Weyerhaeuser	Letter
Weyerhaeuser2	Letter
Washington Public Ports Association	Letter
WindWard, Environmental LLC	Letter
WSDOT-Washington State Ferries	Transmittal Letter Letter

*Comment submitted after the close of the comment period.

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General Comments and Process

Economic Impact

Negative economic impact and competitive disadvantage

Commenters: Alcoa, AMEC, Association of Washington Business, Georgia-Pacific, Manufacturing Industrial Council, Windward Environmental, Ports of Vancouver, Seattle, Tacoma, Olympia, Everett, and Longview, SSA, Pacific Merchant Shipping Association, Total Terminals, Washington Public Ports Association, Washington United Terminals & others

Summary of the Range of Comments

- The ISGP is too burdensome; causes negative economic impacts
- The ISGP has the ability to create a major economic impact to ports, port tenants and other businesses, particularly in today's economic climate.
- Ecology should revise the ISGP to reduce costs.
- Need to attempt to achieve environmental improvements while balancing the economic need of local and regional businesses.
- Compliance is near impossible with sufficient container volume necessary to maintain jobs, particularly when common sources for failure are not controlled by terminal operators, yet the cost of noncompliance is staggering and, in some cases, there is no way to reach Ecology's standards even despite using every reasonable means possible.

- Overall, stormwater management costs for container terminals in California are significantly less than in Washington due to differences between the California and Washington ISGP permit requirements.
- Our sustainability and opportunity to invest further in the community requires reasonable and effective methods for complying with a myriad of regulations
- These are challenging issues that could impact thousands of family-wage jobs in Washington State.
- It is already almost impossible for operators to comply with the current Washington ISGP while maintaining competitive terminal economics.
- In order for us to implement the stormwater management practices that protect Puget Sound water quality, the ISGP requirements must be achievable and reasonable.
- The escalating costs associated with increasingly stringent requirements of the ISGP significantly affect our ability to continue to provide import and export opportunities for Washington businesses and critical family-wage jobs in Washington's maritime industry.
- The costs and uncertainties associated with the increasing requirements of the ISGP significantly affects our ability to continue to provide import and export opportunities for Washington State businesses that support family living-wage jobs in Washington State and could possibly curtail the employment of the approximately 250 management, security, and longshore personal that work at our facility on a daily basis.

Response to the Range of Comments

Ecology takes economic issues into consideration when implementing state and federal laws and regulations. Ecology has made several changes to the final ISGP based on public comments received on the draft ISGP. The final ISGP minimizes compliance costs to the extent possible without running afoul of existing statutes, regulations, and case law.

Economic Impact Analysis Inadequate and Incorrect

Commenters: Port of Longview, Dawson Consulting LLC, SSA, Washington State Ferries, Weyerhaeuser, Waste Management of Washington

Summary of the Range of Comments

- Ecology's Economic Impact Analysis (EIA) is inadequate and incorrect.
- The EIA for the Draft Permit does not comply with these requirements because it fails to identify the new 30 mg/L TSS limit or the significant compliance costs that will likely result.
- The EIA is missing key proposed changes to the permit:
 - costs associated with the sampling required by Table 6,
 - the S6.C.2. solids sampling, analysis and reporting requirements, and
 - estimated capital expenditures for compliance with the proposed effluent limitations.

The document should be amended to include this information.

- Annualized compliance cost estimates exclude most ISGP requirements.
- If the proposed new monitoring requirements go into effect, it will cost us additional tens of thousands of dollars annually for monitoring alone.
- Other marine-based industrial facilities- both large and small- are also facing tens of thousands of additional monitoring costs that, as set forth above, provide little to no economic benefit.

- Ecology is remiss in considering the intent of WAC 173-226-120 and under-represents the cost of this permit to the public and their representatives.
- Ecology should take a more realistic look at the compliance-cost issue so that the Environmental Impact Analysis has some legitimacy.

Response to the Range of Comments:

Ecology understands the concerns expressed about the Draft ISGP Economic Impact Analysis (EIA) excluding costs associated with certain ISGP permit conditions, including the proposed requirements for discharges to Puget Sound Sediment Cleanup Sites. However, Ecology is specifically prohibited from including certain compliance costs in an EIA:

Excerpt from WAC 173-226-120(4):

(4) The following compliance costs associated with a general permit shall not be included in the economic impact analysis:

- (a) The costs necessary to comply with chapters 173-200, 173-201, 173-204, and 173-224 WAC; and
- (b) The costs associated with requirements of the general permit which result from conformity or compliance, or both, with federal law or regulations.

The specific compliance costs related Puget Sound Sediment Cleanup Sites were correctly excluded because they are necessary to comply with Chapter 173-204 (Sediment Management Standards); and result from conformity and/or compliance with federal law or regulations.

Ecology takes economic issues into consideration when implementing state and federal laws and regulations. Ecology has made several changes to the final ISGP based on public comments received on the draft ISGP. The final ISGP minimizes compliance costs to the extent possible without running afoul of existing statutes, regulations, and case law.

Miscellaneous General Comments

Ecology should improve ISGP formatting

Commenter: Waste Management of Washington

Comment 13. Ecology should adopt EPA's section/paragraph identification scheme.

The General Permit's scheme for numbering conditions and paragraphs makes it difficult and confusing to navigate through the permit. EPA, in its Multi-Sector General Permit ("MSGP"), no longer uses the "I.B.3.e" lettering/numbering scheme. In 2000, EPA provided a good explanation of this problem:

Also note that the section/paragraph identification scheme of today's final MSGP has been modified from the 1995 MSGP. The original scheme utilized a sometimes lengthy combination of numbers, letters and Roman numerals (in both upper and lower cases) which many permittees found confusing. Today's reissuance identifies sections/ paragraphs, and hence permit conditions, using numbers only, except in Part 6 (which also incorporates the sector letters from the 1995 MSGP for consistency). Under the original permit, only the last digit or letter of the section/paragraph identifier appeared with its accompanying section title/ paragraph, making it

difficult to determine where you were in the permit. In today's reissuance, the entire string of identifying numbers is listed at each section/paragraph to facilitate recognizing where you are and in citing and navigating through the permit. For example, paragraph number 1.2.3.5 tells you immediately that you are in Part 1, section 2, paragraph 3, subparagraph 5; whereas under the 1995 MSGP you would only see an "e", thereby forcing you to hunt back through the permit to determine that you were in Part I.B.3.e. 65 Fed. Reg. 64746, 64747 (Oct. 30, 2000).

WMW suggests that Ecology adopt the same approach. WMW notes that it made this same comment in 2004. Ecology recognized the merit of the comment but deferred making the suggested change "due to time constraints." Given the decade that has elapsed since, it is unfortunate that Ecology did not make this formatting change. It should do so now.

Response:

Ecology agrees that the format for numbering conditions and paragraphs makes it difficult to navigate the ISGP. At the same time, Ecology wishes to avoid the confusion and disruption that would result from a wholesale reformatting of the permit; many Permittees, regulatory staff and stakeholders have gotten used to the current numbering convention.

To make an incremental improvement in formatting, Ecology has added headers to the body of the ISGP that show the section at the beginning of the page. This should improve navigation and reduce confusion, especially when a person needs to cite a specific permit condition.

Use of general permit conditions in individual NPDES permits

Commenter: Alcoa

Using ISGP Conditions in Individual NPDES Permits - Alcoa does not believe it is appropriate to utilize ISGP permit conditions in individual NPDES permits unless it can be demonstrated such conditions are specifically appropriate to that industrial site. The required information necessary to obtain coverage under an individual permit versus the ISGP are sufficiently different in terms of detail and quantity, which typically means generic permit conditions of the ISGP do not readily mesh well in individual permits.

Response:

This comment pertains to individual NPDES permits, and is outside the scope of the draft ISGP.

Increase Ecology Inspections

Commenter: AMEC

Businesses operating under the ISGP are regulated not only by the Washington Department of Ecology, but also by the EPA. In addition, sampling results and all permit submittals are open to review by local agencies and the general public. This access has introduced a third de facto regulatory mechanism from third-party lawsuits brought under the Clean Water Act. As a result, many permit holders are having a hard time meeting different interpretations of the permit from these different regulatory groups. This situation could be improved by:

More frequent inspection of facilities by Ecology with quick provision of written documentation of findings and penalties (if any).

- AMEC realizes that this is a resource problem for Ecology and they may not be able to allocate personnel for this, but timely inspections and written documentation would help permittees better understand how to comply more quickly with the ISGP.
- The additional feedback would help empower facility staff to demonstrate to their management the value of good O&M for stormwater BMPs and allow management to better allocate resources to preventative measures.
- The timely feedback from Ecology would help limit the ability of third-party groups to enact excessive penalties for minor deficiencies (such as recordkeeping errors.)

Response:

This comment raises valid points, but is outside the scope of the draft ISGP. Ecology will continue to work on ways to improve the efficiency and effectiveness of inspection and enforcement activities.

Seattle's Industrial Waterways - Need for Improved Coordination and Collaboration

Commenter: Manufacturing Industrial Council

The Manufacturing Industrial Council generally supports recommendations regarding the draft 2015 permit submitted by our individual members and colleague organizations including the Pacific Merchants Shipping Association and the Washington Public Ports Association. The MIC collectively also offers to work with DOE and elected leaders to use the draft permit review process to help find better ways to coordinate state, local, regional and federal initiatives to address environmental issues in and around Seattle's industrial waterways. The federal Clean Water Act provides tools to address complex issues like those emerging in Seattle and we urge DOE to work with us to help persuade elected leaders to explore these or other options. Great progress is being made to clean up Seattle waterways and we are concerned further progress will be stymied by failures to collaborate. Just this week, as the state sought final input on the draft state stormwater permit, the City of Seattle was seeking input regarding its local stormwater code while the Governor announced new water quality initiatives to promote healthier fish consumption, and a new controversy emerged in Seattle over aspects of the city's shoreline master plan. In the Duwamish, these efforts add to a regulatory climate already clouded by disagreements between local and federal authorities regarding the Duwamish Superfund.

Response:

Ecology agrees that improved coordination and collaboration is necessary to address the complex environmental issues in and around Seattle's industrial waterways. Ecology is committed to working with state, local, regional and federal agencies, as well as Tribes, public and private stakeholders and non-governmental organizations.

Comments on Special Conditions

Condition S1. Permit Coverage

Surface Waters of the State

Commenter: Nisqually Environmental

Comment:

Surface waters of the state and water bodies' definitions and usages should be consistent throughout the permit and consistent in interpretation by Ecology. As it stands now, Ecology can find that any standing or moving water on public or private property can be determined to be a surface water of the state. As previously defined with other items in the past, (engineering report format for example), Ecology could define more sharply the definition of surface waters of the state for the purposes of discharge and the NPDES Industrial Storm Water Permit. Specifically, excluding ponds and ditches on private property as surface waters of the state would eliminate confusion among permittees and provide for better interpretation of the permit. We suggest excluding private retention and detention ponds, ditches, and other structures or conveyance systems for the purposes of treating, storing, or conveying storm water as surface waters of the state for permit purposes.

Response:

Ecology has considered the comment and suggested revision, but has decided not to revise the definition of Surface Waters of the State. In some cases, onsite ponds and ditches receiving stormwater runoff from industrial activity are hydraulically connected to off-site surface waters of the state and therefore require permit coverage. Condition S1.C.3 makes it clear that if facility's stormwater discharges entirely to ground, e.g., via onsite infiltration pond or other structure; ISGP coverage is not required.

SIC/NAICS

Commenters: Waste Management of Washington, Inc., and King County

Summary of the Range of Comments:

- Ecology should consider including the NAICS codes in its General Permit, in addition to the SIC Codes.
 - EPA will transition to NAICS in future rule making
 - Sand and Gravel General Permit contains both SIC and NAICS

Response to the Range of Comments:

Ecology is moving towards the use of NAICS codes, rather than SIC codes, but believes that an abrupt change would cause more harm than good. This is based, in part, on the EPA MSGP and 40 CFR 122.26(b)(14), which still rely upon SIC codes. In addition, many industrial sectors do not have a straightforward crosswalk from SIC and NAICS, and this could have a significant impact on ISGP compliance (e.g., different sampling, benchmarks, etc.). Although the 2015 ISGP still relies on SIC codes, Ecology required all facilities reapplying for the ISGP in 2014 to provide both SIC and NAICS codes. Ecology expects this to make possible a full transition to NAICS in the 2020 ISGP.

S1.A Table 1

Commenter: GeoEngineers

Table 1, page 7: The title of Table 1 should be changed to “Activities Requiring Permit Coverage and the Associated SIC Groups” to be consistent with the text in S1.A.1. The right column header of Table 1 should be changed to “SIC Groups” for consistency.

Response:

Ecology agrees with the suggestion and has revised the Table accordingly.

Revision:

Revise Column headings in S1. Table 1:

Activities Requiring Permit Coverage and the Associated SIC ~~Code~~ Groups

Industrial Activities SIC ~~Code~~ Groups

S1.A Table 1

Commenter: GeoEngineers

Table 1 includes “Steam Electric Power Generation;” however the table in Condition S1.D.1, page 10, indicates “Steam Electric Power Generating” will not be covered by Ecology. Please clarify.

Response:

40 CFR 423 pertains to wastewaters associated with steam electric power generating facilities. Any steam electric power generating facilities not subject to this CFR may seek coverage under the ISGP. Table 1, page 8:

S1.A Table 1

Commenters: City of Bellevue Utilities Department, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Summary of the Range of Comments:

- Ecology should require additional sectors to obtain coverage under the ISGP. For example:
 - Auto Rental Companies
 - Tool and Heavy Equipment Rental Yards
 - Heavy Equipment Maintenance, Rental and Repair
 - Marine Construction
 - Auto Repair Shops
- The residual authority that allows Ecology to require permit coverage to facilities not listed in Table 1 is underutilized.
- Would reduce perception of unfairness and level playing field; and protect surface water quality.

Response to the Range of Comments:

Ecology has decided not to require additional sectors to obtain permit coverage at this time. Ecology may consider proposing the addition of additional industrial sectors such as Marine Construction (a subset of SIC 1629), and Heavy Equipment Rental and Leasing (SIC 7353) in a future draft permit. This would afford affected industries an opportunity to be engaged in the public process, provide stakeholder feedback, etc. Ecology believes that most Automotive Repair Shops and Auto Rental Companies operate under a condition of “no exposure” (i.e., indoors); on top of the regulatory burden on small businesses, the administrative and inspection workload associated with thousands of new “No Exposure Certification” applications would be significant and not the best use of Ecology’s limited resources. At this time, Ecology believes that the pollution potential caused by vehicle maintenance, repair and associated waste management would be better addressed by local stormwater ordinances, and other existing regulatory and technical assistance programs (e.g., Hazardous Waste and Toxics Reduction Program, etc.). When that is not the case, Ecology will use the existing “significant contributor of pollutants” language to require permit coverage on a case by case basis. The public should notify Ecology of any facilities that are believed to represent a “significant contributor of pollutants” so further evaluation can take place.

S1.C.2 Facilities Not Required to Obtain Permit Coverage

Commenter: King County

Comment:

Sections S1.C.2 and S3.B.7 create challenges for the King County Industrial Waste Program (KCIW) and our practice of accepting contaminated industrial stormwater (CISW) from industrial facilities. This is because we want the area generating CISW to be minimized and to have overflows to storm drainage for peak flows that exceed 0.2 cubic feet per second per acre of drainage area (0.2 cfs/acre). In addition, for KCIW to accept the discharge of CISW into separated sewers, the CISW needs to be generated as part of an industrial activity, which in essence would be considered process water under the ISGP. Because the process water comingles with stormwater the ISGP does not allow this to be discharged as stormwater, however, the KCIW practice for accepting CISW requires overflow to surface waters for large storms in order to minimize the hydraulic loading on sanitary sewers.

· King County requests that Ecology revise the ISGP to allow facilities that discharge CISW to the separated sanitary sewer to still maintain coverage under the ISGP. The purpose of this is to have a regulatory mechanism to accommodate overflow of CISW to surface water depending on the flow restrictions of the local sewer authority.

Response:

Although discharges to combined or sanitary sewer not categorically required to obtain permit coverage, they also not categorically excluded from permit coverage under Condition S1.D. As such, Ecology’s ISGP can cover such discharges on a case by case basis. King County and other sewer districts should discuss this further with Ecology to discuss any permit implementation issues and considerations.

S1.D Facilities Not Required to Obtain Permit Coverage

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Comment:

S1.D purports to exclude from ISGP coverage facilities discharging certain toxic pollutants. While it certainly seems appropriate to exclude these from coverage so that they can be subject to the scrutiny involved in the development of individual permits that ensure compliance with relevant toxicity water quality criteria, the effectiveness of this exclusion is limited by the lack of monitoring requirements for the identified toxic pollutants. Commenters suggests that all permittees be required to do at least a single round of screening monitoring for these identified toxic pollutants in the first year of permit coverage. This would allow Ecology to determine which ISGP permittees should be instead subject to individual permits to properly control these toxic discharges.

Response:

The language in this section was not consistent with the intent, and was therefore revised to exclude facilities engaged in specific industrial activity that are subject to Effluent Limitation Guidelines, New Source Performance Standards (40 CFR Subpart N), or Toxic Pollutant Effluent Standards (40 CFR Subchapter D Part 129). These discharges need to be regulated through individual NPDES permits. The last paragraph required revision to make it consistent with the intent and plain reading of the first paragraph, and reduce the potential for misinterpretation.

Revision:

Revise the last paragraph of S1.D.1: ~~Facilities discharging any of the following toxic pollutants, which are limited by~~ subject to effluent standards in 40 CFR Subchapter D Part 129 for the following toxic pollutants: Aldrin/Dieldrin; DDT; Endrin; Toxaphene; Benzidine; or Polychlorinated Biphenyls (PCBs), shall ~~obtain coverage under~~ apply for an individual NPDES permit.

S1.D.1 Facilities Not Required to Obtain Permit Coverage

Airports

Commenter: King County (3 comments)

Comment:

It is not clear whether this section also applies to existing airports. The section and its reference to CFR infer new airports. Ecology has also stated in a listening session that this section applies to new airports. Please clarify.

Response:

Yes, this exclusion is based on new source performance standards (NSPS) for new airports with at least 10,000 annual jet departures. For purposes of this exclusion, it only applies to new airports, the construction of which commenced after the NSPS were promulgated (05/16/2012).

Comment:

40 CFR 449.11(a) relates to aircraft deicing. This section appears to conflict with Section S1.A.1 in which Air Transportation facilities (45xx) are required to be covered by the industrial general permit coverage. Based on the CFR, if an airport has 10,000 annual jet departures and has aircraft deicing discharges to stormwater, the facility is subject to effluent limitation for aircraft deicing. Why is coverage by an individual permit needed when benchmark limits are already provided in the permit (S5.B.2.Table 3)?

Response:

Ecology does not anticipate a significant number of new airports with over 10,000 annual jet departures to be constructed over the next 5 years. As such, it was decided not to complicate the ISGP with the applicable new source performance standards (NSPS); these new facilities would instead be issued an individual NPDES permit.

Comment:

Regardless of volume of annual departures, this requirement would not apply to facilities with aircraft deicing facilities routed to sanitary sewer. A general permit is still, however, required.

Response:

Comment noted.

S1.E Discharges to Ground

Commenter: Glacier Northwest, Inc. dba CalPortland

Comment:

S1.E.1: Glacier finds the requirement in S1.E.1 to be contradictory to condition S1.C.3. Under the Draft ISGP, industrial sites that discharge stormwater to both surface water and ground water are required to obtain permit coverage. However, S1.E.1 suggests that in situations where a site has both surface and ground water discharges that all permit conditions apply to both discharges. The permit does not pertain to groundwater discharges and does not contain groundwater quality monitoring standards. It would be illogical to extend surface water quality standards (such as turbidity or TSS) to ground water discharges. The permit should clarify that water quality monitoring is not required for ground water discharges.

Response:

Existing Condition S4.B.2.b addresses the concerns raised about sampling discharges to ground, or applying the ISGP benchmarks to discharges to ground:

The Permittee is not required to sample on-site discharges to ground (e.g., infiltration) or *sanitary sewer* discharges, unless specifically required by *Ecology* (Condition G12).

S1.F.1.a Conditional "No Exposure" Exemption

Commenter: Geoengineers

Comment:

Condition S1.F.1.a, page 13:

The Permit references a "No Exposure Certification Form." Comments on the Form are:

Several changes should be made regarding general “voice” and use of the phrase “exposed to precipitation” (or “stormwater”). Question #1 should indicate, “Is industrial machinery or equipment used, stored or cleaned in an area that is exposed to stormwater, or are there areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater?” Question #4 should indicate, “Is material handling equipment used/stored in areas exposed to precipitation (except adequately maintained vehicles)?” Question #10 should indicate, “Is process wastewater applied or disposed of in an area that is exposed to stormwater (unless otherwise permitted)?”

Assuming the previous comments are addressed, the Form still greatly needs a guidance document to discuss the concept of “no exposure,” and to define (or provide guidance on) the following words or phrases:

- Industrial machinery
- Industrial equipment
- Materials
- Products
- Residuals
- Adequately maintained vehicles

Without guidance, it is clear that virtually no facilities in Washington State are eligible for the exemption. For example, without further clarification, virtually all industrial facilities in Washington State (including those that currently have CNE exemptions) use, store or clean industrial machinery or equipment in areas exposed to precipitation, and therefore do not qualify for a CNE based on Question #1. It is unclear whether air conditioning units, industrial heat exchangers, and forklifts, for example, are considered “industrial equipment.” Consider a facility that operates a forklift indoors almost all of the time, but that operates the forklift outdoors in areas exposed to precipitation at least once. It is likely that this is the case at many facilities in Washington State that have CNE exemptions, yet, according to Question #1, those facilities should not be eligible for the CNE. It is recommended that reference be made to a guidance document such as EPA’s 2000 document titled “Guidance Manual for Conditional Exclusion from Storm Water Permitting Based on ‘No Exposure’ of Industrial Activities to Storm Water.”

