

RESPONSE TO COMMENTS

Industrial Stormwater General Permit Addendum to Fact Sheet: Appendix D

The Washington State Department of Ecology (Ecology) received public comments on the draft Industrial Stormwater General Permit (ISGP) that was released for public comment on May 1, 2019. Ecology also accepted oral testimony provided by participants at the six (6) workshops and hearings that were held throughout the state. Public comments were submitted by a wide range of stakeholders and interested parties, prior to the close of the public comment period on June 29, 2019.

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 2020 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.

Copies of all public comment letters, emails, and oral testimony are posted on Ecology’s Industrial Stormwater General Permit website: <https://ecology.wa.gov/IndustrialStormwaterPermit>.

Comments can be viewed here: <http://ws.ecology.commentinput.com/?id=k3Zx2>.

Public Comments on the 2020 Draft Industrial Stormwater
General Permit

Ecology received oral testimony from the following:

Derdwoski, Brian
Gering, Dave
Johanson, Judy
Lider, William
Oleson, Mel
O'Keefe, Gerry

Ecology received written comments from the following:

Association of Washington Business
Bjorkman, Jim
BNSF Railway
The Boeing Company
Boise Cascade Wood Products, LLC
Center for Biological Diversity
Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable
Communities/North Sound Baykeeper, and Spokane Riverkeeper
Dunning, Ross
Gary Merino Construction Company Inc.
King County
Lider, William
Manufacturing Industrial Council of Seattle
Mercuri, Joyce
Nisqually Environmental
Northwest Indian Fisheries Commission
The Northwest Seaport Alliance and Port of Tacoma
Oleson, Melvin
Port of Grays Harbor
Port of Port Angeles
Port of Seattle
Port of Vancouver
Schamel, Jerry
U.S. EPA
Washington Public Ports Association*
Washington State Department of Health*
Windward Environmental

*Comment letter received after the close of the comment period

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Comments on the Special Conditions of the Draft Industrial Stormwater General Permit

S1. Permit Coverage

Switch from SIC codes to NAICS codes

Commenters: Boeing, Jerry Schamel, King County, Ross Dunning, Anonymous, Port of Seattle, Northwest Seaport Alliance and Port of Tacoma, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Suggestions to replace the Table in the draft permit with the one located in Appendix N of EPA's MSGP
- Only define categories by title and not use any codes
- Concerns that the table changes the definition of industrial activity
- Log yards were left off
- Other industrial activity appeared to be removed
- Support for the switch due to the clarity provided by NAICS codes
- Inclusion of similar industries defined under the NAICS codes

Ecology's Response: Ecology has considered the comments and opted to retain the switch from SIC codes to NAICS codes. NAICS is the new standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS was developed under the auspices of the Office of Management and Budget and adopted in 1997 to replace SIC codes. Crosswalks exist to convert the 1987 SIC Codes to 2017 NAICS Codes.

The use of NAICS codes instead of a simple industry description allows for an easier way to describe the activities that are required to seek coverage under the ISGP. Without the use of codes, Ecology would have to create a fact sheet or appendix to the permit that detailed each industry description.

Log yards were inadvertently left off due to the switch. Ecology held that log yards were previously covered under SIC 2411 – Logging. 40 CFR states that: "Facilities classified within Standard Industrial Classification 24, Industry Group 241 that are rock crushing, gravel washing, log sorting, or log storage facilities operated in connection with silvicultural activities defined in 40 CFR 122.27(b)(2)-(3)" are considered industrial activity. Ecology has added NAICS 113310 – Logging back to the table, and included the description that is for log sorting and storage, not the actual harvest of timber.

Commenters noted concern over some categories that didn't appear to be included anymore. Those categories have not been removed and are still included in the list of industries who are categorically required to obtain permit coverage, but are now classified under other NAICS group listing. For example, all refrigerated and general storage categories and located under Warehousing and Storage.

Commenters noted concern that the category descriptions may contain index descriptions that could lead to expansion or elaboration of the scope of applicable industries that have already been defined by the code definition. The descriptions do not expand on the scope of applicable industries, however, they do clarify what activities fall under that larger description.

Transportation Facilities

Commenters: Northwest Seaport Alliance and Port of Tacoma, BNSF, Port of Seattle, and Association of Washington Business

Summary of the Range of Comments:

- For the purposes of coverage under the NPDES permit program, 40 CFR 122.26(b)(14)(viii) defines industrial activity for transportation facilities as: “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;”. Clarifying language should be added to this permit to be consistent with 40 CFR 122.26.

Ecology’s Response: Ecology made this change for the 2009 ISGP. DMR data from all transportation categories collected since 2009 demonstrates that activity on these sites beyond vehicle maintenance shops, equipment cleaning operations, and airport deicing operations is a significant contributor of pollutants leaving the site at concentrations that may reasonably be expected to cause a violation of water quality standards. Ecology will continue to regulate the entire portion of these facilities. Ecology has considered the comments and chosen not to make the suggested change to draft permit.

Adding Two New Categories

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper , Port of Seattle, Association of Washington Business, Nisqually Environmental, and Washington Public Ports Association

Summary of the Range of Comments:

- Commenters strongly support the addition of new industries, including “Construction, Transportation, Mining, and Forestry Machinery and Equipment Rental and Leasing” and “Marine Construction,” in S1.A. Table 1.1. We recommend Ecology consider additional industrial categories that are significant contributors of pollutants to waters of the state, and can reasonably be expected to cause violations of water quality standards
- Commenters oppose the addition of the two new categories without scientific proof or public input or designation from EPA.
- ECY003 is not a NAICS code

Ecology’s Response: Ecology has considered the comments and opted to retain the two new industries in the permit. Ecology has designated residual authority (40 CFR 122.26 (a)(9)(i)(D)) to include facilities who cause or contribute to water quality violations to waters of the State.

Ecology has required facilities classified under both of these categories to obtain permit coverage based on evidence collected at those facilities that demonstrated that water quality violations were occurring. Ecology

determined that cause existed to require these two categories be categorically required to seek permit coverage based on the similarities that were found among the individual facilities.

Ecology notified the public that the two industries were going to be added during the listening sessions as well as the draft permit process. Potential permittees who operate under the two categories received a letter from Ecology informing them of the change and inviting them to participate in the public process.

As Ecology collects more data from other groups, it may opt to pull in other industries in future versions of the permit.

ECY003 is an Ecology only code. Marine Industrial Construction is a category that is part of a much more diverse NAICS group that Ecology does not feel needs regulated at this time. In order to limit the coverage to only this category, Ecology has opted to use an Ecology only code to define this group. The fact sheet details what is included in this category.

Significant Contributors of Pollutants

Commenters: Ross Dunning, King County, Port of Vancouver, Mel Oleson, and Washington Public Ports Association

Summary of Range of Comments:

- Provide a measurable definition of significant contributor of pollutants
- How are facilities notified and can they appeal?

Ecology's Response: Ecology considers a significant contributor of pollutants to be anyone with a discharge that causes or contributes to a violation of water quality standards. Individual facilities that Ecology believes to be significant contributors of pollutants are notified by Ecology through an order that permit coverage is required. That order contains appeal language and the facility may appeal the requirement for coverage. Industry groups who Ecology believe are significant contributors are included in the draft permit and may appeal the permit.

Groundwater Language in Significant Contributor of Pollutants

Commenters: Jerry Schamel and Washington State Department of Health

Summary of the Range of Comments:

- We need more protection for groundwater discharges. As it is now, anyone can infiltrate their water no matter how nasty and get out of permit coverage.
- Ecology doesn't appear ready to handle issuing individual groundwater permit.
- Set benchmarks at drinking water standards to be met at the vadose zone.
- Monitoring requirements seem to only be applicable to surface water discharges.

Ecology's Response: Discharging to ground may not always exclude a permittee from permit coverage. Ecology can require permit coverage under the ISGP in certain situations where groundwater is impacted. Ecology also provides individual permits to several permittees who discharge to groundwater. Ecology is opting not to include groundwater monitoring requirements in the draft permit, however, it may be required on a case by case basis (Condition G12).

Commenters: Association of Washington Business, Boeing, BNSF, Ross Dunning, King County, Port of Seattle, Port of Grays Harbor, Mel Oleson, Washington State Department of Health, and Washington Public Ports Association

Summary of the Range of Comments:

- The Clean Water Act does not regulate discharges to groundwater.
- Ecology cannot regulate discharges to groundwater under a federal permit.
- The groundwater language contrasts EPA’s guidance.
- The groundwater language seems to contradict past guidance on infiltration.
- The language seems to conflict state regulations

Ecology’s Response: The permit is a combination NPDES and State Waste Discharge Permit. As a State Waste Discharge Permit, the permit must protect all waters of the State, including groundwater under RCW 90.48. While infiltration to groundwater is encouraged, there are instances where it can lead to contamination. Ecology is tasked with protecting waters of the State, and will evaluate stormwater discharges that may impact groundwater. Facilities who are determined to require permit coverage for groundwater discharges will be notified by Ecology.

Land Application Sites

Commenter: King County

Summary of the Range of Comments: This refers to municipal wastewater, not municipal sludge or biosolids - so this is not an allowance related to WAC 173-308; rather, it is related to use of 'reclaimed water'.

This needs to be clarified, stipulating that:

- 1.) The discharge is subject to and must meet the requirements of the Reclaimed Water Rule, Chapter 173-219 WAC.
- 2.) The discharge is subject to a Reclaimed Water Permit pursuant to Chapter 173-219 WAC, which requires review and approval by the WA State Department of Ecology AND the Department of Health.

Ecology’s Response: The permit language is only stating that land applying wastewater for agricultural activities or landscaping purposes at agronomic rates do not need coverage under the ISGP. It does not excuse those activities from any other applicable requirements.

Facilities Excluded from Coverage

Commenters: Ross Dunning, King County

Summary of the Range of Comments:

Is the exclusion of Airports with more than 10,000 annual jet departures mean that these airports must apply for a general permit and not an individual permit?

Ecology’s Response: This was an error that didn’t get caught prior to the draft being out for public comment. The language has been restored.

Discharges to Ground

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, King County, Port of Seattle, BNSF, Association of Washington Business, Boeing, Nisqually Environmental, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Commenters support the revisions in S1.E, Discharges to Ground. Ecology should consider additional language to clarify that permittees with discharges to ground must conduct representative sampling for the pollutants of concern and report those results on DMRs.
- The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. EPA recently issued an interpretive statement concluding that releases of pollutants to groundwater are categorically excluded from the CWA's permitting requirements because Congress explicitly left regulation of discharges to groundwater under other state and EPA statutes. Based on the EPA's analysis and careful consideration of public input, EPA concluded that releases of pollutants to groundwater are excluded from the CWA's permitting requirements, regardless of whether that groundwater is hydrologically connected to a surface water. Discharges to groundwater in Washington are regulated through the SDWA, RCRA, and CERCLA. As such, the CWA NPDES permit program does not apply to discharges to groundwater, and specifically to releases of a pollutant from a discharge point or point source to groundwater. Ecology should consider developing a sister program to the Underground Injection Control (UIC) Program under the authority of the SDWA to address point source discharges to groundwater that could impact drinking water sources. Suggested Revision: The language in S1.E.1 should be deleted in the final version of the ISGP.

Ecology's Response: The permit is a combination NPDES and State Waste Discharge Permit. As a State Waste Discharge Permit, the permit must protect all waters of the State, including groundwater under RCW 90.48. While infiltration of groundwater is encouraged, there are instances where it can lead to contamination. Ecology is tasked with protecting waters of the State, and will evaluate stormwater discharges that may impact groundwater and regulate them where additional control is warranted.

This permit condition does not require that all discharges to ground need permit coverage. Condition S1. C.3 states that industrial facilities who discharge only to groundwater with no discharge to surface waters are not required to obtain coverage *unless Ecology determines them to be a significant contributor of pollutants.* (italicized for emphasis) Permittees with a surface water discharge are required to seek permit coverage and if a permittee also has discharges to ground must implement the requirements of this permit for all discharges, surface and ground. Groundwater monitoring is not required unless directed by Ecology, however, a SWPPP and all BMPs must be implemented for all discharges by these permittees with both a ground and surface water discharge.

No Exposure

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

Commenters have seen instances of facilities simply saying “no” to all eleven questions, when they should have answered “yes.” Ecology should consider clarifying that “certified” means under penalty of perjury, and that Ecology inspectors will verify the truth of those assertions before granting a CNE.

Ecology’s Response: All No Exposure applications contain the following statement:

“I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of “no exposure” and obtaining an exclusion from the industrial stormwater general permit.

I certify under penalty of law that there are no discharges of stormwater contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as identified in the Exposure Checklist).

I understand that I am obligated to submit a no exposure certification form once every five years to the Washington State Department of Ecology (Ecology) and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow Ecology to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under the industrial stormwater general permit prior to any changes at the facility that will result in exposure of stormwater to industrial activities.

Additionally, I certify under penalty of law that this application was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. I certify that:

I am either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship. (private sector business)

-- OR --

I am a principal executive officer or ranking elected official. (public sector government)

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

When Ecology discovers that a facility does not meet the criteria of “No Exposure”, the permittee is no longer granted the exemption and must begin implementing the permit. If Ecology discovers that a permittee gave false information, Ecology may forward that information on for criminal enforcement.

Commenters: Mel Oleson

Summary of the Range of Comments:

- There appears to be no follow-on inspection requirement to ensure that the no-exposure conditions are maintained.
- Suggest that WDOE amend its requirement for no-exposure to require an annual inspection by a certified professional with a report being submitted to WDOE verifying (or not) the continued no-exposure exemption.