Response:

Ecology disagrees with the claim that the existing level of guidance means that no facilities in Washington qualify for the no exposure exemption. That is not the case, but Ecology plans to improve existing guidance and ensure that the eligibility requirements for no exposure exemptions are clear and understandable.

Condition S2. Application for Coverage

S2.A.1 Obtaining Permit Coverage

Commenter: King County

Comment:

The elimination of the old section S2.A.1 seemingly removes the ability of existing permittees to carryover permit coverage, instead implying that only “unpermitted” facilities can obtain

coverage. Recommend leaving this section intact with a change in language to reflect the fact that permits are not automatically renewed, but that there is a renewal process which allows permittees to carryover coverage.

Response:

S2.A.1 was only necessary to address an issue with the reapplication process for the 2008 and 2010. This issue does not exist with the 2015, which will automatically cover all facilities that reapplied for the ISGP in 2014.

S2.C Permit Coverage Timeline

Commenters: Cedar Grove Composting and Emerald Services

Comment:

Section C.1

Section C.1 explains when coverage begins after applying for the permit. Section C.2 explains why there may be a delay. If more information is needed, and the Permittee submits that information, there is no timeline regarding when permit coverage will begin if WDOE does not contact the Permittee again. This creates a “limbo” condition for the Permittee in that it is unclear what is expected after that point, or if a permit will be automatically granted after a certain period of time. We suggest that if information is provided to WDOE as part of an additional information request, permit coverage will begin 30 days after WDOE receives the requested information.

Response:

When Ecology requires additional time and/or information to review an application, the application is informed in writing. Once the additional time has elapsed and/or Ecology receives the requested information, the coverage timeline then falls back to Condition S2.C.1. or, if the application remains incomplete or Ecology requires more time, Condition S2.C.3 applies.

Ecology now provides written feedback to applicants within a week of receiving an application, including an explanation of any additional information that is required, and an estimate of when Ecology expects to issue coverage. Ecology also now has an online application which allows for immediate application data validation and feedback.

S2.C Permit Coverage Timeline

Commenter: King County

Comment:

Recommend changing the title to “Permit Coverage Timeline for New Applications”.

Response:

Ecology has decided to retain the title of this section, without revision.

Condition S3. Stormwater Pollution Prevention Plans

S3.A. General Requirements

Commenter: Alcoa

Comment:

Condition S3.A., page 13-The permit provides no discernible means for a discharger to comply with the overall requirement of ensuring a facility's storm water pollution prevention plan (SWPPP) complies with AKART, does not cause or contribute to a violation of the Water Quality Standards, comply with the Clean Water Act's technology based treatment requirements, have consistent and applicable best management practices via the appropriate state Stormwater Management Manual., and otherwise meet any and all other Ecology-approved guidance documents and manuals. Without such means a discharger can expend time and money without assurance the appropriate measures have been put in place. The permit needs to provide definitive means of determining compliance with this section.

Response:

Stormwater management techniques applied in accordance with the Stormwater Management Manuals (S3.A.3) are presumed to meet the technology-based treatment requirement of State law to provide all known available and reasonable methods of prevention, control and treatment (AKART; RCW 90.52.040 and RCW 90.48.010). However, at any given facility there may be different or additional requirements in order to satisfy the state AKART requirements due to site-specific conditions. The 2015 ISGP retains existing language regarding the presumption of compliance with water quality standards; see Condition S10.

S3.A.3. Proper Selection and Use of Stormwater Management Manuals (SWMM):

Commenter: Weyerhaeuser

Comment:

S3.A.3. - The incorporation-by-reference of guidance documents and other local/state regulatory documents has the potential to create a fair warning issue for ISWG permittees. Discussion-The references in the permit to non-permit guidance documents/ manuals/ ordinances has good intentions; i.e., a customized roadmap on where "acceptable BMPs" can be located. But the structure of this permit section says that BMPs "shall be consistent" with these documents. It would take a very dedicated and knowledgeable regulatory professional to first locate and then examine the many, many hundreds of pages in the Stormwater Management Manuals for Western Washington and Eastern Washington, and then the relevant Appendix 10 documents referenced in the Phase 1 Municipal Stormwater Permit, and perhaps more, to ensure consistency with each. This should not be expected of the 1000+ ISWG permittees. Some ambiguity could be avoided if Ecology would add an "or" after S3.A.3.a., S3.A.3.b., and S3.A.3.c., to narrow the required examination of manuals.

Response:

Ecology agrees with the suggestion and has added an "or" after S3.A.3.a., S3.A.3.b., and S3.A.3.c..

Revision:

S3.A.3

BMPs shall be consistent with:

- a. Stormwater Management Manual for Western Washington (2012 edition), for sites west of the crest of the Cascade Mountains; or
- b. Stormwater Management Manual for Eastern Washington (2004 edition), for sites east of the crest of the Cascade Mountains; or
- c. Revisions to the manuals in S3.A.3. a & b., or other stormwater management guidance documents or manuals which provide an equivalent level of pollution prevention, that are approved by Ecology and incorporated into this permit in accordance with the permit modification requirements of WAC 173-226-230. For purposes of this section, the documents listed in Appendix 10 of the August 1, 2013 Phase I Municipal Stormwater Permit are hereby incorporated into this permit; or

S3.A.4. Update to SWPPP

Commenter: Nisqually Environmental

Comment:

This new storm water permit will require the modification of most all storm water pollution prevention plans to include the additional requirements listed in the permit (erosion control changes, sediment sampling, etc). The new permit is scheduled to be official on November 9th, 2014 thus providing almost two months to prepare a new SWPPP. We suggest that the new permit add language indicating that SWPPP changes will be required and that sites new SWPPPs should be completed and re-certified by January 1st of 2015.

Response:

Ecology has decided to allow until January 30, 2015 to make any SWPPP updates that were necessary to bring their SWPPP into line with the 2015 Final ISGP.

Revision:

New language added to S3.A.4.c.:

- a. If a Permittee covered under the 2010 ISGP needs to update their SWPPP to be consistent with the 2015 ISGP, the update shall be completed by January 30, 2015.

S3.A.4. Timing of SWPPP Development/Implementation

Commenter: U.S. EPA Region 10

Comment:

Ecology needs to update the language in the fact sheet regarding timelines for SWPPP preparation and also to make it clear in the permit that a SWPPP is required to be implemented upon the effective date of permit coverage – right now I see no timeline, which weakens the enforceability of this central aspect of the program.

Response:

Unless stated otherwise in the final ISGP, all permit requirements (including SWPPP preparation/implementation) must be implemented upon the effective date of permit coverage. As discussed previously, Ecology is allowing until 1/30/15 to make any necessary SWPPP updates that were necessary to bring the SWPPP into line with the 2015 ISGP.

S3.B. Specific SWPPP Requirements

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Comment:

S3.A should specify that BMPs identified as necessary must be described in the SWPPP as specifically implemented by the permittee, and that merely cut-and-pasting a general description of a BMP from a manual is inadequate.. Commenters have often reviewed SWPPPs that include only general descriptions of BMPs taken directly from Ecology’s stormwater management manuals without any discussion of where or how these BMPs are implemented at the permittee’s site. This inevitably leads to implementation problems as responsible permittee staff are left without guidance on how the BMPs are intended to work and be maintained, and, often, indicates a lack of adequate care and attention to BMP selection and implementation.

Response:

Ecology has added clarifying language to ensure that SWPPPs provide detailed information about how and where BMPs will be implemented.

Revision:

Revise S3.B.4.a: General BMP Requirements

The Permittee shall describe each BMP selected to eliminate or reduce the potential to contaminate stormwater and prevent violations of water quality standards. The SWPPP must explain in detail how and where the selected BMPs will be implemented.

S3.B.1 Specific SWPPP Requirements – Site Map

Summary of the Range of Comments – Opposing deletion of “in a significant amount”:

Commenters: Automotive Recyclers of Washington, Hecla, Port of Vancouver

Oppose the deletion of “[Areas of existing or potential soil erosion] in a significant amount”

- The phrase must remain, as it ties to the permit definition of “significant amount”.
- It is impractical to locate all areas when any potential for erosion.

Summary of the Range of Comments – Supporting deletion of “in a significant amount”:

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Support the deletion of “[Areas of existing or potential soil erosion] in a significant amount”

- “Significant” is a subjective term and the elimination of this modifier makes the permit clearer.

Response to the Range of Comments:

Based on public comments and consideration of the existing ISGP definition of "significant amount", Ecology has decided to reinstate modified language to clarify that Permittees only need to identify areas of actual or potential erosion that could result in the discharge of a significant amount of pollutants. Significant Amount means an amount of a pollutant in a discharge that is amenable to available and reasonable methods of prevention, control, or treatment; or an amount of a pollutant that has a reasonable potential to cause a violation of surface or ground water quality standards or sediment management standards.

Revision:

Revise S3.b.1.j.: Areas of existing and potential soil erosion that could result in the discharge of a significant amount of turbidity, sediment or other pollutants.

S3.B. Specific SWPPP Requirements – Vacuum Sweeping

Commenter: WaferTech LLC

Comment:

S3 B.4.b.i.2) a, page 17:

"Vacuum paved surfaces with a vacuum sweeper (or a sweeper with a vacuum attachment) to remove accumulated pollutants a minimum of once per quarter." WaferTech is requesting that this requirement be changed to an annual requirement for facilities that have met benchmark, are in compliance with all stormwater permit requirements and have no corrective actions pending or open. The reason for this request is that, for some sites with relatively clean roadways and parking lots this is an added expense without much benefit in reducing pollutants. Facilities with good BMPs such as detention ponds, catch basins with inserts with oil absorbing mini booms, etc. are in compliance and meeting benchmarks should have some relief from this requirement.

WaferTech believes an annual vacuum sweep would be adequate to keep the site in compliance with all stormwater permit requirements and would not cause any increase in deterioration of surface water.

Response:

Ecology has decided that current permit language in S3 already accommodates the situation described in the comment letter. When site-specific condition warrant a reduction in the sweeping frequency set forth in S3 B.4.b.i.2)a., the permittee must document the rationale in the SWPPP in accordance with S3.B.4.b.: "The Permittee may omit individual BMPs if site conditions render the BMP unnecessary, infeasible, or the Permittee provides alternative or equally effective BMPs; if the Permittee clearly justifies each BMP omission in the SWPPP."

S3.B.4.b.i.3.b) Specific SWPPP Requirements – Preventative Maintenance

Summary of the Range of Comments

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper; Alcoa, Port of Tacoma, Windward Environmental LLC,

- S3.B.4.b.i.3 states that the SWPPP “shall include the schedule/frequency for completing each [stormwater system] maintenance task.” Commenters support this requirement because without a specific maintenance schedule or frequency identified in the SWPPP it becomes likely that proper maintenance will be deferred.
- The permit should clarify that the SWPPP must always specify a maintenance schedule or frequency even if the manual used by the Permittee provides other criteria instead.
- The condition assumes all ponds, tanks/vaults, catch basins and so forth require the same maintenance at every type of industry in every climate condition covered by this permit. Alcoa recommends the condition be qualified by stating “Maintain as appropriate for your location and climate”
- The SWMMs do not have maintenance schedules listed, only address a limited number of BMPs, do not have an associated “minimum” schedule, and may be in conflict with manufacturer’s recommendations.
- Propose adding “or as proven necessary based on documented facility experience”, and address proprietary systems such as providing a “minimum” frequency and/or “per the device manufacturers’ Operations and Maintenance requirements.”

Response to the Range of Comments:

As stated in the SWMM, Volume V, Section 4.6, the maintenance standards for drainage facilities are based upon observations made during inspections, which must monthly at a minimum (ISGP Condition S7.A). Ecology believes that the suggestions to set minimum maintenance frequencies in the ISGP to address structures not specifically listed in the SWMM, proprietary devices, etc., would be best addressed by cross referencing the existing "demonstrably equivalent" language in S3.A.3.d, which accommodates the widest range of structures and maintenance requirements:

d. Documentation in the SWPPP that the BMPs selected are demonstrably equivalent to practices contained in stormwater technical manuals approved by Ecology, including the proper selection,

implementation, and maintenance of all applicable and appropriate best management practices for on-site pollution control.

Revision:

Revise S3.B.4.b.i.3.(b): Maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and other stormwater drainage/treatment facilities in accordance with the Maintenance Standards set forth in the applicable Stormwater Management Manual (SWMM), ~~or~~ other guidance documents or manuals approved in accordance with S3.A.3.c., demonstrably equivalent BMPs per S3.A.3.d., or an O&M Manual submitted to Ecology in accordance with S8.D.

S3.B.4.b.i.3.d) Specific SWPPP Requirements – Preventative Maintenance

Commenter: Automotive Recyclers of Washington

Comment:

Page 19 of the “Track Changes” version of the draft permit S3 (B) (4) (b) (i) (3) (d) that proposes to strike the phrase “etc.” following the words Spill cleanup : “(e.g. using absorbents, vacuuming)”. By eliminating the phrase “etc.” it unnecessarily eliminates other ways to clean up spills and leaks other than the use of absorbents or vacuuming. It is unrealistic to limit the cleanup to two options. For example, say a container of lead wheel weights was tipped over onto the soil. It would be inappropriate to attempt to clean up the lead wheel weights with a vacuum or with an absorbent. The elimination of the phrase “etc.” assumes all spills or leaks are liquids which is not the case as in our example of spilling a container of lead wheel weights. The Automotive Recyclers of Washington strongly urge that the phrase “etc.” be retained.

Response:

Ecology agrees with the suggestion

Revision:

Add "... etc." to S3.B.4.b.i.3).d)

S3.B.4.b.i.4.c) Specific SWPPP Requirements – Spill Prevention and Emergency Cleanup Plan

Summary of the Range of Comments

Commenters: Glacier Northwest dba CalPortland, BNSF Railway Company

- The spill kit location language is overly specific; revise it to read “Spill kits must be located where practicable within 25 feet of petroleum sources”.
- The addition of “and used oil storage/transfer stations” requires unnecessary items. For example, many used oil transfer stations are not located in the vicinity of storm drains, thus there is no need for a “storm drain plug or cover kit” as listed in the ISGP.

Response to the Range of Comments:

Ecology believes that the spill kit contents are consistent with the stormwater management manuals, and intent to prevent "typical" spill scenarios at ISGP facilities. However, Ecology recognizes that the contents for spill kits may need to be modified based on site specific risk assessments and other factors. When site-specific spill risk assessments warrant alternatives to the spill kit contents set forth in S3.B.4.i.4), the permittee must document the rationale in the SWPPP in accordance with S3.B.4.b.: "The

Permittee may omit individual BMPs if site conditions render the BMP unnecessary, infeasible, or the Permittee provides alternative or equally effective BMPs; if the Permittee clearly justifies each BMP omission in the SWPPP." The same language could be used to place a spill kit in the best location, based on site specific considerations.

S3.B.4.b.i.7 Specific SWPPP Requirements – Illicit Discharges

Commenter: Alcoa

Comment:

Condition S3.B.4.b.i.7), page 19 - It is not clear in the second paragraph if all pressure washing water is considered process wastewater, or if only water associated with pressure washing of vehicles and equipment for cleaning purposes would be considered process wastewater.

Response to the Range of Comments:

The prohibition on pressure washing water is not limited to pressure washing vehicles and equipment. All pressure wash water is considered process wastewater.

S3.B.4.v Specific SWPPP Requirements – Erosion and Sediment Control BMPs

Summary of the Range of Comments – Opposing Erosion and Sediment Control BMP language

Commenters: BNSF Railway Company, Port of Tacoma,

Oppose the new language; it would be more appropriate to allow either BMPs (erosion and/or sediment control BMPs) as needed to accomplish the stated goal of preventing off-site sedimentation and violation of water quality standards.

- Sediments and solids control is a required BMP under the current ISGP.
- Impossible to prevent all off-site sedimentation; replace all instances of “prevent” with “limit” or “minimize”.

Summary of the Range of Comments – Supporting Erosion and Sediment Control BMP language

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

- Support the inclusion of specific reference to catch basin filter inserts as a mandatory BMP to prevent the erosion of soils and other earthen materials
- Many permittees fail to use catch basin filter inserts where they are appropriate or assert that their use constitutes an adequate Level 3 response.

Response to the Range of Comments:

Language has been clarified to require BMPs to prevent erosion and control off-site sedimentation, and thereby prevent violations of water quality standards. The TSS compliance schedule is discussed elsewhere in the Response to Comments. Ecology has decided against the Port's suggestion to insert

additional TSS-reducing BMPs into the ISGP. Ecology's SWMMs, Technology Assessment Protocols - Ecology (TAPE) website, and widely available literature and online resources can be used develop the appropriate suite of site-specific BMPs to reduce TSS concentrations.

Revision:

v. Erosion and Sediment Control BMPs

The SWPPP shall include BMPs necessary to prevent the erosion of soils and other earthen materials (crushed rock/gravel, etc.). ~~The SWPPP shall include BMPs to, control~~ off-site sedimentation, and prevent violations of water quality standards. The Permittee shall implement and maintain:

S3.B.5.b.i Specific SWPPP Requirements – Sampling Plan

Comment – Sample Locations

Commenter: Geoengineers

Condition S3.B.5.b.i, page 23

The sentence should be modified to indicate, “Location of which discharge points the Permittee does not sample because the pollutant concentrations are expected to be substantially identical to, or less than, the concentrations at a discharge point being sampled.” In practice this is what many facilities are already doing—sampling the most polluted discharge point, as long as activities (and therefore expected pollutants) at other discharge points are of a similar type but probable lesser concentration due to the activities being less intense, frequent, etc.

Response to Comment:

The existing language is consistent with the EPA Multi-Sector General Permit, and was the subject of litigation and was affirmed by the PCHB, as written. For these reasons, and the absence of compelling information about the problems caused by the current language, Ecology has decided not to make the suggested revision.

Condition S4. General Sampling Requirements

Comment – General Requirements

Commenter: Washington State Ferries

Provide a diagram and or a decision tree to help permittee decide which parts of the permit are applicable to their facility and which parameters need to be sampled.

Response to Comment:

Ecology decided that the suggested guidance would not be a good fit for the general permit itself, but agrees that diagrams and decision trees could be used to improve the existing sampling guidance document to ensure that the ISGP sampling requirements are clear. Facilities may also contact appropriate Ecology staff to provide technical assistance.

S4.B Sampling Requirements

Summary of the Range of Comments – Adequacy of Sampling; Representative Sampling; Grab Samples; Flow monitoring

Commenters: Katherine Bridwell, Carl Tonge, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Melvin Oleson

- A single grab sample is not a representative sample.
- Sampling is insufficient to characterize the impacts of stormwater on receiving waters.
- Sampling is insufficient to assess compliance with effluent limitations for impaired waters
- Person taking sample may not grab the sample correctly.
- The rate of flow changes from one storm to the next.
- The concentration of pollutants is variable over time within any given storm and among different storms.
- Sampling is inconsistent with Ecology policies for evaluating new treatment technologies:
 - Automatic flow weighted composite sampling
 - Discrete flow weighted composite sampling
 - Combination method.
- Quarterly monitoring is inadequate for many dischargers.
- Monthly sampling should be required, especially if corrective actions have been triggered; or when evaluating the effectiveness of new or changed BMPs implemented in response to benchmark exceedances.
- Ecology should require Permittees to estimate the flow of the discharge at the time (or period) of sampling; and the estimated flow of the receiving waters during the discharge period. This would allow for reasonable potential determination, and also allow a determination of hydraulic scouring in streams which is a key adverse impact on fish habitat (spawning beds and deep pools).

Response to the Range of Comments:

Ecology understands the basis for the range of comments, but has decided to retain the general sampling requirements of the ISGP. Ecology believes that the current quarterly minimum sampling frequency is appropriate, and consistent with most industrial stormwater general permits around the United States. Ecology has also decided to retain the ability for Permittees to use grab samples; the permit also continues to allow the use of time-proportional or flow-proportional samples. Ecology has also decided not to require flow measurements (or estimates) of discharges or receiving waters. These decisions are based, in part, on the PCHB's review and decision on the sampling requirements of the 2010 ISGP: "The Board concludes that the general sampling requirements of the ISGP are valid, both with respect to the amount of required sampling and the provisions that allow averaging of such samples". On a case by case basis, Ecology may require additional or more frequent sampling (Condition G12).

S4.B.1 Sampling First Fall Storm Event

Comment – First Fall Storm Event

Commenters: Alcoa, Nisqually Environmental

S4.B.1.b., page 22- Is the October 1st "first fall storm event" appropriate sampling for every permittee in every part of the state?

- We suggest that clarification should be added as to when to sample if the first fall event storm water discharge occurred during a period when sampling was not required, for example, after business hours.

Response to Comment:

Ecology recognizes that climatic variability exists around the state but believes that October 1st generally corresponds with the onset of the seasonal wet season in Washington. This date also has implementation advantages, as it is the first day of the 4th quarter. Ecology has decided that the current permit language in S4.B.1.e is sufficient to address first fall storm event scenarios: "Permittees need not sample outside of *regular business hours*, during unsafe conditions, or during quarters where there is no discharge...". In cases where the first fall storm event occurs during one of these time periods, Permittees should sample stormwater at the next possible opportunity.

S4.B.2. Sampling Requirements

Comment – Sample Location(s)

Commenter: Nisqually Environmental

Currently, regional treatment systems on private property that serve multiple businesses have no advantage in terms of the industrial storm water permit. Specifically, for a business park that has a regional treatment facility on private property (retention pond for example), that serves several businesses; Ecology requires that the individual business sample their discharged storm water at their lease line rather than from the output of the regional retention pond. Our understanding is that Ecology, in this case, treats the pond as surface waters of the state and has concerns about dilution or comingling before sampling. Ecology suggests that industrial sites in this situation sample both at their lease line and also at the output of the regional treatment system suggesting that if there are problems at the lease line, the permittee can appeal to Ecology, through the waiver program, to not require level 2 or level 3 action if the final discharged storm water is below benchmark levels. We believe that this suggestion from Ecology adds complexity, expense, and burdensome requirements to sites where these situations occur. We believe that this interpretation by Ecology may discourage builders and developers from providing private regional storm water treatment systems as an enticement to businesses and serves no purpose in protecting the environment of public surface waters of the state. We suggest that Ecology should encourage the building of regional storm water treatment systems on private land and allow for sampling at the output of the treatment facility rather than the input. To this, Ecology should clarify that if a site discharges to a private regional treatment system, the site can sample at the lease line or at the output of the regional treatment system.

Response to Comment:

Ecology believes that the suggestion has merit, but has decided to continue having Permittees sample where stormwater is discharged off-site. If sampling is allowed to take place at an off-site pond after the facilities stormwater combines with stormwater from other facilities and sources 1) the sample is not *representative*¹ of the stormwater generated at the facility, and 2) it makes it more difficult to assess the adequacy of on-site source control and treatment BMPs at the facility. For these reasons, Ecology has decided to retain the current language on sample locations. Ecology believes that current permit language allows for a consideration of water quality benefits provided by an off-site treatment pond, and leaves open the possibility of water quality based corrective action waivers, where appropriate.

S4.B.2 Sampling Requirements

Comment – Updating Sample Location(s)

Commenter: King County

The permit language does not make it clear how to suspend sampling for areas no longer associated with industrial activity or for otherwise making changes to sampling locations.

Response:

Ecology agrees with the recommendation, and new language has been added to S4.B.2.d. It requires the submittal of an “Industrial Stormwater General Permit Discharge/Sample Point Update Form” to Ecology, when changes or updates are required for sample points, discharge points, and/or outfalls.

Revision:

Added S4.B.2. d. The Permittee shall notify Ecology of any changes or updates to sample locations, discharge points, and/or outfalls by submitting an “Industrial Stormwater General Permit Discharge/Sample Point Update Form” to Ecology.

S4.B.2.c. Substantially Identical Outfalls

Summary of the Range of Comments – Substantially Identical Outfalls

Commenters: Geoengineers, Port of Seattle, Washington State Ferries, BNSF, Pacific Merchant Shipping Association, Port of Olympia, Port of Tacoma, Washington Public Ports Association, SSA

- The sentence should be modified to say, “The Permittee shall sample each distinct point of discharge off-site except as otherwise exempt from monitoring as a ‘substantially identical or lesser outfall’ per S3.B.5.b.”
- Allow permittees to conduct all sampling requirements (benchmarks and effluent limit parameters) at locations identified by the permittee subject to approval by Ecology, as appropriate to comply with the meaning of “substantially identical”.

¹ ISGP Appendix 2 –Definitions: *Representative* [sample] means a sample of the discharge that accurately characterizes stormwater runoff generated in the designated drainage area of the facility.

- This interpretation would impose a significant increase in sampling and analysis costs associated with permit compliance since, given the large size of marine terminal facilities and the way that 303(d) listings are defined, numeric effluent limits frequently only apply to a portion of the facility.
- Currently, WSF samples at two locations that represent 4.5 acres of the 4.9 acre site. The remaining three locations are considered “substantially identical outfalls.” However, S4.B.2.c. in this draft permit would require that we sample the additional three locations which represent 0.4 acres of the site. We are having difficulties understanding the value this would provide, particularly given the added expense.
- The provision for determining whether discharge points are Substantially Identical should apply to benchmark parameters as well as numeric effluent limits. When outfalls are considered Substantially Identical, the outfalls share similar characteristics, and therefore have substantially identical pollutant concentrations in stormwater discharge. The outfalls must have similar general industrial activities, implement the same BMPs, have the same type of materials exposed to stormwater, and have similar types of impervious surfaces. There is no reason to assume that a constituent would have different concentrations in a Substantially Identical outfall; therefore, it is not necessary to require Permittees to sample parameters with numeric effluent limits at all outfalls if some of the outfalls are Substantially Identical.
- Many discharge points at ports are subject to tidal inflows, which make sampling challenging, particularly for those discharge points that cannot be sampled on the upland side of a pier.
- Ports often have a number of small wharf (or scupper) drains that discharge into the receiving water body. These are all in the vicinity of a discharge point that meets the definition of a "substantially identical outfall" that the Port monitors for permit compliance. It would be both logistically challenging and prohibitively expensive for ports to have to sample every one of the small wharf drains on a quarterly basis when they are all in close proximity to one another, as well as close to a current "substantially identical" discharge point.
- WPP A recommends that permittees be allowed to conduct all sampling requirements (benchmarks and effluent limit parameters) at locations identified by the permittee subject to approval by Ecology, as appropriate to comply with the meaning of "substantially identical".

Response to Comment:

Ecology has considered various comments related to sampling to assess compliance with numeric effluent limits and has decided that the "substantially identical outfall" provisions may be applied to parameters and discharge points subject to numeric effluent limitations. This change is based upon public comments, and Ecology experience under the 2010 ISGP. The existing language is consistent with the EPA Multi-Sector General Permit, and was the subject of litigation and was affirmed by the PCHB, as written. For these reasons, and the absence of compelling information about the problems caused by the current language, Ecology has decided not to make the suggested revision. **Note:** To improve

consistent terminology, all usage of the term “substantially identical *outfall*” has been replaced with “substantially identical *discharge point*”; definitions for “outfall” and “discharge point” have been added to Appendix 2 – Definitions.

Revision:

Revise S4.B.2.c: The Permittee shall sample each distinct point of discharge off-site except as otherwise exempt from monitoring as a “substantially identical discharge point outfall” per S3.B.5.b. If applicable, the Permittee is only required to monitor benchmark applicable parameters at one of the “substantially identical discharge points outfalls”. ~~However, Permittees subject to numeric effluent limits must sample those parameters at each distinct point of discharge off-site.~~ Revise S3.B.5.b: Include documentation of why benchmark applicable parameters are not sampled at each discharge point per S4.B.2.c (if applicable):

- i. Location of which discharge points the Permittee does not sample benchmark applicable parameters because the pollutant concentrations are substantially identical to a discharge point being sampled.
- ii. General industrial activities conducted in the drainage area of each discharge point.
- iii. Best Management Practices conducted in the drainage area of each discharge point outfall.
- iv. Exposed materials located in the drainage area of each discharge point that are likely to be significant contributors of pollutants to stormwater discharges.
- v. Impervious surfaces in the drainage area that could affect the percolation of stormwater runoff into the ground (e.g., asphalt, crushed rock, grass).
- vi. Reasons why the Permittee expects the discharge points to discharge substantially identical effluents.

S4.B.2.c. Substantially Identical Outfalls

Comment

Commenter: Port of Longview

Consider adding the following qualifying footnote (or equivalent) to S4.B.2.c: "This requirement applies to affected discharge points, i.e. those into impaired water bodies, those that serve processes triggering the numeric criteria, and/or those otherwise designated by Ecology." This should protect permittees with either discharges into both clean and impaired receiving waters/reaches, and/or discharges into separate waters with different impairments.

Response:

Revisions to this section make the suggested change unnecessary. Condition S6 is clear that impaired waterbody sampling/limits only apply to the discharge points with outfalls to impaired waters.

S4.B.3-5 Sample/Lab Documentation

Comment – Electronic storage of documents

Commenter: King County

Based on comments made at the March listening sessions and elsewhere, it seems that Ecology allows electronic storage of permit-related documents so long as the electronic storage is accessible from on site either via the internet or a networked connection. Consider revising the wording of these and other sections to reflect the fact that “electronic on-site” storage is acceptable.

Response to Comment:

Condition S4.B.3-5 doesn't only apply to "paper" records. So, as long as the electronic records are retained and available for on-site review, "electronic on-site" storage of records is acceptable and consistent with S9.C. Ecology believes the current language is flexible, and doesn't preclude electronic on-site storage of records, so a revision wasn't deemed necessary.

S4.B.6 Sampling Requirements

Summary of the Range of Comments – Opposing the Proposed Consistent Attainment Language

Commenters: Tom Westergreen, AMEC Environment and Infrastructure, Dawson Consulting LLC, King County, Nucor, BNSF Railway Company, Gerry Millman/Great Western Lumber, Imperium Grays Harbor, MacMillan-Piper, Inc., Georgia-Pacific

- Strongly oppose the requirement for Permittees in consistent attainment status to restart sampling in 2015.
- Businesses have worked very hard to reach benchmark levels and for some parameters seldom have exceeded them. Further expense of testing should not be required.
- Permittees should be allowed to use 2013 and 2014 data, as appropriate, to fulfill the consistent attainment requirements of 8 consecutive quarterly samples.
- The proposed changes to the permit do not include changing the benchmark values or sampling methods, so it does not seem appropriate to restart the requirements based solely on an administrative function.
- We would like to request that this be allowed or for Ecology to reduce the number of quarters of benchmark attainment required if consistent attainment were achieved in the previous permit.
- We would like to see some sort of rolling sampling schedule that would allow a permit holder to spend two years (or more, allowing for dry quarters) reaching consistent attainment, then have three years off before resuming sampling for consistent attainment again. This rolling schedule would remain in effect regardless of when the current permit ends and a new one takes effect.
- Allowing consistent attainment to last for three years, regardless of permit cycle, would encourage
- Permittees that have already achieved consistent attainment in the current (2010-2015) permit are essentially penalized for good behavior. It creates a double standard because the requirements from Level 2 or Level 3 corrective actions under the current (2010-2015) permit carry over to the new permit
- The permit would be just as protective and would encourage faster compliance if the requirement for consistent attainment simply allowed suspension of sampling for a maximum of 3 years after the eight quarters of consistent attainment of benchmarks. This way, permit holders under the existing permit who reach or are about to attain benchmark performance for eight consecutive quarters could suspend sampling when the new permit comes into effect, but still be required to sample again before the end date of the new ISGP.

Summary of the Range of Comments – Supporting the Proposed Consistent Attainment Language
Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

- S4.B.6 provides for a consistent attainment exception to the benchmark-related monitoring requirements when a permit meets benchmarks in eight consecutive monitoring quarters.
- Commenters have concerns about allowing permittees to forgo monitoring for as much as three years of the five-year permit term, but accepts this provision as it is consistent with the Pollution Control Hearings Board’s ruling on this exact issue.
- Commenters believe that eight consecutive quarterly samples meeting benchmarks remains an inadequate statistical basis for suspending monitoring, but is able to live with this provision.
- Commenters insist that it is appropriate for permittees that achieved a consistent attainment monitoring exception under the current permit should restart monitoring to again demonstrate their effluent quality to ensure that changed conditions and practices have not resulted in discharge quality problems since the last monitoring event.
- A permittee that can again achieve consistent attainment is adequately rewarded for its good performance by being allowed to suspend monitoring for a substantial portion of this coming five-year permit term.

Response to the Range of Comments:

Ecology has considered the wide range of public comments regarding consistent attainment, along with relevant case law, and Ecology experience with permit implementation. Ecology has decided to retain the basic framework of the consistent attainment provisions, with one change: Once consistent attainment is achieved for a benchmark parameter/sampling point (before or after 1/1/15), Permittees may suspend sampling that parameter, at that sample point, for a total of three calendar years. This revision allows Permittees to include "consecutive quarterly samples" collected prior to 2015 in their consistent attainment tally. It also allows Permittees who achieved consistent attainment prior to 2015 to continue their consistent attainment status for three years, beginning the quarter after consistent attainment was achieved.

Revision

Revise S4.B.6: The Permittee may suspend sampling for one or more parameters (other than “visible oil sheen”) for a period of three years (12 quarters) based on consistent attainment of benchmark values when:

- a. Eight consecutive quarterly samples, ~~collected after the effective date of this permit,~~ demonstrate a reported value equal to or less than the benchmark value; or for pH, within the range of 5.0 – 9.0.

S4.B.6.c Quarterly Averaging

Comment –

Commenter: Port of Tacoma

The Port supports Ecology’s proposal to average daily samples.

Response to Comment:

Thank you.

S4.C; S5.A.1; Table 2 Analytical Methods

Comment – Analytical Methods

Commenter: Geoengineers

Condition S4.C, page 26; S5.A.1, page 27; Table 2, page 28

The requirements appear to have varying degrees of specificity regarding analytical methods. As of March 2014, 40 CFR 136 lists more than ten approved inorganic test procedures for copper. Condition S5.A.1 and Table 2 of the Permit, however, specify EPA 200.8. Condition S4.C could be deleted, or language could be added to Condition S5.A.1 that indicates, “The Permittee shall ensure that analytical methods used to meet the sampling requirements specified in this permit conform to the latest revision of the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136. Ecology recommends using the methods shown in Tables 2-4, which conform to 40 CFR 136.”

Response:

This sentence can't be deleted; this is a requirement of 40 CFR 122.41(j)(4). However, the sentence will be clarified because the permit specifies the use of non-Part 136 methods for: 1) analytes that do not have an EPA-approved Part 136 method (e.g., NWTPH-Dx), 2) solids sampling (Part 136 requirements apply to water sample matrices), or 3) analytes that do not have a numeric effluent limit (e.g., benchmark parameters). Footnotes under ISGP Tables 2-6 specify requirements for the use of alternate analytical methods.

Revision:

Revise S4.C: The Permittee shall ensure that analytical methods used to meet the sampling requirements specified in this permit conform to the latest revision of the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136, unless specified otherwise in this permit.

Condition S5. Benchmarks, Effluent Limitations, and Specific Sampling Requirements

S5.A Benchmarks and Sampling Requirements

Comment – Opposing Use of Benchmark Values

Commenter: Alcoa

Use of Benchmark Values - The use of benchmark values in general storm water permits at the national level is being questioned. Recently, Alcoa participated in a meeting with EPA and several industrial organizations in Washington, DC concerning the use of benchmark values and their effectiveness/appropriateness in general permits. EPA had agreed in 2003 and again in 2008 to evaluate benchmark value monitoring conducted under their Multi-Sector General Permit (MSGP). To date, EPA has not done so. One organization did look at some of the submitted monitoring data, and its preliminary review is showing an inconsistent correlation between meeting a benchmark value and having an effective storm water pollution prevention plan. This can lead a discharger into an endless "do-loop" of continually monitoring, modifying its plan, with no discernible impact on its storm water discharges. EPA has agreed to continue discussions on this issue. Accordingly, Alcoa recommends that Ecology remove the benchmark values until it has determined the effectiveness of using such values.

S5, page 25 - As discussed in General Comment 2 above, there is interest in discussing with EPA at the federal level the appropriateness of using benchmark values and their accompanying general permit requirements if a benchmark is exceeded. We have the same concern at the state level. Few peer-reviewed studies have been done to correlate the effectiveness or appropriateness of the benchmark procedure as used in the general permit program for industrial storm water. Alcoa believes Ecology needs to determine the effectiveness of utilizing its benchmark procedure in the ISGP.

Response:

The ISGP's use of benchmarks to drive adaptive management is effective, appropriate, and consistent with state and federal law, including RCW 90.48.555. The ISGP benchmark/corrective action approach was validated by the Pollution Control Hearings Board in 2011, and will not be removed from the 2015 ISGP.

S5.A Benchmarks and Sampling Requirements

Comment – Opposing Use of Visible Oil Sheen Benchmark; Recommend TPH Sampling

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Commenters are dismayed that the draft permit proposes to keep visible oil sheen as the benchmark and basis for the monitoring requirement in S5.A, Table 2. In our experience on our visits to ISGP permittees during rainfall or discharges, we have observed a visible sheen in stormwater running into catch basins or out of outfalls at least half the time. We believe that permittees do not properly or fairly report the presence of visible oil sheen because it appears so infrequently on DMRs in comparison to our observations. A PARIS query shows that the approximately 1200 permittees have reported only 29 instances of visible oil sheen in about 20

quarters of monitoring reports under the current permit's visible sheen monitoring requirement. There is no way that this adequately reflects the frequency of visible sheen and the discharged water quality. Indeed, PARIS also shows 44 instances of total petroleum hydrocarbon benchmark exceedances for the fraction of permittees required to monitor for TPH since 2010. This shows that there are at least a number of instances when TPH was over benchmark, but no sheen was reported. Commenters are pleased that the draft permit includes new requirements for actual petroleum hydrocarbon analysis for the air transportation and general transportation permittee sectors, but urges Ecology to require this of all permittees. It is an objective measure that is an appropriate replacement for the subjective visible sheen monitoring that has proven manifestly unreliable. Another possible improvement to the visible sheen monitoring requirement would be an additional requirement to take and submit digital photographs of the locations monitored for visible sheen. This would improve accountability in monitoring and reporting of this parameter.

Response:

Ecology believes that the oil sheen benchmark provides real-time feedback on the effectiveness of BMPs to prevent petroleum contamination of stormwater, and has decided to retain this core benchmark parameter for all ISGP facilities. Ecology also believes that facilities with a higher risk of petroleum contamination should also perform analytical monitoring for Total Petroleum Hydrocarbons (TPH-Dx). This two prong approach provides both a qualitative and quantitative measure of petroleum contamination. The following sectors were subject to TPH-Dx sampling beginning in 2010, and will be required to continue under the 2015 ISGP:

- Primary Metals(33xx),
- Metals Mining (10xx),
- Automobile Salvage and Scrap Recycling (5015 and 5093),
- Metals Fabricating (34xx)
- Hazardous Waste Treatment, Storage and Disposal Facilities and Dangerous Waste Recyclers subject to the provisions of Resource Conservation and Recovery Act (RCRA) Subtitle C

Ecology has decided to also require TPH-Dx sampling at transportation facilities under the 2015 ISGP, due to the higher risk of petroleum contamination from vehicle maintenance activity, equipment cleaning, material handling, and transportation activity. Affected transportation industry groups and SIC codes are:

- Railroad Transportation (40xx);
- Local and Suburban Transit and Interurban Highway Passenger Transportation (41xx);
- Motor Freight Transportation (42xx, except 4221-25);
- United States Postal Service (43xx);
- Water Transportation (44xx);
- Air Transportation (45xx);
- Petroleum Bulk Stations and Terminals (5171)

While Ecology believes this two prong approach to assessing petroleum contamination is appropriate for the higher risk industrial categories listed above, Ecology has decided to use only visible oil sheen for

other industrial categories. Ecology retains the ability to assign additional analytical sampling on a case-by-case basis per Condition G12. Ecology has also decided not to require photographs to be submitted at visible oil sheen sampling locations due to a range of permit implementation, electronic reporting, and data management concerns.

S5.C Landfills and Airports Subject to Effluent Limitation Guidelines

Comment – Airport Deicing Limits

Commenter: King County

How are annual jet departures related to airfield pavement deicing operations, which normally occur seasonally? Deicing usage is more directly related and is already being applied under section S5.B Table 3, Footnote c. This section is confusing and conflicts with S5.B Table 3 Footnote c that indicates that sampling is not needed for airports that use less than 100 lbs of urea.

Response:

Ecology regrets any confusion caused by the incorporation of the new rule into the ISGP. The existing airport deicing parameters are benchmarks (based on usage of specific deicers), while the new Ammonia limits are based upon the number of "annual jet departures" and the use of any amount of "urea-containing deicers".

S5.C Landfills and Airports Subject to Effluent Limitation Guidelines

Comment – Airport Deicing Limits

Commenter: King County

This section states that if an airport facility has 1000 or more jet departures and uses urea deicers, it is subject to the numeric effluent limit. This section does not apply if the airport has less than 1000 jet departures and/or does not use urea deicers. However, if this airport uses more than 100 lbs or urea per year, it is only subject to benchmark sampling requirements in Section S5.B. For airports, regardless of number of annual departures, which do not use urea deicers (and less than 100,000 gallons of glycol deicer) both the numeric effluent limit sampling and benchmark sampling will not apply. Is this the case?

Response:

Yes, that is consistent with Ecology's interpretation.

S5.C Landfills and Airports Subject to Effluent Limitation Guidelines

Comment – Airport Deicing Limits

Commenter: King County

If airfield pavement deicing is performed seasonally, what is justification for numerical effluent sampling year-round?

Response:

The quarterly sampling frequency is predictable, trackable, and implementable; and is appropriate within the context of a statewide general permit.

S5.C Landfills and Airports Subject to Effluent Limitation Guidelines

Comment – Airport Deicing Limits

Commenter: King County

40 CFR Part 9 does not seem applicable to this discussion since it covers OMB approvals under the Paperwork Reduction Act.

Response:

For the Effluent Limitations Guidelines and New Source Performance Standards for the Airport Deicing Category; Final Rule, the federal register identifies the applicable regulations as 40 CFR Parts 9 and 449. The commenter is correct that Part 9 pertains to the Paperwork Reduction Act. Upon further review, Ecology has determined that the Office of Management and Budget (OMB) approved the information collection requirements contained in final airport deicing rule under the provisions of the Paperwork Reduction Act. It is unnecessary to cite "Part 9" in the ISGP, so it will be struck; 40 CFR Part 449 will be retained as the best way to identify facilities subject to the rule and applicable ISGP requirements.

Revision:

Revise S5.C.4 and Table 5: "...airports subject to provisions of 40 CFR Parts ~~9 and 449~~..."

S5. Sampling Requirements

Summary of the Range of Comments – Adding TPH-Dx Sampling for Transportation Facilities

Commenters: Port of Olympia, SSA, Weyerhaeuser, Port of Tacoma, Pacific Merchant Shipping Association, BNSF Railway Company

- Opposed to the proposal to Require Transportation Facilities to Sample for Petroleum Hydrocarbons (Diesel Fraction).
- The Evaluation of Washington's Industrial Storm water General Permit {Envirovision and Herrera, November 2006) (the "6415 Report") states that "there is little evidence that oil and grease ... are a concern in industrial stormwater discharges" noting that data collected indicated that only 7 percent of the samples collected between 2000 and 2005 exceeded the benchmark for oil and grease.
- Ecology should remove the requirement to monitor for diesel and instead emphasize BMPs like facility assessments to identify potential sources of oil and grease, and specific methods of oil control Ecology recommends Permittees implement.
- While the proposed addition of a TPH-Dx benchmark theoretically makes sense, transportation facilities are already required to have numerous BMPs in place to address the increased presence of petroleum at their facilities related to fueling, maintenance, and/or increased truck traffic. These BMPs are effective.
- The requirement should be changed to require sampling of TPH-dx ONLY IF visible oil or sheen is observed during a routine inspection or sampling.
- TPH will not likely be detected in a water sample at a concentration of 10 mg/L or greater if there is NOT a visual or olfactory indication that petroleum is present.