Ecology's Response: Ecology will not require CNE facilities to conduct annual inspections by a certified inspector. Facilities who are granted a "No Exposure" exemption are periodically inspected by Ecology. When Ecology discovers that a facility does not meet the criteria of "No Exposure", the facility is no longer granted the exemption and must begin implementing the permit. Facilities also certify under penalty of law that "*I must obtain coverage under the industrial stormwater general permit prior to any changes at the facility that will result in exposure of stormwater to industrial activities.*"

Commenters: Boeing

Summary of the Range of Comments:

- Specific requirements for compliance, in this case a determination for a conditional no exposure exemption, should be included in the permit. The permit references a May 2018 Ecology "Focus On: Conditional No Exposure" publication (publication number 13-10-021) for the eleven questions.

Ecology's Response: Ecology has decided to add the 11 questions to the permit to alleviate any confusion about the requirements. S1.F.2 is now:

2. To determine if you qualify for a CNE, eleven questions must be answered and certified that none of the following materials or activities are, or will be in foreseeable future, exposed to precipitation:
 - A. Is anyone using, storing or cleaning industrial machinery or equipment 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?
 - B. Are there materials or residuals on the ground or in stormwater inlets from spills/leaks?
 - C. Are materials or products from past industrial activity exposed to precipitation?
 - D. Is material handling equipment used/stored (except adequately maintained vehicles)?
 - E. Are materials or products exposed to precipitation during loading/unloading or transporting activities?
 - F. Are materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants)?
 - G. Are materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers?
 - H. Are materials or products handled/stored on roads or railways owned or maintained by the discharger?
 - I. Is waste material exposed to precipitation (except waste in covered, non-leaking containers, e.g., dumpsters)?
 - J. Does the application or disposal of process wastewater occur (unless otherwise permitted)?
 - K. Is there particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow?

Commenters: Northwest Seaport Alliance and Port of Tacoma, Ross Dunning, Port of Grays Harbor, Nisqually Environmental, Port of Vancouver, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Recommend deleting this proposed language and sticking with the old language to stay in line with the Federal Program.
- The language appears to change the definition of Industrial Activity.

Ecology's Response: 40 CFR 122.26(g) lists the conditions required to meet conditional no exposure. The draft language is consistent with the requirements and intent of 40 CFR 122.26(g). Ecology has opted to retain the language in the draft ISGP with the inclusion of the 11 questions being added to the final permit.

The language "Industrial materials and activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, and final products, or waste products." is taken word for word from 40 CFR 122.26(g) and will remain in the permit for the purposes of evaluating the conditions of conditional no exposure.

Commenter: Nisqually Environmental

Summary of the Range of Comments:

- Please clarify that it is Ecology's intent to basically remove the possibility of a CNE to those clean manufactures who may store their finished goods outside for purchase or transport.

Ecology's Response: The language was taken directly from 40 CFR 122.26(g). The requirements for "No Exposure" are for final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants. 40 CFR 126.22(g) explicitly states:

"No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

Ecology will allow final products intended to be used outdoors to be stored outside and still meet the requirements for CNE, however, any other product stored outside is considered exposure and will result in the CNE being revoked.

S2. Modification of Coverage

Modification of Coverage

Commenter: EPA

Summary of the Range of Comments: The EPA suggests that the term "significant process change" be emphasized (bold-italic text) in S.2.B (first use in document) in addition to, or instead of, in S.4.B.8 to highlight that the permit includes a specific definition for this term.

Ecology's Response: Comment noted and "significant process change" is now emphasized in S2.B instead of S4.B.8.

Transfer of Permit Coverage

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Transfer of permit coverage needs to clarify that corrective actions need to be completed.
- Commenters are aware of an instance where all the conditions of S2.D were met for a "transfer" of coverage, but because a Level Three Corrective Action had been recently triggered but not implemented, the old permittee and new permittee schemed to have the old permittee terminate its permit and for the new permittee to apply for a new permit. The companies saw this terminate/reapply process as a loophole in the ISGP that would allow both companies to evade its Corrective Action obligations. Under the companies' theory, when the ISGP permit number reset, the Corrective Action obligations reset. Such an outcome is obviously not how the ISGP is designed to operate and would encourage strategic permit terminations and reapplications to avoid Corrective Actions.

Ecology's Response: Ecology has considered the comment and the situation explained by the commenters is a one off issue and not a commonplace occurrence. The situation describes a Notice of Termination that was improperly handled. Ecology agrees that the situation described by the commenters should not have happened, and will update the SOPs for terminating permits and has modified the permit language around the Notice of Termination as follows:

Ecology may approve a Notice of Termination (NOT) request when the Permittee meets one or more of the following conditions and Ecology determines that the discharges from the facility are no longer required to be covered under this permit:

1. All permitted stormwater discharges associated with industrial activity that are authorized by this permit cease because the industrial activity has ceased, and no significant materials or industrial pollutants remain exposed to stormwater.
2. The party that is responsible for permit coverage (signatory to application) sells or otherwise legally transfers responsibility for the industrial activity.
3. All stormwater discharges associated with industrial activity are prevented because the stormwater is redirected to a sanitary sewer, or discharged to ground (e.g., infiltration).

4. ~~Ecology determines that the discharges from the facility are no longer required to be covered under this permit.~~

S3. Stormwater Pollution Prevention Plan

Qualified Personnel

Commenters: Port of Vancouver, King County, Port of Grays Harbor, Northwest Seaport Alliance and Port of Tacoma, Ross Dunning, and Washington Public Ports Association

Summary of the Range of Comments:

- Ecology should define qualified personnel.
- Ecology should modify the definition of qualified personnel to a person who (1) possesses the knowledge and skills to assess conditions and activities at the facility that could impact stormwater quality; (2) can evaluate the effectiveness of best management practices required by this permit for this specific facility and its unique operations and; (3) is familiar with site operations and practices with sufficient authority to commit the organization to the BMPs and actions detailed in the SWPPP.
- Remove the requirement for qualified personnel to have a business license.

Ecology's Response: Qualified personnel was defined in the glossary as: *those who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and evaluate the effectiveness of best management practices required by this permit.* This definition was provided in the draft permit. The definition did not include a requirement for a business license as stated by some commenters. Ecology believed this definition was clear, but also believes the definition provided by some commenters further clarifies the intent and has chosen to modify the definition as follows:

Qualified Personnel means those who (1) possesses the knowledge and skills to assess conditions and activities at the facility that could impact stormwater quality; (2) can evaluate the effectiveness of best management practices required by this permit for this specific facility and its unique operations and; (3) is familiar with site operations and practices with sufficient authority to commit the organization to the BMPs and actions detailed in the SWPPP. ~~possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and evaluate the effectiveness of best management practices required by this permit.~~

Reference to the Stormwater Management Manuals

Commenter: Jerry Schamel

Summary of the Range of Comments: The references to manuals for BMPs is confusing. All BMPs that need to be onsite should be listed as an appendix to the permit.

Ecology's Response: At this time, Ecology does not intend to pull out the parts of the manuals that are applicable only to the ISGP. The manual has been updated to further provide clarity of what is required of ISGP permittees. Permittees may also contact Ecology for additional assistance understanding the requirements.