- Sampling for TPH-dx is particularly burdensome, as it cannot be accomplished with automatic sampling devices and requires additional manpower.
- Does the five year performance history from the Transportation category reveal an elevated incidence of "oil sheen" observations that then warrants a largely duplicative measure of petroleum?
- The Port understands the premise by which the NWTPH-Dx was proposed in the draft permit; however, there are documented reasons why this should not be required.

Response to Range of Comments:

Ecology believes that all ISGP facilities should assess stormwater discharges for the presence of visible oil sheen, and those sectors with a higher risk of petroleum contamination should also perform analytical monitoring for Total Petroleum Hydrocarbons (TPH-Dx). This is based Ecology's best professional judgment that these transportation-related pollutants are reasonably likely to be exposed to stormwater with the potential for discharge to surface waters. This is supported by DMR records that indicate that 26% of the facilities reporting "visible oil sheen" at a discharge point fall within one of the transportation SIC codes. This two prong approach provides both a qualitative and quantitative measure of petroleum contamination.

The following sectors were required to perform TPH-Dx sampling, with a benchmark of 10 mg/L. Facilities in these sectors collectively account for 20% of the ISGP DMRs that indicated "visible oil sheen" at a discharge point on at least one occasion. They will be required to continue TPH-Dx sampling under the 2015 ISGP:

- Primary Metals(33xx),
- Metals Mining (10xx),
- Automobile Salvage and Scrap Recycling (5015 and 5093),
- Metals Fabricating (34xx)
- Hazardous Waste Treatment, Storage and Disposal Facilities and Dangerous Waste Recyclers subject to the provisions of Resource Conservation and Recovery Act (RCRA) Subtitle C

For the reasons discussed above, the 2015 ISGP will also require TPH-Dx sampling at transportation facilities. Affected transportation industry groups and SIC codes are:

- Railroad Transportation (40xx);
- Local and Suburban Transit and Interurban Highway Passenger Transportation (41xx);
- Motor Freight Transportation (42xx, except 4221-25);
- United States Postal Service (43xx);
- Water Transportation (44xx);
- Air Transportation (45xx);
- Petroleum Bulk Stations and Terminals (5171)

S5.D Conditionally Authorized Non-Stormwater Discharges

Comment – S5.D.l.b.v.; Evaluation of conditionally authorized non-stormwater discharges

Commenter: Alcoa

S5.D.l.b.v., page 30 - Ecology needs to either provide specific information in the permit as to how a discharger is to evaluate whether the conditionally authorized non-stormwater discharges meets the state water quality standards or eliminate this provision. It is unlikely that the average discharger utilizing the ISGP would have the knowledge or expertise to make such an evaluation without specific guidance. Condition S 10 does not provide specific information on how to comply with standards, including water quality standards.

Response:

This language is consistent with EPA's Multi-Sector General Permit, and many other state ISGPs, and will be retained in the 2015 ISGP. Permittees may contact Ecology staff for site-specific guidance on how to assess the potential for an authorized non-stormwater discharge to violate the water quality standards.

S5.F General Prohibitions

Comment – S5.F. Prevent the Discharge of Floating Debris

Commenter: Alcoa

S5.F, page 31 - How is a discharger to comply with preventing the discharge of floating debris since the permit does not contain a definition of "floating debris" or "debris." Is this limited to industrial debris or debris in general (leaves, grass, sticks, and other natural debris which can float)? Also, there is no size limitation on said "floating debris." Accordingly, Alcoa recommends that Ecology define "floating debris" and "debris," including a size limitation.

Response:

The 2015 ISGP will not define "floating debris", nor will it limit the term to a specific size or origin. This requirement to prevent discharges of floating debris is consistent with EPA's MSGP and many other state permits. The intent is to controlling the discharge of floating debris such as waste, garbage, cigarette butts, plastics, etc.; not leaves, grass clippings or twigs. Compliance can be achieved by keeping exposed areas clean and free from debris (e.g., with Operational Source Control BMPs such as litter control, vacuum sweeping, etc.) or by intercepting debris before it is discharged using available BMPs such catch basin inserts, hydrodynamic separators, booms or skimmers.

Condition S6. Discharges to Impaired Waters

S6.A General Requirements for Discharges to Impaired Waters

Comment – Clarification Requested

Commenter: Alcoa

S6.A. General Requirements for Discharges to Impaired Waterways Condition A is confusing. It implies that S5. can be skipped; all permittees must comply with S4. and S7.

Response:

Ecology has made revisions to clarify this section.

Revision:

“... shall conduct sampling and inspections in accordance with Conditions S4, S5, S6, and S7.

S6.A General Requirements for Discharges to Impaired Waters

Comment – Consistent terminology

Commenter: Geoengineers

Condition S6, page 34-40

The title, subheadings, and text of this section use the phrases “impaired waters” and also “impaired waterbody.” Suggest choosing and using only one or the other.

Response:

In the ISGP, Ecology uses “impaired waters” for plural usage, and “impaired waterbody” for singular usage.

Revision:

Several revisions were made to improve the consistency of terminology.

S6. Discharges to Impaired Waters

Comments – Use and definition of “303(d) listed waterbody”

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Citizens for a Healthy Bay

The crucial definition of “303(d)-listed waterbody,” used throughout S6, is unclear. Appendix 2 defines this term as “waterbodies as listed as Category 5 on Washington State’s Water Quality Assessment.” Washington State’s Water Quality Assessment typically identifies 303(d)-listings by “waterbody segments,” corresponding to rectangular areas, corresponding to the section of the township and range containing the relevant sampling station. Recognizing the arbitrariness of this practice and the resulting nonsense of having, for example, only sections of a river containing sampling stations be included on the 303(d) list to the exclusion of sections between those containing sampling locations, Ecology has announced a policy to change this practice to have listings correspond to segmentation indicated by the National Hydrology Dataset rather than the arbitrary grid currently used. WQP Policy 1-11 (July 2012) at 5. Does Ecology intend to continue to use the obsolete grid-based designation system for ISGP purposes, or to implement its new policy in the ISGP?

Response:

Ecology is committed to transitioning to the EPA recommended National Hydrography Dataset (NHD) for segmentation of fresh water streams and lakes. The current development of the Water Quality Assessment for fresh water data is almost completed and will include a segmentation system based on

the NHD at the 1:24,000 scale. We expect to conduct a public review on the 2014 fresh water Assessment by the end of 2014, and hope to submit the final Assessment and 303(d) list to EPA in spring, 2015. However, since the 2015 ISGP will be issued and effective prior to EPA's approval of the fresh water assessment that will be submitted by Ecology, the conditions for discharges to impaired fresh waters were based on the current 2008 EPA-approved fresh water assessment, which uses the current segmentation system. The Water Quality Assessment for marine waters, approved by EPA on December 21, 2012, was used to assign additional conditions on facilities with outfalls to certain impaired marine waters. Since the NHD is not designed to apply to marine waters, those conditions were based upon the rectangular grid system, consistent with Water Quality Program Policy 1-11, Chapter 1, Assessment of Water Quality for the Clean Water Act Sections 303(d) and 305(b) Integrated Report.

S6. Discharges to Impaired Waters

Summary of the Range of Comments – S6.C and Appendix 4; Mapping and Identifying Discharges to Impaired Waters that are Subject to Additional Requirements

Commenters: Port of Tacoma, Geoengineers, Washington Public Ports Association, BNSF Railway Company, Boeing, Dawson Consulting, Association of Washington Business, Georgia Pacific, Alcoa, King County, Pacific Merchant Shipping Association, Port of Seattle, SSA, Vigor Marine, Washington State Ferries, Waste Management of Washington, Weyerhaeuser, Windward Environmental LLC.

- Ecology should enhance their mapping tools and make them readily available for permittees to identify their specific surface water discharge location since that location is where the listing criteria that triggers facility-specific requirements is applicable.
- Ecology should provide more information to permittees to clearly identify impaired waterbodies, and the specific portions of waterbodies included as Puget Sound Sediment Cleanup Sites that meet the listed restrictions and that trigger additional permit requirements.
- It is very difficult for permittees to understand the requirements and even more difficult to identify their individual discharge location using the tools currently available.
- This lack of specificity may lead to ISGP non-compliance and potential Clean Water Act lawsuits.
- Provide site-specific maps to the permittees so that they can identify without a doubt whether they are or are not on the Appendix 4 list.
- Inform permittees in their ISGP Cover Letter issued by Department of Ecology of the site specific status of discharges from permitted facilities.
- Until Ecology specifically defines the locations, specific contaminants of concern, and site-specific effluent limitations of Puget Sound Sediment Cleanup Sites, there should not be requirements for additional sampling and analysis in the 2015 ISGP.
- Suggest adding clarifying text that elaborates on the relationship between “impaired waters” and “303(d)-listed waterbody.”
- Ecology must provide the information or tools to permittees so to clearly and easily identify those sites that trigger additional permit requirements.

- Appendix 4 is useful for existing Permittees. It is my understanding that Ecology will notify new Permittees if, according to Ecology's records, the facility discharges to an impaired waterbody. Suggest adding text that indicates this.
- Ecology should clarify that only outfalls from a facility that discharge to a particular waterbody quarter section listed for sediment are subject to the condition S6 limits.
- The current Appendix 4 reliance on a PARIS database search can result in the improper inclusion of all outfalls at a facility even though some outfalls do not discharge to 303(d) listed waters.
- Ecology should revise the permit to clarify that only those facilities listed on Appendix 4 are subject to the additional sampling requirements and effluent limitation. Under the 2010 permit Ecology improperly modified Appendix 4 on an ad hoc basis and ultimately entirely replaced Appendix 4 with what appeared to be a search result from its PARIS database.
- It is very difficult, if not impossible, for a covered facility and the public to understand whether a facility, and what outfalls at a facility, are covered under this scheme.
- There is no description in the permit, for example, as to what constitutes a discharge to a listed waterbody for waters listed as impaired for sediments.
- The draft permit applies a TSS effluent limitation to "Puget Sound Sediment Cleanup Sites" that are broadly defined; the inclusion of (or references to) the exact areas defined as such are needed.
- To assist permittees in determining if they discharge to an impaired waterbody, we recommend that Ecology issue step-by-step instructions- presumably done using Ecology's 303(d)/305(b) Integrated Report Viewer.
- Clarification is needed on whether or not this section applies to facilities discharging directly to a PSSC site, facilities discharging to a PSSC site via a municipal conveyance (i.e.- hard-pipe, ditch, etc.), and/or facilities discharging to a PSSC site via a natural waterway (i.e.- creek, stream, etc.).
- The Certain Impaired Waters (Category 5) are clearly defined in the 303(d) listings, and GIS layers delineating the extent of Category 5 waters are available on Ecology's Website. Additional ISGP requirements should be limited to discharges to 303(d) listed impaired waters.
- Ecology should clarify the criteria for designating "Puget Sound Sediment Cleanup Sites" and remove areas that do not meet the criteria.
- Ecology should add permit language that addresses how categorical status changes at other cleanup sites would be addressed during the permit cycle (e.g., the execution of a MTCA CAP). It is unclear whether Appendix 4 of the ISGP will be updated on an ongoing basis or how a permitted facility will be notified if their status changes.
- Ecology needs to be aware that those who discharge to other storm sewer systems (e.g., municipal MS4 systems) or to tributaries may not be aware that they are included under these new cleaning/sampling provisions (i.e., they may assume that this applies only to permittees with direct outfall discharges to impaired waters/cleanup sites). It would be

helpful to clarify the applicability of the newly proposed provisions with additional text, specifically in Section S6.

Response to the Range of Comments:

Ecology has clarified the definition of Puget Sound Sediment Cleanup Site (PSSCS):

PSSCS means:

- Category 4B (Sediment) portions of Budd Inlet (Inner), Commencement Bay (Inner), Commencement Bay (Outer), Dalco Passage and East Passage, Duwamish Waterway (including East and West Waterway), Eagle Harbor, Elliot Bay, Hood Canal (North), Liberty Bay, Rosario Strait, Sinclair Inlet, and Thea Foss Waterway;
- Category 5 (Sediment) portions of the Duwamish Waterway (including East and West Waterway), and Port Gardner and Inner Everett Harbor; and
- Port Angeles Harbor sediment cleanup area, as mapped on Ecology's ISGP website.
- All references to Category 4B and 5 pertain to the 2012 EPA-approved Water Quality Assessment.

Based on a review of the Inner Bellingham Bay Contaminated Sediments Total Maximum Daily Load Submittal Report and Detailed Implementation Plan, Ecology has determined that stormwater sources were not found to be an ongoing source of contamination. As such, Ecology has removed Bellingham Bay from the list of Puget Sound Sediment Cleanup Sites.

Ecology's WQ Atlas and WQ Assessment Map Tool include the East and West Waterways (around Harbor Island) as part of the Duwamish Waterway. As such, the ISGP identifies the "Duwamish Waterway (including East and West Waterway)" as a PSSCS.

Ecology has also clarified that the Permittees discharging to a 303(d)-listed waterbody (Category 5) and/or an ISGP-defined PSSCS, either directly or indirectly through a stormwater drainage system (with an outfall to the portion of the waterbody meeting the criteria as a 303(d)-listed Category 5 waterbody, and/or a PSSCS), must comply with the applicable requirements in S6.C, Table 6 and/or Table 7.

- For example, if a facility discharges to a tributary of the Duwamish Waterway (e.g., Springbrook Creek), that **would not** be considered a discharge to the Duwamish Waterway (and therefore not a discharge to a PSSCS).
- However, if a facility discharges to a municipal storm drain (e.g., hard pipe, ditch, etc.) with an outfall to the Duwamish Waterway, that **would** be considered a discharge to the Duwamish Waterway (therefore, a discharge to a PSSCS).
 - The Duwamish has portions that are Category 5 for sediment quality, and other portions are Category 4B for sediment quality; for sediment quality, they are mutually exclusive.

- The ISGP requirements are based upon the 2012 Water Quality Assessment status of the waterbody² where the discharge (outfall) ultimately enters the waterbody. Therefore:
 - Outfalls to quarter sections of the Duwamish Waterway that are Category 5 for sediment quality (sediment medium) are subject to the 30 mg/L TSS *effluent limit*, as well as the additional storm drain line cleaning and solids characterization requirements.
 - Outfalls to quarter sections of the Duwamish waterway that are Category 4B for sediment quality (sediment medium) are subject to the 30 mg/L TSS *benchmark*, as well as the additional storm drain line cleaning and solids characterization requirements.
- The terms discharge point and outfall have been defined in the ISGP to ensure that ISGP facilities and consultants understand the applicability of additional requirements for discharges to 303(d) waters and PSSCSs.
- Because the additional impaired waterbody requirements are triggered when a facility's discharge ultimately enters the 303(d)-listed water or PSSCS, it is imperative that ISGP outfalls location are properly identified in Ecology's PARIS database.

In response to comments requesting clarifying language on the geographic applicability of the impaired waterbody requirements, numerous edits have been made to improve clarify and enable facilities and their consultants to understand which discharges are affected, and how necessary updates or corrections to Appendix 4 are to occur.

Multiple Revisions:

Revise S6.C.1:

Permittees discharging to a *303(d)-listed waterbody* (Category 5), either directly or indirectly through a *stormwater drainage system*, shall comply with the applicable sampling requirements and numeric effluent limits in Table 6.

Revise S6.C.2:

Permittees discharging to a ***Puget Sound Sediment Cleanup Site***, either directly or indirectly through a *stormwater drainage system*, shall comply with this section:

- a. Permittees shall sample the *discharge* for Total Suspended Solids (TSS) in accordance with Table 7.
- b. If the waterbody is listed within Category 5 (sediment medium) where the outfall discharges to the waterbody, the discharge is subject to the TSS numeric effluent limit in S6.C.1.c and Table 6.
- c. If the waterbody is not listed within Category 5 (sediment medium) where the outfall discharges to the waterbody, the discharge is subject to the TSS benchmark in Table 7. If the discharge is subject to more than one TSS benchmark value, the lower benchmark

² For purposes of the EPA-approved Water Quality Assessment, marine waters are subdivided into quarter sections (160 acre grids).

supersedes the higher one. Beginning January 1, 2017, if a *discharge* exceeds the TSS benchmark, the Permittee shall comply with Condition S8.

Revised PSSCS definition in S6.C.2 (footnote), and Appendix 2 – Definitions:

Puget Sound Sediment Cleanup Site means: Category 4B (Sediment) portions of Bellingham Bay Budd Inlet (Inner), Commencement Bay (Inner), Commencement Bay (Outer), Dalco Passage and East Passage, Duwamish Waterway (including East and West Waterway), Eagle Harbor, Elliot Bay, Everett/Port Gardner, Hood Canal (North), Liberty Bay, Port Angeles Harbor-Rosario Strait, Sinclair Inlet, and Thea Foss Waterway; Category 5 (Sediment) portions of the Duwamish Waterway (including East and West Waterway), and Port Gardner and Inner Everett Harbor; and Port Angeles Harbor sediment cleanup area, as mapped on Ecology's ISGP website. All references to Category 4B and 5 pertain to the 2012 EPA-approved Water Quality Assessment.

Revise Appendix 2 – Definitions:

Discharge point means the location where a discharge leaves the permittee's facility. Discharge point also includes the location where a discharge enters the ground on-site (e.g., infiltration BMP).

Outfall means the point where a discharge from a facility enters a receiving waterbody or receiving waters.

Revise Appendix 4:

APPENDIX 4 - EXISTING DISCHARGERS TO IMPAIRED WATERS

This appendix has a link below to a website list of existing Permittees that *discharge pollutants of concern*, either directly or indirectly through a stormwater drainage system, to an outfall that enters 303(d)-listed (Category 5) impaired waters based on the 2012 EPA-approved water quality assessment and to Puget Sound Sediment Cleanup Sites.

<http://www.ecy.wa.gov/programs/wq/stormwater/industrial/permitdocs/iswgpapp4.pdf>

Appendix 4 is based upon information in Ecology's PARIS database. As such, it is subject to revision based upon new information including but not limited to: new facilities, discharge points, and/or outfalls; updates or corrections to ISGP facility locations, stormwater sample points, discharge points, and/or outfalls.

Appendix 4 is a technical assistance tool intended to support ISGP facilities with permit compliance. Appendix 4 may contain errors or omissions for various reasons, but this does not relieve ISGP facilities of applicable permit requirements. If an inconsistency exists between Appendix 4 and ISGP Condition S6, the ISGP takes precedence. Permittees aware of errors or omissions with the information contained in Appendix 4 shall contact Ecology so that an update/correction can be made. This list is based on the best information available to Ecology. There will be changes and updates to this list based on new, more accurate information. If changes or updates are made, based on new or more accurate information,

Ecology will notify the affected permittees directly. Such changes or updates will not become effective until 30 days after the affected *dischargers* are notified.

~~This list is generated by comparing the *discharge* point of each individual *discharger* permitted under the Industrial Stormwater General Permit with the 2012 EPA-approved water quality assessment.~~

S6. Discharges to Impaired Waters

Summary of the Range of Comments – S6.B New Discharges to Impaired Waters

Commenters: Boeing, King County, Washington Public Ports Association, Weyerhaeuser,

- Ecology should clarify that new dischargers are subject to the terms of condition S6 for only those discharges to waterbodies listed for the parameters in Table 6 or sediment listings other than bioassessments.
- Condition S6.B should also provide that new dischargers are allowed to discharge to waters listed for bacteria as long as the facility implements the mandatory best management practices for bacteria provided in the permit.
- Ecology should not include applicable TMDL (Category 4A) without clarification as to what TMDLs are applicable to industrial stormwater discharges.
- New dischargers should not be precluded from coverage under permit because of TMDLs for parameters that are not associated with stormwater discharge.
- Ecology should explain how this language applies to TMDLs where stormwater discharges are addressed under load allocations rather than wasteload allocations or where wasteload allocations for stormwater are based on compliance with applicable permits and best management practices.
- Ecology should also explain how this applies to TMDLs where wasteload allocations are based on concentrations rather than mass loadings, such as the 1999 Spokane River Metals TMDL (where the wasteload allocations are expressed as the aquatic life criteria adjusted for hardness at the point of discharge).
- This section newly restricts eligibility for receiving a stormwater permit in areas draining to impaired waters based on providing documentation that certain pollutants: a) are not present, b) are not exposed to stormwater, c) will be discharged at levels meeting in-stream standards, or d) are within the capacity of an existing wasteload allocation. The last two criteria in particular will create an unusual burden for the county as it leases properties at the King County International Airport, Harbor Bond Fund properties on the Duwamish, and other property on Harbor Island. When existing lessees move out, potential lessees will have to perform engineering studies confirming discharge quality even before beginning negotiations on lease terms, discouraging future use of these properties.
- Some clarification on the use of term "compliance schedule" would be useful. Discussion - There are few (if any) NPDES permittees that have had TMDL-derived wasteload allocations incorporated into their permits, and with reliance on a compliance schedule. Yet the permit language in S6.B.3.b. demands that a condition for a new discharger seeking NPDES discharge authority into a waterbody subject to a TMDL, is that all existing dischargers are

subject to compliance schedules." Despite the 40 CFR 130 and Pinto Creek language, Ecology surely cannot mean this as a literal requirement. How does the agency deal with this? Does Ecology consider that the terms and conditions in the approved TMDL is, effectively, a "compliance schedule"?

Response:

This section is consistent with EPA's Multi-Sector General Permit (MSGP), and applicable case law including the 9th Circuit Court of Appeals ruling in "*Friends of Pinto Creek v. EPA*", 504 F.3d 1007 (9th Cir. 2007), which held that a new source or a new discharger is allowed into an impaired waterway for which a TMDL has been prepared only if there are sufficient remaining pollutant load allocations for the discharge and the existing dischargers to the waterbody are subject to compliance schedules to bring the impaired waterbody into compliance with water quality standards.