Commenter: Mel Oleson

Summary of the Range of Comments:

- Industry doesn't know which BMP to use because the permit fails to collect the needed data from the permittees (pollutant concentrations and discharge flows/volume) and the State fails to provide information on the receiving waters (flow/volume and pollutant loadings) at the time the permittee discharges. Without this very basic information it is quite possible that many industries are spending excessive amounts to install BMPs that are not needed while others may unwittingly be causing problems even though they are meeting the "synthetic" benchmark standards.

Ecology's Response: Ecology has provided mandatory BMPs and treatment design standards. It is up to each permittee and their engineer to decide what BMPs to use and how to meet design standards in order to meet water quality standards.

Stormwater Guidance Documents

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: S3A.2 requires that BMPs be consistent with the SWMM or "other stormwater management guidance documents or manuals which provide an equivalent level of pollution prevention" which is confusing in the case of industry sector-specific manuals which act as a supplement to the SWMM. We suggest that the permit specify that BMPs be consistent with the applicable SWMM, including any industry sector-specific guidance documents incorporated into the SWMM by reference.

Ecology's Response: Industry specific guidance published by Ecology is listed under "applicable" BMPs in the manual and is required to be implemented. The SWMM and the permit state that any BMP listed as "applicable" is required to be implemented under the ISGP.

Update of the SWPPP (S3.A.3.a)

Commenters: Port of Grays Harbor, Ross Dunning, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- The draft proposed to change the term "applicable local regulatory authority" to simply, "local regulatory authority". No definition for this term is included in the draft and this could lead to confusion over who has authority to require a SWPPP update. The work applicable should be retained in the new permit to prevent this.
- Clarify intent and authority for Ecology to defer NPDES enforcement authority to "local authority".

Ecology's Response: Ecology has decided to revert the language back to the 2015 permit. The language now reads:

"a. The Permittee shall modify the SWPPP if the owner/operator or the applicable local or state regulatory authority determines during inspections or investigations that the SWPPP is, or would be, ineffective in

eliminating or significantly minimizing pollutants in stormwater discharges from the site. The Permittee shall modify the SWPPP:"

Commenters: Ross Dunning

Summary of the Range of Comments: The ISGP is a state-issued NPDES permit and Ecology's delegation of permit enforcement responsibilities to undefined local regulatory authorities creates confusion and possible conflicting requests

Ecology's Response: Ecology is not delegating authority to local jurisdictions with this language. Local jurisdictions are allowed to have more stringent requirements for BMPs, and this permit does not excuse permittees from local requirements. If the local jurisdiction requires the SWPPP to be updated to comply with the local requirements, the permittee must update their SWPPP.

Update of SWPPP (S3.A.3.c.)

Commenters: King County, Boeing, and Association of Washington Business

Summary of the Range of Comments:

- Permittees need additional time to update their SWPPP
- Not every site has access to GIS
- Extend deadline to 6 months after effective date

Ecology's Response: Ecology has considered the comments and decided to allow 60 days for SWPPP updates. Since the changes to the permit and SWPPP are minimal, Ecology believes that 60 days is adequate. Permittees should already have the information required from the previous site map requirements and permittees do not need access to GIS to complete the site map update. Additionally, the SWPPP needs to be updated in the first quarter in order to implement the monitoring requirements immediately.

Committer: Association of Washington Business

Summary of the Range of Comments: Proposed new section. e. Documentation in a SWPPP that the BMPs selected are demonstrably equivalent shall be deemed to be deemed to fully comply with Special Condition S3.A.3.d at the time of SWPPP submission unless Ecology notifies the Permittee of any deficiencies and provides the technical basis for a BMP that Ecology is requesting including (1) the method and basis for choosing the stormwater BMP; (2) the pollutant removal performance expected from the practice requested by Ecology; (3) the technical basis supporting the performance claims for the practice requested; (4) an assessment of how the requested practice complies with water quality standards; and (5) an assessment of how the requested practice will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available, and reasonable methods of prevention, control, and treatment. Explanation: Ecology recently revised the stormwater management manuals with minimal public involvement, no response to comments, and no right to review. The Permit incorporates many of the BMPs from the manuals as mandatory Permit requirements unless the Permittee has documented that alternative BMPs are demonstrably equivalent. The proposed condition simply requires Ecology to document why a BMP in the manual is preferable to a demonstrably equivalent BMP. This information should be readily available to

Ecology and will provide appropriate and necessary information for a Permittee to review and understand the basis for proper BMP selection.

Ecology's Response: Permittees are not required to submit their SWPPP to Ecology, nor does Ecology approve SWPPPs. Automatic approval of a BMP as demonstrably equivalent is not appropriate and it is the responsibility of the permittee to show documentation that the BMP is demonstrably equivalent.

The SWMMs were updated after literature reviews and based on public feedback provided during the informal comment period, listening session, meetings with experts, and the formal public comment period, which ran at least 90 days for each manual. Ecology has provided the response to comments for the SWMMs on the website.

Update of the SWPPP: Proposed new section

Commenter: Association of Washington Business

Summary of the Range of Comments:

Proposed new section 6. SWPPP Review and Approval If the Permittee files its SWPPP with Ecology, including any submission under Special Condition S3.A.3, the SWPPP shall be deemed to fully comply with the requirements of Special Condition S3 at the time of submission unless Ecology notifies the Permittee of any deficiencies. The Permittee shall within 30 days re-submit the SWPPP to address any deficiencies identified by Ecology. Explanation: Many Permittees already retain "qualified personnel" to prepare facility SWPPPs. SWPPPs are required to be available at the time of Ecology inspections. Many facilities are nonetheless subject to third-party notices of intent to sue and legal actions under the citizen suit provisions of the Clean Water Act alleging violations of each mandatory requirement in Condition S3. The proposed language would provide an option for Ecology review of SWPPPs and opportunity to identify any deficiencies in the document. This would provide more assurance of compliance with the Permit and avoid after the fact allegations that a SWPPP is not in compliance with the Permit.

Ecology's Response: Ecology does not have the staff necessary to review every single SWPPP for completeness and accuracy nor does Ecology approve SWPPPs. It is the responsibility of the permittee to ensure that all requirements of the SWPPP are included and being implemented as required by the permit.

Site map requirements

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, William Lider, Boeing, and King County

Summary of the Range of Comments:

- Site map may need more than one page to be complete and readable
- Site drawings should be prepared by a licensed land surveyor or professional engineer.
- Minimum CAD standards for drawings should meet generally accepted standards of municipalities like King or Snohomish counties.
- At a minimum, ISGP site plan drawings should meet the following requirements: • Be drawn to an appropriate scale, typically 1" = 50'; but in no case larger than 1" = 100' • Provide vicinity plan, north

arrow, and scale bar • Legend clearly identifying all symbols, (e.g. water meter, manhole, catch basin, etc.)

Ecology's Response: Site map requirements are based on the application requirements of 40 CFR 122.26(c). Since stormwater applications are required to contain a site map, Ecology has decided to use those requirements for both the application site map and the SWPPP site map.

Ecology has chosen not to require site maps be prepared by an engineer or land surveyor at this point. Many permittees are capable of creating site maps that meet the requirements on their own. Requiring an engineer or land surveyor to prepare a map will add undue costs to permittees, particularly when Ecology is aware of site maps prepared by consultants and engineers that don't meet the requirements of the permit. Ecology has considered that the site map may take multiple pages to get the detail required, and modified the language as follows:

1. The site map shall identify (site map may be multiple pages if needed):

Site Map Requirements (Individual)

Size of Property in Acres

Commenter: King County

Summary of the Range of Comments:

Agree that scale is an important element of the site map. Site acreage, however, does not need to be on the map, particularly if it is contained elsewhere in the SWPPP (say, on a site info page with address, etc.). Recommend moving acreage requirement to S3.B.2(a) (facility description).

Ecology's Response: Site map requirements are based on the application requirements of 40 CFR 122.26(c). Since stormwater applications are required to contain a site map, Ecology has decided to use those requirements for both the application site map and the SWPPP site map. Site acreage can be reasonably added to the map in the legend or a table.

Significant structures and impervious surfaces

Commenters: Ross Dunning, King County, and Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Please define "significant structures"
- S3.B.1.c. requires the location and extent of significant structures and impervious surfaces to be identified. Does this requirement mean "significant impervious surfaces," or "all impervious surfaces"?

Ecology's Response:

Facilities need to identify all buildings, structures, and all impervious surfaces on their site maps. In order to reduce confusion, Ecology has modified the permit language to say:

- b. The location and extent of ~~significant structures~~ all buildings, structures and all impervious surfaces.

Structural Control Measures

Commenters: Ross Dunning, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Suggest changing the language here to "Locations of all Structural Source Control BMPs."

Ecology's Response:

Ecology has decided to update this language to clarify that this is for the structural source control BMPs. The revised requirement now states:

- e. Locations of all structural source control measures **BMPs**.

Locations of stormwater conveyances

Commenter: King County and Washington State Department of Health

Summary of the Range of Comments:

- Consider revising this to read: "Locations of all stormwater treatment structures and conveyances including ditches, pipes, catch basins, vaults, ponds, swales, etc."
- Consider adding identification of groundwater protection areas.

Ecology's Response: Ecology has modified the permit language to state:

- i. Locations of all stormwater conveyances including ditches, pipes, catch basins, vaults, ponds, swales, etc.

Ecology is opting not to require permittees identify if they are located in a groundwater protection area at this time.

Locations of actual and potential pollutant sources

Commenters: Ross Dunning and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Adds "locations of actual and potential pollutant sources" which is ambiguous

Ecology's Response: Site map requirements are based on the application requirements of 40 CFR 122.26(c). Since stormwater applications are required to contain a site map, Ecology has decided to use those requirements for both the application site map and the SWPPP site map.

Permittees familiar with their sites should be able to identify areas that may have additional pollutant sources beyond the obvious active areas.

Locations of inlets and outfalls

Commenter: Nisqually Environmental

Summary of the Range of Comments:

- This new section adds to requirement to show on the site map “Locations of stormwater inlets and outfalls...any other party other than the Permittee that owns any storm water drainage or discharge structures.”

Ecology’s Response: This was already required in the 2015 permit, and it not a change for the 2020 permit. Permittees must indicate any drainage or discharge structures located on their property, including those not owned by the permittee. Ecology views treatment systems provided to the permittee through a rental agreement or lease agreement to be under the control of the permittee.

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: In S3B.1, we suggest retaining the requirement that the SWPPP map assign a unique identifying number to each discharge point (not only monitoring points) for clarity. We also suggest that the SWPPP map identify any areas which the permittee believes infiltrate stormwater.

Ecology’s Response: Areas of infiltration will be captured under S3.B.1.i and S3.B.1.l. Ecology has modified the permit language around discharge points as follows:

m. Locations of stormwater inlets and outfalls with a unique identification number for each sampling point and discharge point, indicating any that are identified as substantially identical, and identify, by name, any other party other than the Permittee that owns any stormwater drainage or discharge structures .

Combined Sewers

Commenters: Ross Dunning and King County

Summary of the Range of Comments:

- Adds requirement for permittees to identify “Combined sewers” which is unreasonable to require.
- Please clarify the concern about stormwater going to a CSO, other than reporting? Concern with backflow?

Ecology’s Response: It is important for permittees to understand where all their stormwater discharges to. This information is not unreasonable to require and is readily available public information provided by the municipalities.

Run-on from adjacent sites

Commenters: Ross Dunning, Port of Grays Harbor, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Adds requirement for permittees to identify “run-on...that may contain pollutants.” which is unreasonable to require.
- Permittees are responsible for water quality at the point of discharge, if an adjacent property is causing a problem, it is up to the permittee to work with the adjacent property owner.

Ecology’s Response: Site map requirements are based on the application requirements of 40 CFR 122.26(c). Since stormwater applications are required to contain a site map, Ecology has decided to use those requirements for both the application site map and the SWPPP site map.

This information will help permittees understand the stormwater flows on their property and they may be able to identify run-on from adjacent properties and work with those property owners to address any run-on concerns.

Facility Description

Commenter: King County

Summary of the Range of Comments: Consider adding sub-section ix to read: "Off-site sources of pollution."

Ecology’s Response: These are identified in the site map under S3.B.1.p.

Omitting BMPs

Commenter: Nisqually Environmental

Summary of the Range of Comments: In this section Ecology proposes a small but very significant change removing the word “or” and replacing it with the word “and” in the following sentence: “The Permittee may omit individual BMP’s if the site conditions render the BMP unnecessary, or infeasible, and the Permittee provides alternative and equally effective BMPs”. It seems unclear the intent of Ecology in making this change. If, for example, a site states in their SWPPP that they do not need to cover outside trash receptacles because they do not have outside receptacles, does the site need to provide an alternative to having a trash bin outside? Another, equally common BMP, is sweeping of paved surfaces. If a site does not have paved surfaces, what does Ecology suggest the site provide as an equally effective BMP? This change would effectively open all sites vulnerable to action from third parties if they so desired as it would most likely go unnoticed. Please remove this change or provide adequate explanation on what a permittee should do if they do not require the BMP because they do not have the BMP.

Ecology’s Response: Ecology modified this language due to permittees believing that because a site condition existed they could omit a BMP, even though alternative BMPs existed. Permittees must provide documentation that they are providing alternative BMPs for the ones they have chosen to omit. In the examples provided by the commenter, documenting that the trash receptacles are located inside meets that requirement since the receptacles are no longer exposed to stormwater. Similarly, sites with unpaved surfaces must provide documentation of BMPs that prevent sediment from leaving the site that would be equivalent to sweeping.

Storm Proof Lid

Commenters: Andrew Cratsenberg, Port of Grays Harbor, King County, Northwest Seaport Alliance and Port of Tacoma, Ross Dunning, Anonymous, and Boise Cascade Wood Products

Summary of the Range of Comments:

- Permit requires dumpsters be fitted with a “storm proof lid”. EPA uses the term “storm resistant”. We are not aware of any designated storm proof lids. This requirement should be removed or at a minimum the EPA term should be used to avoid confusion and conflict.