Neither *Friends of Pinto Creek*, nor the EPA regulation that the 9th Circuit interpreted in that case (40 CFR 122.4(i)) limits the restriction on a new source or new discharger in the manner suggested by the commenters. EPA's MSGP also doesn't limit the applicability of this section to certain types of impaired waterbodies, (nor does it exclude bacteria, bioassessment or other types of impaired waters). This does not necessarily present a barrier to Ecology granting permit coverage. As long as the new discharger provides adequate documentation that the eligibility criteria in S6.B are met, Ecology will be able to make an affirmative determination that the discharge will not cause or contribute to the existing impairment, and ISGP coverage would be granted.

Applications for new discharges to impaired waters are very infrequent. As such, Ecology is not able to provide the pollutant- and situation-specific implementation guidance that some commenters requested in the ISGP. This permit condition was not revised.

S6. Discharges to Impaired Waters

Summary of the Range of Comments – 30 mg/L TSS Effluent Limit for Discharges to Sediment Impaired Waters

Commenters: Port of Tacoma, Washington Public Ports Association, Alcoa, Association of Washington Business, Georgia Pacific, BNSF Railway, Boeing, Cedar Grove Composting and Emerald Services, Citizens for a Healthy Bay, Dawson Consulting, Melvin W. Oleson, King County, Lynden, Pacific Merchant Shipping Association, Port of Olympia, Port of Seattle, Port of Tacoma, Port of Vancouver, SSA, Vigor Marine, Washington State Department of Natural Resources – Aquatic Division, Washington State Ferries, Waste Management of Washington, Weyerhaeuser, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

Opposition to TSS Limit/Alternatives to TSS Limit

- Remove the TSS effluent limit from the ISGP.
- Require sampling for TSS to determine the need for an effluent limit in the future.
- Add TSS as a benchmark, rather than a limit.
- Require TSS-reducing BMPs instead of a limit.

- Many 303(d) listings are based on dubious data; it is inappropriate to incorporate all 303(d)-listed waterbodies in this permit requirement. We recommend limiting this requirement to waterbodies with TMDLs.
- Facilities with Ecology-approved treatment, should be exempt from TSS limit.
- Ecology should delete all references to a 30 mg/L TSS effluent limit for Puget Sound Sediment Cleanup Sites and revert to the use of the 100 mg/L TSS benchmark from the existing General Permit.
- Ecology has not provided sufficient rationale for commenters to develop adequate technical comments on the proposed changes, therefore, this condition should be deleted.
- No other state includes TSS effluent limits for discharges to impaired water bodies
- If a limit is included it should be a narrative limit only, similar to the fecal coliform limit for impaired water bodies.

Nexus between MTCA/CERCLA and ISGP/NPDES

- There is no nexus between the "release to the environment of a hazardous substance (MTCA)" and "discharge of storm water runoff (ISGP)".
- Ecology added unnecessary complexity by cross-referencing Puget Sound Sediment Cleanup requirements.
- Develop a process to identify risks to human health and the environment; if no risk, no further action.
- The draft permit creates a serious regulatory conflict with MTCA and CERCLA source control requirements. Puget Sound cleanup site requirements are based on a complex consideration of numerous factors, including costs, time needed to comply and what constitutes compliance.
- MTCA and CERCLA already have established regulatory requirements for cleanup of contaminated sites that include source control.
- EPA has approved the current water quality assessment and 303(d) list of impaired waterbodies. This assessment incorporates data compiled for sites in the Puget Sound Cleanup Sites list. The requirements for additional monitoring seems duplicative of this effort.
- The Port understands the concern that stormwater discharges could be a source of recontamination to sediment cleanup sites. However, [the new requirements] are not the best means of achieving that objective, and may in fact disproportionately hurt ISGP permittees without measurably reducing recontamination of sediment cleanup sites.
- Compared to other stormwater dischargers, ISGP permittees contribute a small percentage of the total stormwater volume flowing into receiving water bodies. By far a much higher load comes from municipal discharges, which provide the greater risk of contributing TSS loads and recontamination to Puget Sound Sediment sites.
- Sediment cleanup is already managed under the TCP and MTCA, not the Water Quality Program or the Clean Water Act; therefore, facilities should not be required to monitor for TSS associated with a potential for sediment contamination, nor should TSS be included in a

Water Quality Program permit unless it is known to be causing or contributing to a water quality impact.

- Why wouldn't the proposed TSS effluent limit (and other requirements) be limited to the subset of ISWG Permittees which have been identified as PLPs or contributors to these SMS Cleanup Sites?

Support for TSS Limit

- DNR strongly supports the additions to language in section S6.C. Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waterbodies and Puget Sound Sediment Cleanup Sites. DNR believes that these additional sampling requirements are essential to maintaining the integrity of cleanup sites and impaired waterways.
- Toxic substances in sediments impact the lower trophic levels of the food web which results in accumulation at higher levels; they can also negatively impact salmon and other fishes, especially in embryonic stages. Bioaccumulation of toxic substances negatively impacts aquatic biodiversity and can interfere with citizens' recreational and commercial harvest opportunities.
- We support your proposed requirements to prevent potentially toxic-laden sediments from reaching marine waters through enhanced maintenance of storm water facilities and additional sampling. We note the proposal included provisions that would improve protection for Washington's fish and wildlife resources by requiring higher discharge standards for select industries discharging to impaired waterbodies and to Puget Sound Sediment Cleanup Sites.

Basis for 30 mg/L TSS

- The sediment management standards set standards for specific contaminants in sediments. The 30 mg/L TSS standard will apply regardless of whether the sediment being discharged is pristine or heavily contaminated. The proposed effluent limit bears no relation to the levels of contamination that may exist in the sediments being discharged.
- Ecology provides no technical support or justification for the proposed limit of 30 mg/L.
- Has Ecology considered the reasonable potential characterization factors identified at WAC 173-204-400(6) for the ISGP? What is the basis for Ecology's determination that no ISGP permittee need apply for a sediment impact zone?
- There is no technical or scientific basis for imposing the TSS numeric limit on dischargers to Category 5 Water Bodies listed for sediment bioassay. The toxicity of sediments may be related to characteristics of the sediments that have nothing to do with stormwater runoff, such as historical contamination with chemicals that are not associated with stormwater.
- What is the basis for the 30 mg/L total suspended solids effluent limit for discharges to sediment cleanup sites or waters with sediment 303(d)-listings? Why is not this limit 10 or even 5 mg/L?
- In measuring Total Suspended Solids under Method SM2540 D, larger particles must be removed from the sample prior to testing. This excludes particles that would naturally settle to the bottom of waterways. In order to more effectively meet the intent of the regulation,

we propose using Total Settleable Solids Method SM2540 F, which incorporates all sediment within a water sample in the test measurement and includes a required settling time for particles to settle out in undisturbed conditions. Method SM2540 F for Total Settleable Solids will provide results that more accurately reflect the potential for recontamination of sediment clean-up areas than Total Suspended Solids Method SM2540 D.

- While a direct correlation between turbidity and TSS is not always possible, it is likely that if a Permittee can achieve the 25 NTU benchmark, its discharge will contain less than 30 mg/L of TSS.
- Measurement of TSS in stormwater has no relationship to the potential for causing contamination in receiving water sediments.
- If Ecology wants to know what is being discharged to a Cat 5 sediment zone then they need to have the permittee monitor for the pollutants of concern; not some irrelevant surrogate such as TSS.

TSS Limit is unlawful

- In an AKART-based regulatory scheme, establishing a new effluent limit prior to having a firm grasp on both how much it would cost dischargers to meet that limit and how much good it would do in receiving water sediments, cannot be legally justified.
- The 30 mg/L effluent limit is unenforceable because Ecology has failed to adopt it through APA rulemaking.
- If the discharges are to water bodies that are not listed as Category 5 under section 303(d), numeric limits are not lawful [RCW 90.48.555(7)].

Compliance Issues

- Lack of clarity on compliance.
- Unless the facility is subject to a TMDL, TSS has not been sampled at most ISGP facilities.
- The expansion of the ISGP to include TSS, there are likely to be many cases where the limits are likely to be exceeded.
- Ecology should retain compliance schedules for facilities that are subject to S6 for the first time.
- Facilities new to Appendix 4 or listed for a new parameter on Appendix 4 should have a reasonable period of time to monitor their storm water, to determine the need for a compliance schedule and to implement new best management practices required for discharges to listed water bodies.
- Footnote e to Table 6 refers to S6.C.1.c and so appears to be mistaken. There is no S6.C.1.c.
- Permittees with a new effluent limitation for TSS must comply with the associated limit effective January 1, 2015; this leaves little time to design and install treatment equipment that may be necessary to meet the limitation by January 1.
- This TSS requirement is already triggered for Category 5 listings, but not for 4B listings. Adding 4B within Sediment Cleanup Site areas means that this requirement will apply to all outfalls that discharge to most urban waterbodies.

- Corrective Action Level 3 required treatment systems that have been installed (or are currently being installed) were designed to meet the turbidity requirement in the current permit. These systems were not designed to meet the new TSS effluent limit and therefore it is unreasonable to expect that they would meet this new, additional requirement.
- The numeric effluent limit for Total Suspended Solids (TSS) is too low:
 - By Ecology's own estimation (see Ecology's 2008 Industrial Stormwater Discharges to Impaired Water Bodies), nearly 40% of all discharges will exceed the 30 milligrams per liter (mg/L) effluent limitation.
 - Of the 2,466 ISGP single sample TSS results reported to Ecology from 2010 to present, 726 (or 29%) exceeded the proposed 30 mg/L numeric effluent limitation.
 - The EPA MSGP daily maximum limits for TSS ranges from 23 to 100 mg/L depending on the industrial class of the facility. Ecology also currently includes a 100 mg/L benchmark monitoring for specified industrial classes. These established limits/benchmarks further demonstrate that a one-size-fits-all approach is not appropriate for the implementation on a broad scale across many industrial classes and land use types.
- Ecology should allow permittees to conduct all sampling requirements (both relative to benchmarks and effluent limits) at locations agreed to by the permittee and Ecology as representative, using the "substantially identical" rationale.
- Many facilities that will be subject to the total suspended solids (TSS) effluent limit have not been monitoring for TSS and therefore have no technical basis for assessing future compliance.

Response to the Range of Comments

Ecology has decided to retain previous ISGP's 30 mg/L TSS numeric effluent limit for discharges to 303(d)-listed sediment impaired waters that are Category 5 for sediment quality. The limit is based upon a best professional judgment determination that stormwater discharges at or below 30 mg/L TSS will not cause or contribute to a violation of sediment management standards, especially if other ISGP required source control and treatment BMPs are implemented. Ecology does not have the technical basis to lower, use a different analytical method, or otherwise depart from the 30 mg/L TSS limit. Suggestions to delete the numeric effluent limits to 303(d) waters (without a TMDL), or certain types of 303(d) waters (sediment bioassay) are in direct conflict with RCW 90.48.555(7) and the anti-backsliding provisions of the Clean Water Act. This effluent limit was affirmed by the PCHB in 2011 [PCHB Nos. 09-135 through 09-141 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER]: "The Board concludes that the TSS effluent limitation applicable to discharges to 303(d)-listed waters is valid and was appropriately derived under RCW 90.48.555(7)."

Ecology has decided to revise the requirements for Puget Sound Sediment Cleanup sites that are not 303(d)-listed (not Category 5) for sediment. Discharges to these waters will be assigned a 30 mg/L TSS benchmark, rather than a numeric effluent limit. This benchmark is based on a best professional judgment determination that stormwater discharges at or below 30 mg/L TSS will not cause or contribute to a violation of sediment management standards, especially if other applicable ISGP source

control and treatment BMPs are implemented [PCHB Nos. 09-135 through 09-141 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER]. The use of a narrative effluent limitation to control these discharges is consistent with RCW 90.48.555. Exceedances of the 30 mg/L benchmark trigger corrective actions per Condition S8 (adaptive management) which, along with other ISGP pollution prevention requirements, will ensure that discharges do not contaminate/re-contaminate MTCA or CERCLA sediment cleanup areas or otherwise cause or contribute to violations of sediment management standards (Chapter 173-204 WAC; ISGP Condition S10).

In response to a range of permit compliance issues raised during the public comment period, Ecology is also making several revisions to ensure that facilities have a reasonable period of time sample TSS and make necessary changes to BMPs and SWPPPs, if necessary.

- For discharge points to waters 303(d)-listed for sediment quality that were previously not subject to a TSS limit (under the 2010 ISGP), the 30 mg/L TSS limit is not effective until 1/1/17, or two years after the effective date of permit coverage, whichever is later. However, Permittees must begin TSS sampling and reporting on the effective date of the ISGP, or the first full quarter following permit coverage, whichever is later.
- For discharges to Puget Sound Sediment Cleanup sites that are not 303(d)-listed for sediment quality (Category 5 – Sediment Medium), the 30 mg/L TSS benchmarks and S8 Corrective Actions are effective on 1/1/17, or two years after the effective date of permit coverage, whichever is later. Between 1/1/15 and 12/31/16 these discharges are only subject to quarterly TSS sampling and reporting, giving facilities a reasonable amount of time to assess and plan for any necessary corrective actions.
- This two year period is consistent with the length of compliance schedules granted to facilities subject to impaired waterbody limits under the under the 2010 ISGP, and follows the 10/1/16 due date for storm drain line cleaning and solids disposal.

Some commenters noted that the sediment management standards provide a process for evaluation of a discharge's potential to cause or contribute to such violations. WAC 173-204 Part IV. They asked if Ecology considered the reasonable potential characterization factors identified at WAC 173-204-400(6) for ISGP-authorized discharges. Ecology responds that it is not possible for Ecology to collect site-specific information necessary to consider the factors listed in WAC 173-204-400(6) for ISGP discharges; this requirement applies to *individual permits* and *individual discharges*: "(6) In establishing the need for, and the appropriate, *individual permit* [emphasis added] monitoring conditions, the department shall consider multiple factors relating to the potential for *a discharge* [emphasis added] to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340..." It is not necessary or possible for Ecology to perform this type of outfall-specific analysis prior to issuing the 2015 ISGP.

Some commenters asked why no ISGP permittees need to apply for a sediment impact zone. Ecology responds that the ISGP does not include a mechanism to require Permittees to apply for a sediment impact zone; the ISGP does not authorize sediment impact zones. ISGP Condition S10.A prohibits discharges that cause or contribute to violations of the Sediment Management Standards (Chapter 173-204 WAC). Sediment impact zones, if requested or otherwise needed, would only be issued or authorized through an individual NPDES permit.

As discussed previously in this document, Ecology considered various comments related to sampling to assess compliance with numeric effluent limits and has decided that the "substantially identical outfall" provisions may be applied to parameters and discharge points subject to numeric effluent limitations. This change is based upon public comments, and Ecology experience under the 2010 ISGP.

Revisions:

S6.C:

C. Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waters and Puget Sound Sediment Cleanup Sites

1. Permittees discharging to a *303(d)-listed waterbody* (Category 5) ~~or a Puget Sound Sediment Cleanup Site, either directly or indirectly through a stormwater drainage system,~~ shall comply with the applicable sampling requirements and numeric effluent limits in Table 6. If ~~an outfall a discharge point~~ is subject to an impaired waterbody effluent limit (Condition S6.C) for a parameter that also has a benchmark (~~Condition S5~~), the effluent limit supersedes the benchmark.
 - a. Facilities subject to these limits include, but may not be limited to, facilities listed in Appendix 4.
 - b. For purposes of this condition, "applicable sampling requirements and effluent limits" means the sampling and effluent limits in Table 6 that correspond to the specific parameter(s) the receiving water is *303(d)-listed* for at the time of permit coverage, or Total Suspended Solids (TSS) if the waterbody is a ~~Puget Sound Sediment Cleanup Site or impaired 303(d)-listed~~ (Category 5) for ~~any sediment quality parameter~~ at the time of permit coverage.
 - c. For *discharge points* not subject to a TSS effluent limit under the 2010 ISGP, the TSS effluent limit in Table 6 does not become effective until January 1, 2017. However, TSS sampling and reporting is effective January 2, 2015; or, for Permittees with an effective date of permit coverage after January 2, 2015, the first full quarter following permit coverage.

----- Skip Table 6 -----

2. Permittees discharging to a ***Puget Sound Sediment Cleanup Site***³, ~~either directly or indirectly through a stormwater drainage system,~~ shall ~~implement additional storm drain line cleaning BMPs, solids sampling, and reporting, in accordance~~ comply with this section:

³Puget Sound Sediment Cleanup Site means: Category 4B (Sediment) portions of Bellingham Bay Budd Inlet (Inner), Commencement Bay (Inner), Commencement Bay (Outer), Dalco Passage and East Passage, Duwamish Waterway (including East and West Waterway), Eagle Harbor, Elliot Bay, Everett/Port Gardner, Hood Canal (North), Liberty Bay, Port Angeles Harbor-Rosario Strait, Sinclair Inlet, and Thea Foss Waterway; Category 5 (Sediment) portions of the Duwamish Waterway (including East and West Waterway), and Port Gardner and Inner Everett Harbor; and Port Angeles Harbor sediment cleanup

- a. Permittees shall sample the *discharge* for Total Suspended Solids (TSS) in accordance with Table 7.
- b. If the waterbody is listed within Category 5 (sediment medium) where the outfall discharges to the waterbody, the discharge is subject to the TSS numeric effluent limit in S6.C.1.c and Table 6.
- c. If the waterbody is not listed within Category 5 (sediment medium) where the *outfall* discharges to the waterbody, the discharge is subject to the TSS *benchmark* in Table 7. If the discharge is subject to more than one TSS benchmark value, the lower benchmark supersedes the higher one. Beginning January 1, 2017, if a *discharge* exceeds the TSS benchmark, the Permittee shall comply with Condition S8.

Table 7: Benchmarks and Sampling Requirements Applicable to Discharges to Puget Sound Sediment Cleanup Sites that are not Category 5 for Sediment Quality

Parameter	Units	Benchmark Value ^a	Analytical Method	Laboratory Quantitation Level ^b	Minimum Sampling Frequency ^c
TSS	mg/L	30	SM2540-D	5	1/quarter

^a Permittees sampling more than once per quarter shall average the sample results and compare the average value to the *benchmark* to determine if the discharge has exceeded the *benchmark* value. However, if Permittees collect more than one sample during a 24-hour period, they must first calculate the *daily average* of the individual grab sample results collected during that 24-hour period; then use the *daily average* to calculate a quarterly average.

^b The Permittee shall ensure laboratory results comply with the *quantitation level* (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the discharge monitoring report.

^c 1/quarter means at least one sample taken each quarter, year-round.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Consistent Attainment for Discharges to 303(d) Waters

Commenter: King County

If data show no impact to impaired waters for some or all parameters, is there a permit modification process to discontinue sampling? Are consistent attainment requirements applicable? Would the process be similar to Section S6.B.1-3?

area, as mapped on Ecology’s ISGP website. All references to Category 4B and 5 pertain to the 2012 EPA-approved Water Quality Assessment.

Response:

No, the consistent attainment provisions only apply to benchmark parameters (except visible oil sheen); and do not apply to numeric effluent limits. Provisions do not exist to modify or suspend the sampling requirements for numeric effluent limitations based upon a lack of water quality impact.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Consistent Attainment for Discharges to 303(d) Waters

Commenter: King County

If data show no impact to impaired waters for some or all parameters, is there a permit modification process to discontinue sampling? Are consistent attainment requirements applicable? Would the process be similar to Section S6.B.1-3?

Response:

No, the consistent attainment provisions only apply to benchmark parameters (except visible oil sheen); and do not apply to numeric effluent limits. Provisions do not exist to modify or suspend the sampling requirements for numeric effluent limitations based upon a lack of water quality impact.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent Limits for Discharges to 303(d) Waters

Commenter: King County

This section proposes new requirements for quarterly sampling for new discharges to impaired waters and Puget Sound Cleanup Sites. Seven of the old and new parameters do not have specified effluent limits in this draft, rather those limits are proposed to be “assigned” at the time of permit coverage.

Delaying the establishment of these effluent limits precludes a regional discussion on the validity of the limits and severely hampers our ability to seek new tenants for county owned properties at the airport, the Harbor Bond Fund properties on the Duwamish and property on Harbor Island – all of which drain to impaired waters or Cleanup Sites [see comment above]. How can a prospective tenant calculate future costs and the County calculate lease rates not knowing the structural or treatment BMPs necessary to satisfy unspecified effluent limitations, or even determine if a particular industrial or commercial enterprise is possible at the site? Parties will have to conduct engineering design studies and initiate the stormwater permit process prior to signing a lease.

Response:

As discussed in the Fact Sheet, these limitations require site specific information in order to derive the applicable limitation. Prospective Permittees can contact Ecology to determine if additional limitations apply based upon the discharge and outfall location(s), and receiving water status; and determine if an additional limitation would be applicable, and what the numeric limitation would be.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent Limits for Discharges to 303(d) Waters

Commenter: King County

It is implied that the parameters listed in this table will change dependent on the site. Is this the case?

Response:

Yes, the Permittee would only be assigned the parameters that correspond with the impairment specific to the receiving water at the outfall location.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent Limits for Discharges to 303(d) Waters

Commenter: King County

The daily discharge is defined as the average measurement of the pollutant over the day. Does this mean several samples need to be taken? If so, the footnote and sampling frequency (1 per quarter) seems to contradict.

Response:

The permit only requires one sample to be taken, but it allows multiple samples to be collected and averaged over the day. If only one sample is collected, the daily discharge (average) is equal to the single sample value.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent Limits for Discharges to 303(d) Waters

Commenters: King County, Dawson Consulting, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Waste Management of Washington, Inc.

- The footnote refers to S6.C.1.c for line cleaning requirements for waterbodies impaired for sediment quality parameters.
- Is it Ecology's intent to add a storm drain line cleaning requirement to permittees that discharge to waterbodies impaired for any sediment-quality parameter?
- This section does not exist so the reference should likely be changed to S6.C.2.
- Footnote e [sic] to Table 6 refers to S6.C.1.c and so appears to be mistaken. There is no S6.C.1.c.
- S6.C.2 appears only applicable to Puget Sound Cleanup Sites, not for other sites which might discharge to sediment-impaired waterbodies.
- We suspect that this reference was intended to be to Permit Condition S.6.C.2.

Response:

The commenter is correct that the line cleaning and sampling provisions are only applicable to discharges to Puget Sound Sediment Cleanup Sites. Ecology has made edits to the footnote, including striking the second sentence. The applicability of line cleaning requirements is adequately addressed in S6.C.2.

Revision:

S6.C Table 6 Footnote "f": Permittees who discharge to a ~~Puget Sound Cleanup Site~~ or a waterbody impaired (Category 5) for any sediment quality parameter shall sample the discharge for TSS. ~~In addition, permittees discharging to a waterbody impaired for any sediment quality parameter must clean out storm drain lines, per S6.C.1.c.~~

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent Limits for Discharges to 303(d) Waters

Commenter: King County

What are ‘storm drain line cleaning BMPs’ when stormwater line cleaning is itself a BMP that removes solids from stormwater pipes? Additional clarification is needed.

Response:

Storm drain line cleaning BMPs mean maintenance operations to jet and vactor out or otherwise remove accumulated solids and associated pollutants from the drain line.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Apply benchmark to discharges to bacteria-impaired 303(d) Waters

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Citizens for a Healthy Bay

S6.C and Table 6 omit a numeric benchmark for fecal coliform concentrations in discharges to waterbodies that are bacteria-impaired. CHB and Soundkeeper urges the inclusion of fecal coliform numeric benchmarks here. The monitoring/benchmark/adaptive management scheme lies at the heart of the ISGP, and there is no reason that it cannot or should not be used for discharges to waters 303(d)-listed for fecal coliform. While the 2012 amendment to RCW 90.48.555 prohibited numeric effluent limitations for fecal coliform, it leaves open the possibility of numeric benchmarks. There is no basis to believe that implementation of the mandatory fecal coliform BMPs (at footnote j to Table 6), which are mostly identical to the standard BMPs required of all permittees, provide assurance that fecal coliform discharges will not cause or contribute to fecal coliform water criteria violations in waters already 303(d)-listed for fecal coliform. Just as they are needed to ensure that authorized discharges do not cause or contribute to in-stream violations of copper or turbidity criteria, numeric benchmarks for fecal coliform are necessary for this subset of permittees.

In addition, item 5 of footnote j, which requires permittees discharging to fecal coliform 303(d)-listed waters to include a mandatory BMP in SWPPPs and “conduct additional bacteria-related sampling and/or BMPs, if ordered by Ecology on a case-by-case basis,” is an illegal permit condition. A condition such as this, requiring that a permittee “do what Ecology later tells you to do” is both inadequate to ensure compliance with water quality standards and contrary to the requirements of WAC Ch. 173-226 essentially mandating that a general permit spell out the necessary conditions. WAC 173-226-070(2) (water quality-based effluent limitations must be incorporated into general permits when necessary); -070(6) (general permit must specify effluent limitations); WAC 173-226-080(1)(a) (discharges must be consistent with the “terms and conditions of the permit”); see also WAC 173-201A-510(1) and (3)(d). Ecology should eliminate this requirement and replace it with numeric benchmarks and Level 1, 2, and 3 requirements.

Response to the Range of Comments:

Ecology has considered the suggestion to add bacteria-related benchmarks to facilities with discharges to bacteria-impaired waterbodies. Ecology has decided to retain the existing narrative effluent limitation, without revision. These conditions have only been in effect since 7/1/12, and more time is needed to evaluate the effectiveness before making changes. Ecology disagrees that item 5 of footnote "j" [*conduct additional bacteria-related sampling and/or BMPs, if ordered by Ecology on a case-by-case basis*] is illegal. Chapter 90.48.120(2) RCW gives Ecology authority to issue administrative orders whenever it determines that immediate action is necessary to accomplish the purposes of RCW 90.48. This may include orders to require additional sampling or BMPs to address sources of bacteria-related pollution at an ISGP facility.

S6.C General Requirements for Discharges to Impaired Waters

Comment – BMPs for bacteria-impaired 303(d) Waters

Commenters: Washington State Ferries

S6 Table 6 Footnote “i” (discourage birdlife attractions) contradicts what we are being asked to do at our other sites by the wildlife agencies to leave roosting sites and other habitat features, etc. for birdlife. This BMP also doesn’t recognize the abundant wildlife and birdlife at Eagle Harbor. Nor does it recognize that the structure used to protect the superfund site, asphalt cap, is attracting birds that drop shellfish on it to crack open the shells. Are we correct in assuming that our integrated pest management and do not feed wildlife and birds policies and procedures adequately cover this BMP? The SWPPP can be modified to reflect these best management practices. Otherwise we find ourselves in a catch-22 situation in terms of expectations between Department of Ecology and wildlife agencies.

Response:

The following statement should be used to reconcile any inconsistencies between the ISGP and requirements set forth by applicable wildlife agencies: “Nothing in this section shall be construed as allowing violations of any applicable federal, state or local statutes, ordinances, or regulations including

the Migratory Bird Treaty Act.” The integrated pest management plan, and policies to not feed wildlife and birds, may be incorporated in the SWPPP to address this section.

S6.C General Requirements for Discharges to Impaired Waters

Comment – Effluent limit for discharges to turbidity-impaired 303(d) Waters

Commenter: Port of Longview

The effluent turbidity limit for discharge into an impaired waterway is a significant departure from the existing ISGP and would significantly impact our port. It may also be unnecessary- for example, when an offending discharge may be shown to have no effect on the receiving water turbidity. Thus, Ecology should consider including an alternate (performance-based) criteria similar that in Table 200 (1)(e) of their Surface Water Quality Standards.

Response:

The proposed 25 NTU turbidity effluent limit, applied only to discharges to 303(d)-listed turbidity-impaired waterbodies, is not a strict departure from the existing ISGP. This effluent limit for turbidity-impaired waterbodies (25 NTU) is identical the effluent limit in the 2010 ISGP (25 NTU). No change was made based on this comment.

S6.C General Requirements for Discharges to Impaired Waters

Summary of the Range of Comments – Storm drain line cleaning and solids sampling for discharges to Puget Sound Sediment Cleanup sites

Commenters: Alcoa, Georgia Pacific, Association of Washington Business, Boeing, Dawson Consulting, King County, Lynden, Port of Olympia, Vigor Marine, Washington State Ferries, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Citizens for a Healthy Bay, AMEC Environment & Infrastructure, Glacier Northwest Inc. dba CalPortland, Nisqually Environmental, Port of Tacoma, SSA, Total Terminals International, LLC, Washington Public Ports Association, Waste Management of Washington, Pacific Merchant Shipping Association, Port of Seattle, Windward Environmental LLC, Nucor,

Line cleaning already required

- Pursuant to existing permit conditions, all permittees must comply with mandatory preventive maintenance BMPs including inspection and maintenance of stormwater drainage systems.
- Are these cleaning requirements intended to supersede the mandatory cleaning requirements already included in the permit?

Need more detail

- What is the intent of proposed cleaning requirements?
- Line cleaning and solids sampling provisions are overly general, will cause confusion, and will create potential releases.

- Many details are left undefined. Ecology should use consistent terminology to describe the removal of storm drain solids.
- Ecology should clarify where the sediment sampling is required, and specify the minimum amount of samples to meet Ecology's needs.
- It is unclear what an acceptable sampling regime is for storm drain system solids testing. This condition needs clarification specifying the number, type, and location of samples needed to comply.
- The proposed language in this section does not seem to provide sufficient information for carrying out the catch basin sediment sampling program
- The process needs to be stated clearer and the required form(s) need to be made accessible.
- Should Ecology require new provision around cleaning and sampling, there is additional guidance that needs to be developed to help permittees understand requirements.

Economic Impact/Fairness

- Ecology's May 2014 Economic Impact Analysis is missing key proposed changes to the permit: costs associated with the sampling required by Table 6, the S6.C.2. solids sampling, analysis and reporting requirements, and estimated capital expenditures for compliance with the proposed effluent limitations. The document should be amended to include this information.
- Requiring ISGP permittees to sample and analyze storm drain system solids is excessive, costly, and unfounded. Unfortunately, this is another inappropriate example of ISGP permittees being unfairly targeted. If such a requirement is imposed on ISGP permittees, it should, in fairness and equality, apply fully to municipalities and all upstream contributors that discharge to the water body.

Characterization already required for disposal

- Facilities are already required to characterize solid wastes for purposes of disposal.
- The Dangerous Waste laws and regulations already require facilities to properly characterize their wastes, including storm system solids, prior to disposing of them.

Appropriate Parameters/Lab Analysis

- Sediment sampling should be limited to appropriate parameters and test methods.
- Ecology should explain the basis for the parameters listed in Table 7
- Ecology should provide quantitation levels for each parameter; many QLs are missing
- The requirement for sediment testing should correspond directly to and be limited to those chemicals that are subject to sediment cleanup actions.
- Analysis of storm drain solids for the Table 7 list of parameters is expensive and onerous. If the requirement is retained, analytes should include only those parameters for which the permittee has benchmarks or effluent limitations.

- As the data will reflect solids that have settled out of the stormwater (and thus have not reached the impaired waterbody), a requirement for total organic carbon and grain size distribution analyses makes no sense.
- Commenters generally support the addition of specific protections where the discharge is to one of the designated Puget Sound Sediment Cleanup Sites.
- Analysis of storm drain solids is important to identify sources of toxic pollutant discharges, and removal of these solids is a prudent, common-sense requirement.
- To allow merely removal of these solids without analytical characterization would mean that ongoing sources of toxic storm drain and stormwater discharges will go undetected to the detriment of water quality.
- If sampling has already been performed for the specified analytes, but the method and QL differ slightly, will resampling or a re-evaluation process be needed, or could the existing sampling results be submitted?

Solids sampling data are difficult to interpret

- The proposed reporting will create data that are difficult to interpret and create confusion.
- The data collected could create the misimpression that permittees are negatively impacting water or sediment quality.
- Solids scraped from the stormwater structures and pipes are not representative of the water or solids quality at the point of discharge.
- Solids that accumulate in catch basins or settling basins are a result of an engineered solids removal structure. Therefore, the retention of solids within the basic treatment structure attenuates the potential for solids release at the point of discharge.
- Though a couple of agencies have shown success with system-wide “deep cleaning” as proposed in this section, this still seems to be an unproven method of preventing stormwater pollution, especially in industrial settings. Though quite probably a very good idea, the permit does not seem to propose any mechanism for determining whether or not this practice is an effective method to reduce stormwater pollution. It is recommended that this science be conducted outside of the stormwater permit before this practice is adopted for widespread use.
- Catch basins perform their intended function -they trap solids before they can be discharged into the receiving water body. Requiring all permittees to sample storm system solids will simply provide a snapshot of potentially contaminated solids that ultimately do not even reach or impact receiving water bodies, contributing no useful information about water quality.

Waivers

- Ecology should also provide flexibility including waivers for facilities that are already monitoring as part of source control efforts under cleanup actions.
- Ecology should be more specific as to what conditions would be acceptable for line cleaning and sampling waivers.

- Sections of pipe from the most down-gradient in-line structure to the outfall; cleaning these sections will likely cause releases to the receiving water.
- Pipes and stormwater structures that are inaccessible due to configuration (i.e., non-inline structures).
- Concerned about the lack of standards for waivers from storm drain system solids sampling and analysis and cleaning requirements.
- No waivers to the cleaning requirement should be available unless a permittee can show to Ecology's satisfaction that cleaning is not necessary to prevent stormwater contamination, and the ISGP should set forth these criteria.
- No waivers to the sampling and analysis requirements should be available because sampling and analysis are the only objective means to determine that there is no risk of stormwater contamination. A cleaning requirement waiver request should be based on the results of the sampling analysis results.

Timing

- What is the significance of the October 1, 2017 deadline? It does not coincide with the draft permit expiration date.
- S6.2.a sets October 1, 2017 for conducting sediment cleanouts, inspections and mapping; change the date to October 1, 2018 to give state agencies an opportunity to allow time for planning and budgeting for this requirement since the new budget for 2015-2017 is already developed.
- The deadline for storm drain cleaning and solids analysis is rather far off. Why are the high-risk permittees at issue not required to do this work by a date earlier than October 1, 2017? If the permit is effective on January 1, 2015, this date is more than halfway through the five-year permit term. The draft language includes a provision for a waiver of this requirement, which could be used to provide relief for particular permittees of whom it would not be reasonable to require the cleaning and analysis within a more generally reasonable, tighter timeframe. Commenters propose that the deadline for this work be set at June 30, 2016.

Preventing Releases

- While methods can be employed to block drain lines during a cleaning operation, they likely won't "prevent" some amount of solids from remaining in the system and/or to subsequently be conveyed beyond the section of drain line that has been cleaned.
- We suggest modifying the requirement to state the use of "BMPs to prevent or control sediment discharges..."

Cleaning/Sampling location

- Commenters concerned that the storm drain cleaning and solids analysis requirement is limited to "storm drain lines (including inlets, catch basins, sumps, conveyance lines, and oil/water separators) owned or controlled by the permittee."
- Many of the largest permittee facilities presenting the most significant water quality risks are tenants, including cargo terminal operator lessors of Port property, may attempt to

avoid this requirement by asserting that they do not own or control the storm drain lines and facilities.

- Ownership interest is not an appropriate basis to limit the application of this important provision. Ecology should impose the requirement on all qualifying permittees regardless of ownership status, making tenant permittees responsible for negotiating with their landlord's arrangements that will result in permit compliance and appropriate safeguards for water quality.
- Permittees whose storm drain lines also convey stormwater from off-site facilities, public streets, etc., do not control these sources. While the proposed cleaning and sampling requirements apply only to systems owned or controlled by the permittee, additional text should be added to make it clear that such permittees are excluded.
- Many permitted sites do not have catch basins or pipes and the waiver process should be eliminated and language added in the permit that the cleaning and sampling applies to those sites that contain catch basins and pipes.

Response to the Range of Comments:

In response to comments about line cleaning already being a requirement; Ecology agrees that the SWMM includes a requirement to "Inspect and clean treatment BMPs, conveyance systems, and catch basins as needed, and determine whether improvements in O & M are needed." Ecology's experience under the current permit has revealed that many Permittees are not cleaning their conveyance systems "as needed", which suggests that more clear requirements and deadlines will be beneficial to stormwater quality and sediment quality. For Puget Sound Sediment Cleanup sites, the line cleaning requirements in S6.C supersede the routine maintenance standards set forth in Condition S3, with waivers and time extension available on a case by case basis.

The basis for solids sampling and reporting is provided in the Fact Sheet: The new requirements for discharges to Puget Sound Sediment Cleanup Sites will: 1) reduce concentrations of sediment and other pollutants in stormwater discharges, and reduce the potential of discharges to cause or contribute to contamination or recontamination of Puget Sound Sediment Cleanup Sites; 2) Allow Ecology to screen for site-specific issues not adequately addressed by the ISGP, and determine if additional sampling, source control, and/or treatment is necessary; and 3) Gather baseline information that will inform the next (2020) version of the ISGP.

The removal of accumulated solids from a stormwater drainage system is an Operational Source Control BMP (Preventative Maintenance). It is intended to remove accumulated pollutants from the system and ensure the proper function of drainage facilities. Recent line cleaning work in Tacoma and Seattle has shown demonstrable improvement in stormwater quality. The ISGP requirement for storm drain line cleaning is not research, and Ecology disagrees with the recommendation to wait on the proposed requirements until additional effectiveness research is performed. The final ISGP retains the line cleaning requirement, with some edits to improve clarity and implementation.

In response to comments, Ecology has added additional clarity regarding the solids sampling locations. Solids must be collected/sampled from the location where Total Suspended Solids (TSS) samples are

collected per Condition S6.C., which may be reduced at some discharge points, if the "substantially identical criteria" apply (see Condition S4.B.2.c; Appendix 2 - Definitions). Samples may be either a single grab sample or a composite sample collected from the basin/drainage area subject to solids sampling. Samples must be representative of the solids generated and accumulated in the facility's drainage system. To the extent possible, sample locations must exclude portions of the drainage system affected by water from off-site sources (e.g., run-on from off-site properties, tidal influence, backflow, etc.).

Regarding concerns about Permittees asserting that they need not clean out lines they do not own or control; Ecology clarifies that the "or" in "owned or controlled" means that, even if a Permittee is a tenant or leaseholder does not own the property or underlying storm drain line, they still must clean the drain lines they control. For purposes of this language "controlled" means that the facility controls the function of the lines that drain the area covered under the ISGP.

Ecology has considered the range of comments on the solids sampling parameters. Sediment chemistry is variable, but Ecology considers the listed parameters to be appropriate when evaluating potential sediment impacts in developed watersheds. Ecology has decided not to tailor the analytes based on facility materials, activity, historical knowledge, and/or previous detection of specific contaminants; nor the waterbody-specific contaminants of concern. Ecology believes such an approach would be inconsistent with the concept of general permitting and cause undesirable implementation and compliance issues. The final ISGP retains the general list of solids analytes, which are consistent with solids sampling requirements of the 2007 and 2012 Phase I Municipal Stormwater Permit. Note: In S6.C.2, Table 8, Footnote 10, The compound "retene" is being deleted from the list of PAH compounds; it not a priority pollutant, not listed as a cause of sediment quality impairment, and no labs in Washington are currently accredited for retene. Ecology also made several edits and corrections to the analytical methods and quantitation levels in Table 8.

Regarding the question about the need to resample and analyze storm drain solids, if the solids sampling was already performed for the specified analytes, with methods and QLs differing slightly. As long as the alternate methods and OLS produced measureable results, they may be submitted. The commenter should work with Ecology if there are any questions. Since solids sampling methods need not comply with 40 CFR Part 136, a clarifying revision was made to the footnote under Table 7: "The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method ~~from 40 CFR Part 136~~ is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis."

Ecology agrees with the suggestion to make the solids sampling terminology in Condition S6 clearer and internally consistent. The final ISGP refers to the solid material accumulated in storm drain systems as "storm drain solids".

The final ISGP includes language that would allow a permittee to request line cleaning and solids sampling waivers and time extensions. ISGP facilities and their drainage systems are highly variable, and the potential exists for a wide range of reasons facilities may requests waivers from line cleaning or solids sampling. Ecology cannot foresee the specific criteria Ecology will use to evaluate these requests.

The final ISGP includes flexible permit language for waivers and time extensions so as to allow case by case decision-making. Waiver and extension requests would involve a "Request for Modification of Permit Coverage", including public notice; and any approvals would be considered a Modification of Permit Coverage, and granted via Administrative Order which are appealable to the PCHB. Regarding the comment about how the line cleaning requirements would apply to a facility that doesn't have storm drain lines (e.g., no catch basins or drainage pipes); the requirements would not apply. The inapplicability of line cleaning requirements should be summarized in the facility's SWPPP.

Regarding the range of comments on the timing of the line cleaning and sampling requirements. With the TSS limit and benchmarks becoming effective 1/1/17, Ecology has decided to require the line cleaning and sampling to be completed by 10/1/16, just prior to the first full wet season of the 2015 ISGP. Ecology believes having the line cleaning work done prior to the onset of TSS limits/benchmarks will reduce implementation and compliance issues. Ecology has also added time extension provisions to deal with situations where it is not feasible to meet the line cleaning and sampling deadline.

Regarding the comments regarding the potential release of sediment during line cleaning operations, Ecology understands the concern that some amount of solids may remain in the system or subsequently be conveyed beyond the section of drain line that has been cleaned. However, Ecology has decided to retain the term "prevent" (rather than "prevent or control"); i.e., "using BMPs to prevent sediment discharges to storm drains and/or surface waters". This is consistent with the ISGP intent of using BMPs to prevent pollution – in this case, during line cleaning operations.

S6.D.5 General Requirements for Discharges to Impaired Waters

Comment – TMDLs without an ISGP wasteload allocation (WLA)

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Citizens for a Healthy Bay

S6.D.5 allows discharges under the ISGP to waters with approved TMDLs that establish no ISGP-designated wasteload allocation, but that do not exclude ISGP discharges. This appears to conflict with the requirement that water quality-based effluent limitations be "consistent with the assumptions and requirements of any available wasteload allocation for the discharge" in an approved TMDL. 40 CFR 122.44(d)(1)(vii)(B). If an approved TMDL provides no wasteload allocation for ISGP discharges and does not consider them in its specification of allowable daily loads, an ISGP permittee's additional loading of a pollutant of concern to an impaired waterbody is generally not allowed. These discharges should be prohibited unless and until the TMDL is amended to account for them.

Response:

Ecology has decided to continue using Condition S6.D.5 to allow ISGP discharges to waterbodies with TMDLs that don't assign a WLA for industrial stormwater. This is necessary because many TMDLs were developed without tools that could account for the pollutant contributions from stormwater point sources. These TMDLs do not identify stormwater as a significant source of pollutants of concern and did

not require the discharges to be reduced or eliminated. ISGP Condition S6.D.5 is necessary to allow these discharges to be conditionally authorized. It is also noted that newer TMDLs are doing a better job evaluating stormwater discharges and assigning WLAs where appropriate.

S7. Inspections

Comment – Illicit Connections

Commenter: Washington State Ferries

Another area where costs are increased with questionable benefit to the environment is the requirement to do an annual inspection for illicit connections in instances where the entire storm sewer system is mapped and contained completely within the permittees property. This situation is the case for the Eagle Harbor storm sewer system. There are no outside connections flowing onto the property, the property is capped and secured because it is a Superfund Site. Yet there is no permit exemption to reflect a situation like this one. WSF recommends that if a site has already been mapped, is secured from illicit connections facility managers should not have to continue to conduct annual inspections for illicit connections.

Response:

The ISGP does not require a separate annual inspection for illicit discharges. Rather, the routine monthly site inspections in S7.B are supposed to include "observations for the presence of illicit discharges". As such, it isn't expected to represent a significant workload or expense; and could detect new process water discharges due to changes in personnel or maintenance activity.