Ecology’s Response: Ecology has considered the comments and chosen to change the language from storm proof to storm resistant. The lids must provide a level of protection that prevents debris from blowing or spilling out of the dumpsters and prevents stormwater from infiltrating the dumpster. The permit language now reads:

d) Keep all dumpsters under cover or fit with a storm ~~proof~~ resistant lid that must remain closed when not in use. (Tarps are not considered storm resistant.)

Preventative Maintenance

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

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. In our experience, inadequate maintenance of stormwater systems, equipment, and BMPs is a common and major cause of stormwater contamination and benchmark exceedances. The proposed language in S3.B.4.b.i.3.b, concerning this requirement for stormwater drainage/treatment facilities, references maintenance conducted “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.” Rather than specifying a schedule or frequency for maintenance, these guidance documents or manuals may use other criteria. 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.

Ecology’s Response: Various stormwater systems and treatment systems use criteria to decide when maintenance is necessary rather than a set schedule. Requiring a permittee to follow a set schedule may inadvertently lead to maintenance not occurring as often as it should be. Whether maintenance is set with a set schedule or other criteria, it is up to the permittee to document that schedule or criteria and adhere to it.

Spill Prevention and Emergency Cleanup Plan (Hazardous Substances)

Commenter: Nisqually Environmental

Summary of the Range of Comments: This modification adds the words “hazardous substances, petroleum/oil liquids, and or other chemical solid or liquid materials that have potential to contaminate stormwater...” to this section. Please define “hazardous substances”.

Ecology's Response: Hazardous Substances is defined in WAC 173-303 as any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100. Ecology has added this definition to the glossary.

Spill Prevention and Emergency Cleanup Plan (Double Walled Tanks)

Commenters: Nisqually Environmental, King County

Summary of the Range of Comments:

- Ecology adds "or use UL approved double-walled tanks". Many sites use double walled tanks for flammable liquids, chemicals, solids, and other materials. They are often certified by the Steel Tank Institute (STI), UL, or a qualified third party

Ecology's Response: Ecology has removed the requirement for the double walled tank to be UL approved. The permit language is now:

- a) Store all hazardous substances, petroleum/oil liquids, and other chemical solid or liquid materials that have potential to contaminate stormwater on an impervious surface that is surrounded with a containment berm or dike that is capable of containing 10% of the total enclosed tank volume or 110% of the volume contained in the largest tank, whichever is greater, or use ~~UL Approved~~ double-walled tanks.

Spill Prevention and Emergency Cleanup Plan (Requirements for Oil Absorbents)

Commenters: King County, Ross Dunning, Northwest Seaport Alliance and Port of Tacoma, Anonymous, Nisqually Environmental

Summary of the Range of Comments:

- SPCCP is not a searchable acronym under the EPA terms.
- The regulation is called Spill Prevention, Control, and Countermeasure (SPCC) Plan not the "Spill Prevention, Containment, and Countermeasures Plan (SPCCP)"
- the requirement is inappropriate as the SPCC requirements are independent of NPDES or State Waste Regulations
- This term "minimum anticipated spill amount" should be defined

Ecology's Response: SPCCP is the abbreviation for Spill Prevention, Control, and Countermeasures Plan. It is a searchable and commonly used abbreviation. Those plans identify a minimum spill amount also known as a potential discharge volume based on the storage capacity, containers, transfer operations, etc. at a site. Facilities with these plans will know what the minimum anticipated spill amount or potential discharge volume is by reading their plan. They are required to have absorbents to handle that size of spill.

In order to provide clarity, Ecology has modified the language to state:

- i) Oil absorbents capable of absorbing 15 gallons of fuel. Facilities with a Spill Prevention, Control, and Countermeasures Plan (SPCCP) must have enough oil absorbents capable of absorbing the minimum anticipated spill amount or potential discharge volume identified in that plan if more than 15 gallons.

Spill Prevention and Emergency Cleanup Plan (Two 5-Gallon Buckets)

Commenter: King County

Summary of the Range of Comments: This is inconsistent with the minimum requirement under S3.B.4.b.i.4.c.i for a minimum absorbent capability of 15 or more gallons. There should be sufficient bucket capacity for absorbent + spilled fluid. (needs to be determined by experiment: 15 gallons of fluid + absorbent is likely to require more than three 5 gallon buckets).Also, need to specify that the bucket material must be inert/stable/unaffected by contact with petroleum hydrocarbons.

Ecology's Response: The draft permit language is consistent with the SWMMs and the King County Stormwater Manual that both require 2 five gallon buckets. Spill kits are often available packaged in containers capable of holding spilled material, which combined with the buckets should be enough capacity for the spilled oil.

Illicit Discharges

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: concerns illicit discharges. It emphasizes that “[w]ater from washing vehicles or equipment, steam cleaning and/or pressure washing is considered process wastewater.” We suggest that “water from washing pavement” be included in this provision.

Ecology's Response: Ecology agrees that water from washing buildings or pavement is process water, and has modified the permit language for clarity as follows:

Water from washing vehicles or equipment, buildings, pavement, steam cleaning and/or pressure washing is considered process wastewater. The Permittee must not allow this process wastewater to comeingle with stormwater or enter storm drains; and must collect in a tank for off-site disposal, or discharge it to a sanitary sewer, with written approval from the local sewage authority.

Sampling Plan (Substantially Identical)

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: For clarity, the permit should specify that all six of the enumerated criteria for “substantially identical discharge point” should be documented in the SWPPP.

Ecology's Response: Ecology agrees that all six criteria must be documented. To provide clarity, Ecology has modified the permit language so that it now states:

“b. Include documentation of why applicable parameters are not sampled at each discharge point per S4.B.3 (if applicable). The required documentation includes:”

S4. General Sampling Requirements

Tiered Monitoring

Commenter: Mel Oleson

Summary of the Range of Comments: The NAS report suggest consideration of the following tiers:

. Inspection only. Low-risk facilities could opt for permit-term inspection by a certified inspector or the permitting authority in lieu of monitoring.

. Industry-wide monitoring only. All facilities in sectors that do not merit additional pollutant monitoring would conduct industry-wide monitoring for pH, TSS, and COD.

. Benchmark monitoring. Sectors that merit additional pollutant monitoring, based on the most recent data and industry literature review

. Enhanced monitoring. Facilities with repeated benchmark exceedances or those characterized by the permitting authority as large complex sites with high pollutant discharge potential

This approach has substantial merit if the criteria used for categorizing the industries is protective of water quality and there is adequate oversight to ensure that industries in one category are monitored to identify those that need to be moved into a different category. Among the NAS recommendations is consideration of the site size (impervious surface), activities, on-site chemicals and local weather patterns. All reasonable considerations. I would suggest that a more basic consideration is needed- the ratio of discharge volume to the volume of the receiving water. An underlying fallacy in the benchmark systems is that it does not consider the impact of the discharge flow/volume on the receiving water in terms of ratio of volumes.

Ecology's Response:

The National Academy of Science report was provided to EPA for their Multi Sector General Permit. The report did not evaluate Washington's ISGP. Ecology does not have any information that would support a decision to allow industry to move to inspection based monitoring only, and all permittees will continue to be required to sample their stormwater discharges.