S7. Inspections

Comment – Inspection certification

Commenter: Alcoa

Condition S7.C 1.f., page 37- Is the certification required under this section the same as that shown in Condition G.2.D? If so, then Alcoa recommends referencing Condition G.2.D as to where the discharger can find a copy of the required certification language.

Response:

Yes, all reports, including inspection reports need to be certified in accordance with Condition G2.D. Ecology has revised S7.C.1.f to improve clarity.

Revision: Revise S7.C.1.f.: Certification and signature of the person described in Condition G2.A, or a duly authorized representative of the facility, in accordance with Condition G2.B and D.

Condition S7. Inspections

Comment – Inspection reports

Commenters: Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper

S7.C.1 should specify that inspection records or reports must be kept as part of the SWPPP, which is subject to the S9.F provision for public inspection of SWPPPs. S3.B.4.b.i.6 (p. 21) requires the inspection certifications of compliance to be included in the SWPPP. S7.C.1's omission of the SWPPP inclusion requirement is an internal inconsistency that has resulted in the unavailability of inspection reports and certifications to members of the public who have sought public review of permittees' SWPPPs.

Response:

Ecology agrees that completed inspection reports need to be maintained with the SWPPP for review by Ecology, local government, or the public.

Revisions:

Revise S7.C.1: The Permittee shall record the results of each inspection in an inspection report or checklist and keep the records on-site, as part of the SWPPP, for Ecology review. The Permittee shall ensure each inspection report documents the observations, verifications and assessments required in S7.B and includes:

Revise S3.B.4.b.i.6):

Inspections and Recordkeeping: The SWPPP shall include documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping. At a minimum, the SWPPP shall:

...f) Include all inspection reports completed by the Permittee (S7.C).

S7. Inspections

Comment – Reports of non-compliance

Commenter: Alcoa

Condition S7.D, page 38 - The cited condition S9.E, does not seem to be the correct citation. According to Condition S9.E, there are only two situations that require a report:

- a. Non-compliance that "endangers human health or the environment." Note that the permit does not define what constitutes endangerment of human health or the environment, so a permittee has no way of knowing if the cited condition applies to Condition S7.D.
- b. Exceeding a numeric effluent limit (not a benchmark value).

Response:

S9.E is the correct citation, and if the condition/event/violation observed during the inspection does not meet the criteria in S9.E, a report of non-compliance is not required by S7.D.

Condition S8. Corrective Actions

Comment – General opposition to ISGP corrective action requirements

Commenter: Alcoa

Condition S8, page 38- The three levels of corrective action a permittee may have to undertake gets back to the issue of permit complexity, as well as the appropriateness of utilizing benchmark values. See General Comment 2 and Specific Comment 6. Ecology should either delete the condition or modify it so the average discharger utilizing the ISGP can make cost effective changes to the SWPPP that are warranted.

Response:

Ecology believes that the ISGP's use of benchmarks to drive adaptive management is effective and appropriate. The approach is also consistent with state and federal law, including RCW 90.48.555; and was validated by the Pollution Control Hearings Board in 2011. The Level 1-3 Corrective Action Requirements will not be removed from the final ISGP.

S8. Corrective Actions

Comment – Level 1 Corrective Action timing

Commenter: Port of Seattle

Comment 9 – Level 1 Correction Action Timeline

Permit Reference: S8.B

B. Level One Corrective Actions – Operational Source Control BMPs

Permittees that exceed any applicable benchmark value(s) in Table 2 or Table 3, shall complete a Level 1 Corrective Action for each parameter exceeded in accordance with the following:

1. Within 14 days of receipt of sampling results that indicate a benchmark exceedance:
 - a. Conduct an inspection to investigate the cause.
 - b. Review the SWPPP and ensure that it fully complies with Permit Condition S3, and contains the correct BMPs from the applicable Stormwater Management Manual.
 - c. Make appropriate revisions to the SWPPP to include additional Operational Source Control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges.
2. Summarize the Level 1 Corrective Actions in the Annual Report (Condition S9.B)
3. Level One Deadline: The Permittee shall sign/certify and fully implement the revised SWPPP according to Permit Condition S3 and the applicable Stormwater Management Manual as soon as possible, but no later than the DMR due date for the quarter the benchmark was exceeded.

Comment:

In the draft ISGP listening sessions, Ecology identified that a Level 1 Corrective Action was required within 14 days of receipt of sampling results that exceed a benchmark value, but that if the Permittee was able to collect additional samples within that quarter and “average down” below the benchmark values for the quarter, then no Level 1 Corrective Action would be required.

As Permittees are allowed to collect multiple samples in a given quarter to meet ISGP benchmark values, the actual benchmark exceedance does not occur until the end of the quarter when all sampling results have been considered.

The timeline for implementing Level 1 Corrective Actions should be revised to take into account the potential to “average down” sampling results within a given quarter.

Justification:

The requirement is ambiguous and puts Permittees who are attempting to “average down” at risk of missing a Level 1 Corrective Action deadline. On the other hand, Permittees who are able to successfully “average down” may unnecessarily implement Level 1 Corrective Actions if action is taken with the existing 14-day Level 1 Corrective Action window.

Suggested Revision:

Incorporate changes into S8.B as identified below. Please note that added language is underlined.

Recommended deletion is noted as strike out. Existing language is in italics.

B. Level One Corrective Actions – Operational Source Control BMPs

Permittees that exceed an applicable benchmark value for any quarter shall complete a Level 1 Corrective Action in accordance with S8.B for each parameter exceeded. A Level 1 Corrective Action is required for each quarter that an applicable benchmark value is exceeded.

Permittees that exceed any applicable benchmark value(s) in Table 2 or Table 3, shall complete a Level 1 Corrective Action for each parameter exceeded in accordance with the following:

1. When sampling results indicate a benchmark exceedance, the Permittee shall take the following actions within 14 days of receipt of all sampling results for a given quarter, or the end of the quarter, whichever is later: that indicate a benchmark exceedance:

a. Conduct an inspection to investigate the cause.

b. Review the SWPPP and ensure that it fully complies with Permit Condition S3, and contains the correct BMPs from the applicable Stormwater Management Manual.

c. Make appropriate revisions to the SWPPP to include additional Operational Source Control BMPs with the goal of achieving the applicable benchmark value(s) in future discharges.

2. Summarize the Level 1 Corrective Actions in the Annual Report (Condition S9.B)

3. Level One Deadline: The Permittee shall sign/certify and fully implement the revised SWPPP according to Permit Condition S3 and the applicable Stormwater Management Manual as soon as possible, but no later than the DMR due date for the quarter the benchmark was exceeded.

Response:

Ecology has considered the comment and suggested revision, and has made an alternative revision that is intended to address the issue raised, and clarify how quarterly averaging affects the Level 1 timeline. As revised, the Permittee must initiate a Level 1 Corrective Action (inspection, SWPPP review/revision, etc.) within 14 days of receiving sample results for the quarter that indicate a benchmark exceedance, consistent with Conditions S5.A.3 or S5.B.2; or, for parameters except for pH or visible oil sheen (which can't be averaged), the end of the quarter, whichever is later.

Revision:

Revised S8.B:

Level One Corrective Actions – Operational Source Control BMPs

Permittees that exceed any applicable benchmark value(s) in Table 2 or Table 3 for any quarter, shall complete a Level 1 Corrective Action for each parameter exceeded in accordance with the following:

1. Within 14 days of receipt of sampling results that indicate a benchmark exceedance for a given quarter (per Condition S5.A.3 or S5.B.2); or, for parameters other than pH or visible oil sheen, the end of the quarter, whichever is later:

S8. Corrective Actions

Summary of the Range of Comments - Corrective Action decision-making and certification

Commenters: Melvin Oleson, Dawson Consulting LLC, Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, Washington Environmental Council, Waste Action Project, and RE Sources for Sustainable Communities/North Sound Baykeeper, Weyerhaeuser, Envirocert International, Nisqually Environmental

- Many permittees do not have the training or experience to develop and execute the plans necessary to achieve the goal of attaining benchmarks.
- An alternative would be to require permittees with repeated level one or two or more level two corrective actions to have their plan reviewed and approved by certified stormwater professionals or stormwater skilled PE.
- The permit would require that the permittee immediately install mechanical treatment systems. This could easily be overkill for a situation in which a qualified professional can identify source control and non-treatment capital actions that can correct the problem.
- Ultimately the use of certified stormwater professionals will result in a lower cost to the permittee and will ensure that Ecology resources are used in review engineering plans that

are focused on those situations where trained and certified stormwater professionals have made a determination of need.

- Based on these lines of analysis and deduction, we recommend that section 4.3 of the draft permit be revised as follows:
 - Change title from engineering report to Level 3 corrective action plan;
 - Modify a.i. to read- provide a detailed review of the alternatives to mechanical treatment and which of those has the potential to achieve the desired discharge benchmarks.
 - Modify a.ii. to read- For the available options identified in a.i. provide justification on why the option chosen was selected. This includes treatment and/or non-treatment approaches.
 - Modify a.iii to read- Provide a description of the treatment and/or non-treatment processes selected, including flow diagram, schedule for each action, and testing program for nonmechanical treatment.
 - Modify a. v. to include: treatment I non treatment process instead of just treatment.
 - Modify a. vi to include: proposed treatment/ non treatment instead of just treatment.
 - Modify a.vii to read: Certification of the level three plan can be made by a CPSWQ, licensed hydro geologist or PE with specific training in stormwater systems. Mechanical calculations for treatment systems will be certified by a PE as a component of the plan.
 - Support the proposed deletion of the requirement for a licensed or certified professional to design and stamp that portion of the SWPPP addressing stormwater treatment structures or processes. This requirement overlapped with existing engineering report requirements.
- Commenters suggest that all level 3 responses involve at least submission of a certified justification by an engineer or qualified stormwater management professional for the expectation that the additional treatment BMPs will result in benchmark attainment. Requiring this certified justification would ensure the involvement of a qualified specialist in all level 3 corrective actions and prevent permittees from short-changing their level 3 obligations without Ecology review.
- Commenters urge that catch basin and roof downspout filtration be considered level 2 structural source control BMPs, or included in a new “pre-treatment BMPs” definition, and excluded from level 3. The use of catch basin and downspout filters is a basic BMP that is identified as “applicable” in the SWMMWW for many ISGP permittees. This type of easily installed filtration should be implemented by and required of permittees before they reach three benchmark exceedences in a single year (the level 3 trigger).
- S8.D-The clarification and downsizing of procedural requirements supporting Level 3 Corrective Actions is appreciated.

- S8 D 2 b i, was deleted from the permit. This section allowed small businesses the opportunity to design and implement, upon convincing of Ecology that they were capable, level 3 treatment systems without the cost of an Engineering report.
- Many commercial systems available, while sized for surface area and location, are easy to install and many of the vendors provide the sizing calculations needed for proper installation. Removal of this section from the new permit unduly removes an avenue for the small business to reduce costs. We believe it should be re-instated.

Response:

In response to a range of comments on the issue of certification and professional involvement at Level 3, Ecology has decided to add language to S8.D to address Level 3 corrective actions that don't involve "site-specific design or sizing", and therefore don't require the submittal of an engineering report. The 2015 ISGP requires permittees subject to a Level 3 corrective action to work with a Qualified Industrial Stormwater Professional to ensure that SWPPP revisions (additional Treatment BMPs) are appropriate and reasonably expected to meet the ISGP benchmarks upon implementation. As with the 2010 ISGP, a waiver provision will allow Ecology to waive this requirement on a case by case basis. Qualified Industrial Stormwater Professional is defined in the ISGP Appendix 2 as "a licensed professional engineer, geologist, hydrogeologist; Certified Professional in Stormwater Quality, Certified Professional in Erosion and Sediment Control; or qualified environmental consultant with training, education and experience in stormwater management and licensed to do business in the State of Washington."

Revision:

Add to S8.D:

2. A *Qualified Industrial Stormwater Professional* shall review the revised SWPPP, sign the SWPPP Certification Form, and certify that it is reasonably expected to meet the ISGP benchmarks upon implementation. Upon written request Ecology may, one time during the permit cycle, waive this requirement on a case-by-case basis if a Permittee demonstrates to Ecology's satisfaction that the proposed Level 3 treatment BMPs are reasonably expected to meet ISGP benchmarks upon implementation.

Add to Definitions: Qualified Industrial Stormwater Professional means a licensed professional engineer, geologist, hydrogeologist; Certified Professional in Stormwater Quality, Certified Professional in Erosion and Sediment Control; or qualified environmental consultant with education and experience in stormwater management and licensed to do business in the State of Washington."

S8. Corrective Actions

Summary of the Range of Comments – Level 3 Engineering Reports

Commenters: Washington Public Ports Association, AMEC Environment and Infrastructure, Port of Tacoma, Weyerhaeuser, Geoengineers, Nisqually Environmental,

- The proposed change to the ISGP submitting the engineering report to Ecology is redundant and unnecessary given the typical process the Port is legally bound to follow to develop and redevelop new infrastructure. Ecology should eliminate this requirement.

- The revised ISGP simplifies the engineering report requirement and focuses the report on the important factors to meeting permit benchmarks. We believe the change is beneficial and will aid in expediting treatment system installation for many industrial sites.
- The proposed ISGP language for submitting the Engineering Report to Ecology does not address the typical process the Port is legally bound to follow to develop and redevelop new infrastructure.
- On recent Level 3 Corrective Action projects, it has been difficult to get Ecology approvals for Engineering Reports.
- S8.D-The clarification and downsizing of procedural requirements supporting Level 3 Corrective Actions is appreciated.
- Much money has been wasted in litigation due to the word “certify” (regarding S8.D.3.a.vii). Suggest that S8.D.3.a indicates, “The engineering report must be prepared, signed and stamped under the direction of a professional engineer and include:,” and deleting requirement vii.
- S8 D 3 a, We appreciate the reduction in complexity from the engineering report requirement. We suggest that these should require the treatment alternatives to include an estimate of the ongoing operation and maintenance costs as well as an estimate for the disposal of any spent media. Typically, a site has to choose between higher capital costs and lower O&M costs or lower capital costs and higher O&M costs in picking a storm water treatment system. We think these costs should be described in the engineering report.
- Section S8.D. should include a recommendation for submittal of a Communication Plan outlining communications between Ecology staff and the permittee throughout the Engineering Report, design, and construction period.
- Require Ecology staff and permittees to share information at:
 - BOD – Ecology staff to provide comments.
 - 30% Design – Engineering Report submitted to Ecology for review and approval. Implement a time-specific deadline that Ecology is willing to meet in order for the project to stay on schedule.
 - 100% Design –submit plans and specifications to Ecology.
 - 90 Days after Project Close-out – submit Operations and Maintenance Manual.
- The Port requests Ecology include reference in Section S8.D. to the following statement provided in a recent letter of support for the Washington Public Ports Association (WPPA) AKART & ISGP Corrective Action Guidance Manual.

Response:

Most comments on this section support the proposal to streamline the Level 3 engineering report requirements. Ecology does not agree with the comments recommending the elimination of engineering report requirements.

Ecology appreciates the information on commenter’s internal process for capital projects. The ISGP corrective action requirements, including the process and deadlines for engineering reports have been the subject of appeals and PCHB orders. Ecology has decided not to adopt the commenter’s suggestion

to add additional communication plans, 30% reviews, and milestones as these are not necessary for most facilities covered under the ISGP, and would create additional workload and unintended consequences for both Ecology and typical Permittees.

Ecology recommends Permittees planning engineered treatment systems communicate early and often with Ecology engineers prior to the default deadlines provided in the ISGP. In cases where the default engineering report deadlines do not fit the constraints of a particular capital project, time extension may be requested and obtained on a case by case basis. This was the case with many Level 3 projects at Ports and marine terminals under the 2010 ISGP. Regarding the request to revise Condition S8.D to include reference to a recent letter of support for the WPPA AKART Manual, Ecology has decided that revision is neither necessary nor appropriate.

Ecology agrees with the comment to have the discussion of treatment alternatives include an estimate of the ongoing operation and maintenance costs as well as an estimate for the disposal of any spent media. Ecology has retained the streamlined engineering report requirements in the final ISGP, with a revision to include a discussion of the O&M costs of the treatment alternatives considered; and clarification that stormwater influent needs to be characterized in the report.

Revision:

S8.D.3.a:

The engineering report must include:

- i. Brief summary of the treatment alternatives considered and why the proposed option was selected. Include cost estimates of ongoing operation and maintenance, including disposal of any spent media;
- ii. The basic design data, including characterization of stormwater influent, and sizing calculations of the treatment units;
- iii. A description of the treatment process and operation, including a flow diagram;
- iv. The amount and kind of chemicals used in the treatment process, if any. Note: Use of stormwater treatment chemicals requires submittal of Request for Chemical Treatment Form;
- v. Results to be expected from the treatment process including the predicted stormwater discharge characteristics;
- vi. A statement, expressing sound engineering justification through the use of pilot plant data, results from similar installations, and/or scientific evidence that the proposed treatment is reasonably expected to meet the permit benchmarks;
and
- vii. Certification by a licensed professional engineer.

S8. Corrective Actions

Summary of the Range of Comments – Level 3 Waiver Requests

Commenters: Pacific Merchant Shipping Association, Washington United Terminals, SSA,

- If a permittee installs the BMPs and treatment determined to be AKART following the process defined in the new manual with Ecology approval, optimizes the performance of these BMPs and treatment technologies, but is still not meeting benchmarks, Ecology should be able to issue a modification of permit coverage confining that what has been done is "all that is reasonable" and confirming that the Permittee is in compliance with the ISGP.
- Level 3 Waivers should be granted when a permittee has implemented AKART and done everything "reasonable" to reduce pollutants, even if the benchmarks are not met.
- Without this change, the process is inconsistent, unrealistic, and puts Washington's ports at a significant competitive disadvantage to California's ports which operate under a much more reasonable permitting process.

Response:

The suggested waiver language is not consistent with state and federal laws.

The ISGP will continue to allow Level 3 waivers from "additional Treatment" if a permittee can demonstrate that they have met AKART and are not violating WQ Standards in the receiving water. Washington's AKART requirements parallel the federal "technology-based" requirements of the Clean Water Act; both take "reasonableness" into consideration. However, the "water quality-based" requirements of the Clean Water Act are not cost-modified. There are no provisions available to allow discharges that may cause or contribute to violations of water quality standards; even if AKART is met. The Clean Water Act and the state water Pollution Control Act require NPDES permits to go beyond AKART if necessary to prevent violations of the WQ standards. Compliance with water quality standards is necessary because the standards protect the important aquatic resources of the State.

The 2015 ISGP retains language that would allow Permittees to seek a waiver from additional Level 2 or 3 corrective actions, if they can demonstrate that discharges will not cause or contribute to a violation of the water quality standards. In some cases, a facility may choose to submit documentation that available dilution/mixing in the receiving water demonstrates that their discharge is not causing or contributing to a violation of water quality standards. In this context, Ecology would ensure that the facility has fully applied AKART prior to granting a Level 2 or 3 waiver, consistent with WAC 173-201A-400. As such, Ecology believes that the WPPA AKART Manual could be used to guide AKART determinations and, in some cases, support the granting of water quality-based waivers. Changes were not made in response to this comment.

Comments – Level 3 Corrective Actions Too Stringent and Cause Competitive Disadvantage with California

Commenter: Port of Seattle

Washington's Competitive Disadvantage

As Washington stormwater regulations become increasingly more stringent than regulations in other states, a competitive disadvantage is created between Washington and other locations.

The end result is that businesses can ultimately be driven out of Washington to locations with more favorable regulatory environments.

For example, the underlying intent of the California draft industrial stormwater permit is to achieve stormwater improvements and industrial permit compliance through the use of low-technology, cost-effective solutions. On the other hand, in Washington, the underlying intent is to require ISGP Permittees to install active stormwater treatment systems to comply with the Permit. As stated in the Fact Sheet for the Washington's 2009 draft ISGP,¹ "Ecology has determined that in order to meet the proposed copper [and zinc] benchmarks, permittees will be required to meet AKART, and many will be required to install active stormwater treatment systems." This is reflected in the difference between the escalation timeframe and flexibility for corrective action responses between the California and Washington permits. In California, after triggering Corrective Action Level 1, industrial stormwater Permittees have a full year to evaluate operational Best Management Practices (BMPs) before they can be required to install structural or treatment BMPs. In Washington, industrial stormwater permittees are not given the opportunity to implement this type of adaptive management. A facility can go from being in compliance (i.e., baseline status) to Corrective Action Level 3 in less than one year. This timeframe and approach does not allow for adaptive management with a linear progression of Corrective Actions (i.e., baseline to Level 1, Level 1 to Level 2, then Level 2 to Level 3) and places an undue burden on ISGP Permittees in Washington.

Targeting industrial facilities with increasingly stricter stormwater regulations is a strategy with diminishing returns. In general, industrial sources are no longer the primary contributor of pollutants discharged into receiving waters, but are being singled out with increasingly stricter regulations, while other pollutant sources are not being required to control pollutants. For example, Ecology's November 2011 Assessment of Selected Toxic Chemicals in the Puget Sound Basin² found that 87% of zinc discharged into Puget Sound is from rooftops. The Environmental Protection Agency's (EPA) National Urban Runoff Program (NURP) found that residential runoff contains 15% more copper than industrial runoff and results indicated no significant difference in pollutant concentrations in runoff from different land use categories.³ Former EPA Administrator William Ruckelshaus stated "85% of water quality impairments in 1970 were attributed to point source pollution, such as industrial and wastewater discharge, with the remaining resulting from nonpoint discharges, including agricultural and urban stormwater runoff. By 2010, these figures had reversed: 85% of water quality impairments now come from nonpoint discharges⁴." Lastly, industrial facilities account for a small percentage of total land use, with industrial stormwater discharges already monitored and controlled. For example, a review of facilities covered under the ISGP identified that these industrial facilities represent only 0.39% of the total land area within King County.

Rather than primarily focusing on industrial sources, a more holistic approach should be adopted in an effort to reduce the overall contribution of pollutants into the environment and improve the quality of our local receiving waters. A clear understanding of all stormwater

pollutant sources, and a strategy for managing these sources, is needed before adding to the already significant burden of the ISGP.

1

<http://www.ecy.wa.gov/programs/wq/Stormwater/industrial/permitdocs/ISWGPdraftfs060309fin.pdf>

2 <https://fortress.wa.gov/ecy/publications/publications/1103055.pdf>

3

http://water.epa.gov/scitech/wastetech/guide/stormwater/upload/2006_10_31_guide_stormwater_usw_b.pdf

4 http://www.wef.org/publications/page_wet.aspx?id=12884903451&page=top

Response:

The Port has mischaracterized the intent of Ecology's ISGP. The intent is not to require advanced treatment systems; the intent is to ensure compliance with the water quality standards - and many facilities achieved compliance during the current permit cycle using only low-cost, effective BMPs other than advanced treatment. Ecology believes the ISGP minimizes economic impacts to the extent possible without running afoul of existing laws, regulations and PCHB orders. The ISGP's benchmark and adaptive management framework was litigated extensively in 2011 and validated by the PCHB. Ecology understands that other states have different requirements but Ecology does not have the legal or technical basis to depart from the framework of the 2010 ISGP. As such, the 2015 ISGP retains the basic framework of the 2010 ISGP. The permit continues to allow the time necessary to implement appropriate source control and treatment BMPs, including the availability of waivers and time extensions on a case-by-case basis. Ecology agrees that more work is needed to control pollution from non-industrial land uses which may represent a greater surface area and discharge a greater volume of stormwater in a watershed. However, per unit area, industrial and commercial land uses typically discharge higher concentrations of stormwater pollutants of concern. A recent review of Phase 1 municipal stormwater data found:

- Commercial and industrial land uses discharged stormwater with the highest concentrations of metals, hydrocarbons, phthalates, total nutrients, and a few pesticides.
- NWTPh-Dx compounds were persistent stormwater contaminants. Commercial and industrial land use areas discharged much higher concentrations and loads than residential land use areas.
- The PS Toxics Study found high concentrations of PAHs in receiving waters during storm events. The majority of PAHs were contributed from commercial and industrial land use area, which was corroborated by Ecology's findings.
- Higher concentrations and event loads of metals were contributed to receiving waters from commercial and industrial land uses than other land uses. The PS Toxics Study also found the highest metal concentrations in waters on commercial and industrial land uses.

ISGP DMR data and annual reports have shown promising reductions in pollutant concentrations using effective source control and treatment BMPs - including low-cost, passive treatment BMPs. Many ISGP facilities, including several Port tenants, have proven that ISGP compliance and benchmark attainment is feasible.

Ecology has made several changes to the final ISGP based on public comments received on the draft ISGP. The final ISGP will minimize compliance costs to the extent possible without running afoul of existing statutes, regulations, and case law.

Comments – Level 3 Corrective Actions Shouldn't Be Required for Non-Industrial Pollutant Sources

Commenter: Pacific Merchant Shipping Association, SSA, Total Terminals International, LLC,

- Permittees should not be responsible for non-industrial sources, including air deposition
- In California, permittees are not held liable for nonindustrial pollutant sources, including run-on from adjacent properties, aerial deposition from man-made sources, or as generated by on-site non-industrial sources. (SWRCB Industrial General Permit, Section XII D.2.b).
- Permittees exceeding Numeric Action Levels (NALs, similar to benchmarks) are able to implement an evaluation to determine the extent to which pollutant sources that are out of their control are influencing their discharge quality.
- Our facility is located adjacent to a major highway, a large construction site and other facilities. Airborne particulates and pollutants from these sites can be deposited on our site and washed into the storm drain system when it rains.
- It is not practicable to control airborne particulate that is deposited on containers and rooftops.
- There should be a procedure established by Ecology to determine if off-site airborne pollutants are impacting the water quality of a site's discharge.
- When off-site airborne pollutants are determined to be a factor in water quality, a modified sampling regime that accounts for "background" levels should be allowed, or the requirements for Corrective Actions modified, so that permittees are not financially burdened with treating pollutants from off-site sources that are out of their operational control.

Response:

The suggested waiver language is not consistent with the Clean Water Act and NPDES regulations, which requires dischargers to control pollutants discharged from their facility, even if pollutant levels are affected by off-site sources. The only exception involves "intake credits" to address background concentrations of pollutants in water withdrawn from a waterbody and then returned in a wastewater discharge. Intake credits allow a discharger to return pollutants from the waterbody the pollutants were originally in, resulting in no pollutant increase in the receiving water. By contrast, the suggested waiver language would authorize the addition of pollutants to a waterbody that would not have otherwise reached the waterbody but for the industrial stormwater discharge.

The final ISGP continues to allow Permittees to take additional samples, upgradient of discharge points, to identify on- and off-site sources of contamination, and this may be helpful to identify the most

effective source control and treatment strategies. Source identification may also assist facilities in convincing entities responsible for obvious off-site sources to take action to solve the problem. When an offsite construction project is causing an impact to a facility's stormwater quality, Ecology should be notified so that the problem can be investigated and addressed. Finally, The ISGP continues to have a mechanism to allow facilities to request a waiver from a Level 3 corrective action, if their discharge is not causing or contributing to a violation of water quality standards.

Ecology also notes that California's "non-industrial pollutant demonstration" language is: "Exceedances of the NALs that are attributable solely to pollutants originating from non-industrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) *are not a violation of this General Permit* [emphasis added]..." In Washington, ISGP benchmark exceedances are never considered a violation of the general permit - whether they are, or are not, solely attributable to non-industrial sources. Under the WA ISGP, benchmarks are indicator value used to prompt further evaluation and corrective actions. It is also noted that CA's language is predicated on a demonstration that a NAL [benchmark] exceedance is "solely" (i.e., entirely) attributable to non-industrial pollutant sources. In Ecology's experience, benchmark exceedances may be partially due to non-industrial sources (e.g., partially affected by atmospheric deposition). It would be very rare for a benchmark exceedance to be due solely to non-industrial sources; and it would be very difficult to prove.

Condition S9. Reporting and Recordkeeping

Comments – S9.A Electronic Reporting Requirements; Waivers

Commenter: AMEC, Automotive Recyclers of Washington, Port of Tacoma, Nisqually Environmental, King County, Glacier Northwest, Inc. dba CalPortland, Lynden, Vigor Marine

- Apart from those electronically challenged, paper DMRs should remain as an alternative for all permittees. Though a waiver process is offered, this process does not address localized/temporary electronic issues that may arise from downed network connections, webportal issues during electronic submittals, etc.
- S9.A.3: The requirement of DMRs and SMRs to be submitted electronically, unless a waiver from electronic reporting has been granted, contains the following example: "e.g. if a permittee does not have internet access". This example is misleading, as there are certainly other reasons for which a permittee would need a waiver from electronic reporting.
- Does Ecology intend to require all documentation and reports to be submitted electronically?
- If so, does Ecology intend to make access to all documentation the same as for the electronic DMR system?
- The Water Quality Permitting Portal system should be updated to include reporting requirement associated with numeric effluent limit violations.
- The electronic submittal process for the ISGP renewal in 2014 was cumbersome as it did not allow more than one person to review the eNOI electronically.
- Table 2 and other places in the permit, If the Permittee uses an alternative method it must report the test method and QL on the discharge monitoring report. With the requirement for e-dmr's, we suggest that Ecology clarify where and how this is reported.

- The normal eDMR submittal system allows for different roles (coordinator, signer, preparer, and administrator). In the future, if electronic submittals are required, Ecology should use the same system for submittal of all documents related to the ISGP in order to simplify and expedite the permittee document review and submittal process.

Response:

EPA has proposed an electronic reporting rule which requires facilities to report DMR data electronically. The draft rule only allows states to waive this requirement when broadband internet access is not available. Based on discussions with EPA and other states, Ecology believes that EPA will revise this portion of the rule to allow states more flexibility in allowing waivers but that flexibility is as yet undefined. Because Ecology might otherwise be in the position of having to modify permits to be in compliance with the final rule it prefers to retain the example, but will revise it as "if a Permittee does not have broadband internet access". This example does not preclude Ecology from granting waivers for other situations, and it does not conflict with EPA's proposed rule.

The draft permit requires all "written permit-required reports" (including annual reports) to be submitted through Ecology's Water Quality Permitting Portal - Permit Submittals application, unless a waiver has been granted under S9.A. Yes, Ecology intends to make access to all documentation the same as for the electronic DMR system.

Regarding the comment requesting that the WQWebPortal system be updated to include reporting requirements associated with numeric effluent limit violations; Ecology's WQWebPortal System will accommodate the "5-day written reports". However, 40 CFR 122.41(l)(6) requires the immediate/24 hr report to be "oral"; so the ISGP will continue requiring those to be reported over the phone.

Ecology is planning to provide training on electronic reporting (WQ WebPortal), with current plans to hold sessions in early 2015. If a Permittee uses an alternative test method, it must report the test method and QL, by entering this information in the "Comment Field" for the electronic DMR. Ecology continues to improve the WQ WebPortal through periodic enhancements and welcomes suggestions to improve usability and functionality.

Revision:

Revise S9.A.3: "...unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access).

Revise S9.B.1:

The Permittee shall submit a complete and accurate Annual Report to the Department of Ecology no later than May 15th of each year using Ecology's Water Quality Permitting Portal – Permit Submittals application, unless a waiver from electronic reporting has been granted according to S9.A.3. a form provided by or otherwise approved by Ecology.

S9. Reporting and Recordkeeping

Comments – S9.C Electronic storage of ISGP records

Commenter: King County

As noted in a prior comment on Section S4.B, Ecology has previously indicated that online and/or network-based document retention is an acceptable substitute for onsite records retention. Consider revising the permit language to make this clearer.

Response:

Condition S9.C doesn't only apply to "paper" records. So, as long as the electronic records are retained and available for on-site review, "electronic on-site" storage of records is acceptable and consistent with S9.C. Ecology believes the current language is flexible, and doesn't preclude electronic on-site storage of records, so a revision wasn't deemed necessary.

S9. Reporting and Recordkeeping

Comments – S9.E Reporting permit violations within 5 days

Commenters: Alcoa, Association of WA Business, Automotive Recyclers of Washington, Boeing, BNSF, Dawson, Glacier Northwest dba CalPortland, Lynden, Ports of Seattle, Tacoma and Vancouver, Vigor Marine, WaferTech, Washington Public Ports Association, Windward Environmental

- In many cases, 5 days is an insufficient amount of time to respond to a violation and Ecology should consider withdrawing this revision.
- The language change is impractical and unworkable.
- The numeric effluent limitation violation reporting timeframe should continue to be 30 days, rather than the five days proposed, to allow for appropriate response coordination.
- The reduced time limit to prepare the report submittal will increase the difficulties experienced by all affected permittees, including dischargers to Puget Sound cleanup sites, which are now expected to be in immediate compliance with the TSS effluent limit.
- Permittees will simply require more than five days prepare and approve a detailed report that includes the steps planned to reduce, eliminate, and prevent future recurrence of noncompliance.
- To allow adequate time to assess the potential violation, the Permit clarify that a report to Ecology is required with five (5) business days.
- Request to change the deadline for a detailed written report for reporting permit violations from 5 days to 15 business days; this is consistent with other agency reporting deadlines.
- Ecology should limit the requirement for immediate reporting and written reporting to violations of the permit that endanger human health or the environment; not all numeric effluent limit violations "may endanger public health or the environment."
- There is no definition of what constitutes "may endanger human health or the environment."
- The prior 30 day reporting requirement was also a hardship on a small Permittee but far more realistic in its application than a 5 day requirement. In most cases, such a written

report may become the subject of a citizen action and thus requires legal counsel to properly prepare such a report before the report is submitted.

- The ISGP fact sheet states it is for consistency with federal code, but 40 CFR 122.41(1)(6) provides a waiver of that Ecology's proposed rule doesn't include. Ecology, at a minimum should also provide the waiver clause from the federal rule.
- There was no economic impact analysis done specifically for this change which is in violation of WAC 173-226-120 (3)(a)(iii).

Response:

Ecology has determined that the previous ISGP's due date (30 days) was inconsistent with the Code of Federal Regulations 40 CFR 122.41 Conditions Applicable to All Permits; the specific citation is 40 CFR 122.41(l)(6), which requires the written report within 5 days [of the time the Permittee becomes aware of the circumstances.] Because this is a federal requirement, it was explicitly precluded from being included in the Economic Impact Analysis that accompanied the draft ISGP. However, Ecology has decided to add language to S9.E.1 that would allow Ecology to waive the written report on case by case basis, if the immediate notification (S9.E.1.b) is received within 24 hours. This revision may reduce the regulatory burden of this requirement in some cases; the added waiver language is based on 40 CFR 122.41(l)(6)(iii) . Ecology has also decided to add language clarifying that the 5 days doesn't begin until the Permittee becomes aware of the circumstances, per 40 CFR 122.41(l)(6).

Ecology considered the comments about 1) what constitutes a threat to human health or the environment, and 2) whether effluent limit violations are a threat to human health or the environment. Because "threats to human health or the environment" are highly site-specific, the 2015 ISGP will not further define or limit the meaning. When in doubt, permittees should contact Ecology for site-specific guidance. Ecology believes that any violation of a numeric effluent limitation "may endanger human health or the environment". Further, the requirement is consistent with 40 CFR 122.41(l)(6)(ii) which includes reporting "Violation of a maximum daily effluent discharge limitation for any of the listed pollutants listed by the Director in the permit to be reported within 24 hours. (See §122.44(g).) The 40 CFR upon which this condition is based states "A written submission shall also be provided within 5 days...", rather than "5 business days". In consideration of 40 CFR 122.41(l)(6), Ecology has decided not to add the clarification requested. On a case by case basis, Ecology may waive the requirement for a written report, as long as the immediate phone report occurs within 24 hours.

Revisions:

S9.E Reporting Permit Violations

1. In the event the Permittee is unable to comply with any of the terms and conditions of this permit which may endanger human health or the environment, or exceed any numeric effluent limitation in the permit, the Permittee shall, upon becoming aware of the circumstances:
 - a. Immediately take action to minimize potential *pollution* or otherwise stop the noncompliance and correct the problem.
 - b. Immediately notify the appropriate *Ecology* regional office of the failure to comply:

- Central Region at (509) 575-2490 for Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, or Yakima County;
 - Eastern Region at (509) 329-3400 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, or Whitman County;
 - Northwest Region at (425) 649-7000 for Island, King, Kitsap, San Juan, Skagit, Snohomish, or Whatcom County;
 - Southwest Region at (360) 407-6300 for Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, or Wahkiakum County.
- c. Submit a detailed written report to *Ecology* within 5 days of the time the Permittee becomes aware of the circumstances unless Ecology requests an earlier submission. The report shall be submitted using Ecology's Water Quality Permitting Portal – Permit Submittals application, unless a waiver from electronic reporting has been granted according to S9.A.3. The Permittee's report shall contain:
- i. A description of the noncompliance, including exact dates and times.
 - ii. Whether the noncompliance has been corrected and, if not, when the noncompliance will be corrected.
 - iii. The steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- d. Upon request of the Permittee, Ecology may waive the requirement for a written report on a case-by-case basis, if the immediate notification (S9.E.1.b) is received by Ecology within 24 hours.

S9. Reporting and Recordkeeping

Comments – S9.E. Notifying MS4s of Reported Spills

Commenter: U.S. EPA Region 10

We encourage you to add the suggestion to notify MS4 operators of spills where appropriate.

Response:

Ecology has decided to retain the requirement to report spills and other permit violations directly to Ecology, and has provided the Ecology's regional office phone numbers in the final ISGP. Ecology will, in turn, work with local jurisdictions to coordinate spill response and cleanup activities.

S9. Reporting and Recordkeeping

Comments – S9.F.3 Excluding security-sensitive records from public disclosure.

Commenter: King County

In the interest of site security, it is requested that certain portions of the SWPPP, such as discussions on security measures and hazardous materials quantities and locations, be excluded

from public disclosure requests. Transportation related facilities, in particular, are security-sensitive areas for which it might not be advisable to disclose detailed site plans.

Response:

In this case, the SWPPP and site plans remain in the permittees position until a public disclosure request is made, either to Ecology or to the permittee (S9.F.3). The Permittee would then provide the entire SWPPP to Ecology, and clearly and specifically identify those aspects of the SWPPP that they believe should be exempt from public disclosure and the reasons why (e.g., security).

The Director of the Department of Ecology would then make the decision on what is exempt from public disclosure. This is a permit implementation issue, and doesn't involve a change to existing permit language.

S9. Reporting and Recordkeeping

Comments – S9.F.3 Public Availability of Plans and Records

Commenter: GeoEngineers

S9.F.3, page 48. Please clarify the meaning of plans and records. If “records” means those enumerated in Condition S9.C, suggest adding this in parenthesis. For example, “Provide a copy of the plans and records (for example, those listed in Condition S9.C)” to Ecology, where the requestor may...” It is unclear what the ‘plans’ refer to.

Response:

Plans and records include the SWPPP and records required to be kept with the SWPPP.

Condition S10. Compliance with Standards

Comments – S10 Compliance with standards

Commenter: Alcoa

Condition S10, page 44- Much like Specific Comment 1, this condition does not provide any specifics on what actions a discharger is to take to ensure compliance with standards.

Response:

Condition S10.C provides information on how the ISGP affords Permittees with a presumption of compliance if ISGP conditions are met. Specific compliance actions are highly site-specific and cannot be further defined in the ISGP.

Comments on Appendices

Appendix 2 - Definitions

Definition of "facility"

Commenters: Gordon Thomas Honeywell, SSA, Port of Seattle, Pacific Merchant Shipping Association

Summary of the Range of Comments:

- The definition of Facility in the ISGP has been significantly changed, for no logical reason, and with potentially serious consequences.
- This revised ISGP definition for Facility uses the term "establishment" which is broad, vague, and has no connection to known terms used in the Clean Water Act.
- The Draft 2015 Permit contains a definition of Facility that removes entirely the reference to point sources – and the NPDES program and 40 CFR – and introduces the entirely new concept of "establishment".
- The definition for Facility in the Draft 2015 Permit is inappropriate, since the ISGP is a NPDES permit, and a NPDES permit can apply only to point sources of pollution.
- This definition is contrary to law, since the ISGP is an NPDES permit, and an NPDES permit can apply only to point sources of pollution.
- The conflicting and confusing definitions create ambiguity and uncertainty that will only feed future litigation. What is an "establishment?" Does Ecology now maintain that the ISGP applies to non-point sources of pollution?
- If the new Permit uses the proposed definition for Facility in the draft ISGP, the Permit and/or Fact Sheet should provide the basis and justification for deviating from federal regulations, include a definition for "Establishment" in Appendix 2, and explain how the definition in the ISGP is different from 40 CFR 122.2.
- An economic impact analysis for this change must also be provided.
- Overall, the change from the 2010 ISGP and CFR definition is confusing and unnecessary. Ecology should retain the 2010 definition for "facility."

Response to the Range of Comments:

Permittees do not need to rely on the EPA (or ISGP) definition of "facility" to determine if they need permit coverage. ISGP Condition S1 is very clear about the categories of industrial facilities that are subject to permit coverage.

Unlike EPA's MSGP, Washington's ISGP is also a state waste discharge general permit, which also regulates discharges to ground water (S1.E); these may not be an "NPDES point source". It may also regulate discharges to "surface waters of the state", which may not be within the EPA definition of "waters of the U.S."; and as such, not an "NPDES point source". Ecology new definition of "facility" is more appropriate within the context of the 2015 ISGP.

In order to remove any potential confusion created by the use of the word “establishment”, Ecology has elected to replace “establishment” with “source”. This change is not subject to an Economic Impact Analysis.

Revision:

Facility means any ~~establishment~~ source (including land or appurtenances thereto) that is subject to regulation under this permit. See Special Condition S1.

Definition of “industrial activity”

Commenters: Gordon Thomas Honeywell, SSA, Pacific Merchant Shipping Association

Summary of the Range of Comments:

- As with the 2010 ISGP, the Draft 2015 ISGP and Draft 2015 Fact Sheet contain different definitions of "Industrial Activity."
- Aside from the confusion created by the differing definitions, the additional category included in the definition set forth in the Draft 2015 ISGP makes no sense, as it is entirely duplicative.
- The one thing that both definitions agree on is that Table 1 is simply a reiteration in a different format of the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi).
- Accordingly, GTH strongly recommends that the definition of "Industrial Facility" set forth in the 2015 Draft Fact Sheet be used in the final 2015 ISGP.

Response to the Range of Comments:

Ecology has considered the comment and has decided to retain the 2010 Final and 2014 draft definition of “industrial activity”, with the last sentence deleted because it is not accurate.

Industrial Activity means (1) the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi) that must apply for either coverage under this permit or no exposure certification, (2) any *facility* conducting any activities described in Table 1, and (3) identified by *Ecology* as a *significant contributor of pollutants*.

Definition of “transportation facility”

Commenters: Gordon Thomas Honeywell, SSA, Pacific Merchant Shipping Association

Summary of the Range of Comments:

- EPA's definition of industrial activities associated with "transportation facilities" limits NPDES coverage to specific portions of a transportation facility:
 - (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 except 4221-25}, 43, 44, 45, and 5171 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 paragraphs (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity.

- The Draft 2015 ISGP and Draft 2015 Fact Sheet continue the omission of the limiting language in the Table 1 summary of the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi).
- While this omission may seem innocuous given the ISGP's directive that Table 1 is merely 40 CFR 122.26(b)(14)(i-xi) in a different format, the years since the promulgation of the 2010 ISGP have shown that the omission has led to profound confusion and significant consequences that were never identified, analyzed, or subjected to notice and other required procedures in the context of the 2010 ISGP.

Response to the Range of Comments:

Ecology has considered the comment and has decided to retain the omission of the following statement from 40 CFR 122.26(b)(14)(viii): "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 paragraphs (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity." No change was made to the final ISGP in response to this comment.

Other comments regarding definitions

Numerous Commenters

Additional responses to comments pertaining to other aspects of Special Conditions and Appendix 2 – Definitions addressed elsewhere in this document.