Quarterly Sampling

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, and Mel Oleson

Summary of the Range of Comments:

- Ecology should revise the permit to require monthly grab sampling for some categories of permittees
- WDOE needs to revamp its permit data collection requirement to address the development of sufficient information to support development of reasonable standards for permittees compliance.
- WDOE needs to address ways that industrial dischargers to MS4s have an impact on the ultimate discharge to receiving waters.
- WDOE must develop a means to provide the permittee with receiving water information timely to their discharges so the impacts can be determined.

Ecology's Response: Ecology has considered the comments and chosen not to make any changes at this time. This decision is based, in part, on the PCHB's review and decision on the sampling requirements of previous

versions of the ISGP. The permit also doesn't preclude permittees from taking composite samples, or from monitoring more frequently. Several permittees are monitoring more frequently than required in the permit, and Ecology may require additional or more frequent monitoring for individual permittees where Ecology believes it is required (Condition G12).

It is the responsibility of permittees to develop site specific receiving water information as they develop responses for corrective actions. Permittees are responsible for meeting the permit requirements where their discharge leaves their property, including discharges to MS4 systems. This ensures that industrial stormwater discharges to MS4 systems do not contribute to MS4 exceedances at the receiving water.

First Fall Storm Event

Commenters: William Lider, Jerry Schamel, Andrew Cratsenberg, Northwest Seaport Alliance and Port of Tacoma, Port of Seattle, BNSF, Windward Environmental, Ross Dunning, Port of Port Angeles, King County, Association of Washington Business, and Mel Oleson

Summary of the Range of Comments:

- First flush date should not change.
- Changing the date doesn't allow permittees a chance to average down the results and requires more than one sample in the quarter to stay in compliance.
- Ecology doesn't use the data so why collect it.
- The first flush date doesn't capture August storms.
- First flush shouldn't count for compliance since it represents the worst discharge.

Ecology's Response: First flush data from the first fall storm event is required under a PCHB decision on the monitoring requirements of the ISGP. The Board has held that:

"However, we conclude the sampling requirements are deficient in their lack of a requirement of a baseline sample, based upon the first fall storm. This measurement is the one most likely to measure the maximum pollutant discharge from the source, as a result of the flushing of the accumulation of potential pollutants from the dry season. Regardless of the fact it may be a once per year phenomenon, this event is responsible for a significant amount of storm water pollution, which needs to be addressed, if the state is ever to achieve zero discharge, consistent with the goal of the Clean Water Act. We therefore remand the Permit for Ecology to require sampling of the first fall storm event."

The data from the first fall storm event is used to ensure permittees are actively implementing BMPs required by the permit during the dry season, particularly when water bodies are most susceptible to pollutant loading.

A review of the statewide meteorological data for the last 10 years shows that the first fall storm events tend to begin in September. While the change does move the date into a different quarter, Ecology understands that some locations will likely not have a discharge associated with the first fall storm event until sometime in the 4th quarter. However, Ecology must ensure it is collecting the correct data to make decisions on BMPs and implementation of the ISGP.

Permittees with concerns over not being able to average down their stormwater samples should be reminded that averaging down a sample is not something they should be relying on. Permittees must meet the permit benchmarks for all quarters, regardless of the amount of precipitation or the amount of samples they can collect.

Averaging Monitoring Results

Commenter: Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments: NWSA appreciates the clarifications for the multiple sampling events per day and per quarter. This is helpful.

Ecology's Response: Comment noted.

Sample Locations

Commenters: King County and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

Recommend changing this section to "Steps to Identify Sample Locations". Then S4B2 makes more sense.

Ecology's Response: Ecology has considered the comments and decided not to change the title at this time.

Ecology Requiring Sample Points Moved

Commenters: Anonymous, Ross Dunning, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Ecology doesn't know sites enough to make a determination about what is representative.
- Ecology requiring sampling points is inappropriate as subject to Ecology opinion rather than actual facility conditions.
- Recommend definition for "adverse conditions" as "those conditions that are unfavorable or danger such as those that require confined space entry, sampling in high traffic areas, place samplers in physical danger."

Ecology's Response: Ecology inspectors have found permittees who have intentionally located their sampling points in areas where conditions don't allow for regular sampling. This language now allows Ecology to require those sampling points to be moved. Permittees will have a chance to work with Ecology through the appeal process if they don't agree with new sampling locations. Ecology will change the term "adverse conditions" to "unsafe conditions" and use that definition. Ecology does not consider traffic onsite to be an "unsafe condition". Permittees are required to have control over their site, including traffic patterns, and be able to sample and control stormwater leaving their site. The modified permit language now states:

c. Ecology may require sampling points located in areas where unsafe conditions prevent regular sampling be moved to areas where regular sampling can occur.

Notification of updated sample points

Commenters: Ross Dunning, Northwest Seaport Alliance and Port of Tacoma, and King County

Summary of the Range Of Comments:

- Remove the redundant language

Ecology's Response: Comment noted and the permit language was modified as follows:

"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. The Permittee may be required to provide additional information to Ecology prior to changing sampling locations.

3. Substantially Identical Outfalls

a. The Permittee shall sample each distinct point of discharge off-site except as otherwise exempt from monitoring as a substantially identical discharge point per S3.B.5.b. If applicable, the Permittee is only required to monitor applicable parameters at one of the substantially identical discharge points.

~~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.~~

Proposed New Section

Commenter: Association of Washington Business

Summary of the Range of Comments: Proposed new section e. The Permittee's designation of sample locations, including any determination that discharge points are substantially identical and any changes or updates to sample locations per S4.B.2.d, shall constitute compliance with the Permit. If Ecology notifies the Permittee that changes or updates to sample locations are required, the Permittee has 30 days from the date of notice to update its designation and SWPPP. Explanation: Permittees make good faith efforts to comply with the Permit in the designation of sampling locations and notify Ecology of the specific sampling points designated in the SWPPP sampling plan. There should be a presumption of Permit compliance unless Ecology during a facility inspection or otherwise determines that alternative sampling points are required. In that event, Permittees should have 30-days to respond to update the sampling plan and outfall designation or provide documentation and justification as to why the Ecology suggestion is not substantially identical.

Ecology's Response: Ecology has chosen not to add this new section to the permit. Permittees are required to follow all permit conditions, and this language creates a condition that would allow permittees to violate permit conditions related to sampling. The permit defines the conditions that a permittee must consider for discharge points to be considered substantially identical. Ecology has enforcement discretion to work with permittees who are acting in good faith to comply with the permit.

Substantially Identical Outfalls

Commenters: Port of Grays Harbor, Anonymous, Jerry Schamel, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, Ross Dunning, Northwest Seaport Alliance and Port of Tacoma, and King County

Summary of the Range of Comments:

- Outfall in the title should be changed to "discharge point" for consistency of language
- Does this apply to all categories and all areas of a facility?

Ecology's Response: Ecology has chosen not to require submittal of a form by permittees to claim their discharge points as substantially identical. The discharge points are evaluated when Ecology inspects a facility, and it is up to the permittee to ensure their discharge points meet the requirements of substantially identical.

All facilities covered under the ISGP, regardless of category, must sample all discharge points except for those that are substantially identical.

Ecology has modified the title of the section to:

3. Substantially Identical Discharge Points

Sample Documentation

Commenters: Ross Dunning, Northwest Seaport Alliance and Port of Tacoma, and King County

Summary of the Range of Comments:

- We guess this means permittee. Ecology should clarify this section to replace "it" with "permittee."

Ecology's Response: Ecology has modified the language as follows:

d. An explanation of why the permittee could not collect a sample within the first 12 hours of a stormwater discharge event, if it was not possible. Or, if it is unknown, an explanation of why it is unknown if a sample was collected within or outside the first 12 hours of stormwater discharge.

Consistent Attainment

Commenters: Jerry Schamel

Summary of the Range of Comments:

Remove consistent attainment. Even with a one-time per year sample, industry will only keep their site clean immediately before they sample and will still be out of compliance when not sampling.

Ecology's Response: Comment noted. At this time, Ecology is opting to retain consistent attainment. Ecology believes that consistent attainment provides an increased incentive to permittees to comply with permit conditions.

Annual Sample for Consistent Attainment

Commenters: Ross Dunning and King County

Summary of the Range of Comments:

- Requiring annual sampling for those having reached CA negates the permittee benefit.
- It takes 8 quarters of sampling to reach consistent attainment and only one quarter to lose it. It is a disincentive for treatment system design.

Ecology's Response: Ecology disagrees that requiring an annual sample negates any benefit to the permittee. Consistent Attainment was included in the permit to decrease costs to permittees as well as provide an incentive to permittees to meet permit conditions. Permittees will still benefit from reduced sampling.

Requiring the annual sample will also help permittees remain in compliance with the permit and provide feedback about BMP performance.

Under the 2015 requirements, permittees did not know how BMPs were performing until they resumed sampling after 12 quarters. Many permittees triggered Level 2 and Level 3 corrective actions because they didn't have information provided to them during the 12 quarters they did not sample. Requiring the annual sample will help permittees evaluate their BMPs while on consistent attainment while still providing relief from sampling costs.

Commenters: Boise Cascade Wood Products LLC

Summary of the Range of Comments: If a facility can qualify for reduced sampling (once/year), the annual sample must be collected during 4th quarter. This doesn't address facilities that only discharge in the late winter/spring. Some facilities have containment/settling ponds/swales that fill throughout the winter and only discharge in 1st and/or 2nd quarters. As drafted, these facilities will not be able to take advantage of reduced sampling because they don't discharge in the 4th quarter.

Ecology's Response: Ecology acknowledges that some permittees have the type of scenario described by the commenter. Ecology has decided not to change the proposed permit language due to this scenario. Consistent attainment was originally implemented to provide relief to permittees from the requirements of sampling every quarter. Permittees who only discharge 2 quarters a year already benefit from reduced sampling.

Commenters: Judy Johanson, Port of Seattle, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, Northwest Seaport Alliance and Port of Tacoma, and King County

Summary of the Range of Comments:

- Does the 4th quarter sample for consistent attainment also include 1st fall storm event?
- If consistent attainment was achieved during the 2015 permit does it carry over to the 2020 permit?
- Permittees that achieved a consistent attainment monitoring exception under the current permit should restart monitoring to demonstrate their effluent quality.

Ecology's Response: Ecology's intent was that the annual sample would only be the 4th quarter sample, and not include the first flush sample. Since reporting and sampling is based on the quarterly average, Ecology determined that the annual sample should also be based on the quarterly average. Ecology decided against using the first fall storm event as the determining factor based on the fact that the first fall storm event is assumed to be representative of the worst case scenario for pollutants leaving the site. This is not always a true assumption, and the first fall storm event would not be representative of the normal discharge from the facility. Ecology believes that no matter when the sample occurs, permittees who are fully implementing the permit will be able to remain on consistent attainment while those that are negligent will not.

Facilities that achieved consistent attainment during the 2015 permit will not have to resample for 8 quarters to achieve consistent attainment again. Ecology recognizes that many facilities have implemented additional BMPs and treatment in order to attain consistent attainment and must be allowed to claim consistent attainment. However, those permittees will be required to submit the annual 4th quarter sample to show they

are still at consistent attainment beginning in 2020. If that sample exceeds benchmarks, then the permittee must resume sampling until they reach consistent attainment again.

Ecology has modified the permit language as follows:

- c. The annual sample must be taken during the 4th quarter. A facility may average the annual sample with any other samples taken over the course of the 4th quarter. The annual sample does not include the first fall storm event.

Lab Accreditation for pH and Turbidity

Commenters: Ross Dunning, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Clarify expectation for permittee to sample turbidity and pH in the field with what instruments and methods.
- Recommend deletion of S4.D.2 altogether, since turbidity and pH methods are already specified in Table 2.

Ecology's Response: The methods for turbidity and pH are clearly listed in S5. Table 2. The language will remain as those are the only two parameters exempt from laboratory accreditation.

S5. Benchmarks, Effluent Limitations and Specific Sampling Requirements

Use of Benchmarks Vs Numeric Effluent Limits

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, and Mel Oleson

Summary of the Range of Comments:

- Ecology needs to move from benchmarks to numeric effluent limits.
- Ecology can convert the benchmarks to a technology based effluent limit because implementing AKART makes permittees meet BMPs.
- Ecology can use "Permit Calc" to derive limits
- Why did Ecology group the data by sector in the fact sheet?
- Ecology needs to collect flow data to show pollutant loading.

Ecology's Response: Ecology is continuing to use a combination of benchmarks and narrative effluent limits as opposed to numerical effluent limits. Due to the variability of stormwater on a statewide scale, there currently is not a way for Ecology to collect the site specific data needed to develop water quality based effluent limits for stormwater in a general permit applicable on a statewide basis. The "permit calc" tool is not applicable to intermittent discharges, as the assumptions used for that tool are only reasonable for continuous discharges. Taking into account that stormwater discharges are typically not normally distributed and the tools that exist

use assumptions for continuous discharges instead of intermittent discharges, it is infeasible for Ecology to derive defensible numeric effluent limits.

The discharges from each sector tend to be similar for the permittees included in that sector. However, discharges from one sector may be vastly different than other sectors, and therefore do not correlate well with each other. Because of the difference between sectors, Ecology evaluates stormwater discharges by industrial sector. This is similar to the approach taken by EPA when they assign Effluent Limit Guidelines in 40 CFR to specific sectors. Each sector is assigned monitoring based on sector specific pollutants and required BMPs to address those pollutants. While some BMPs are applicable to multiple sectors, each sector does have its own set of BMPs that must be implemented. Ecology must look at each sector individually to determine any modifications needed to the BMPs for that sector.

The commenters also stated that Ecology could convert the benchmarks to technology-based effluent limitations since the benchmarks are attainable using treatment technologies. This is only partially correct. While treatment technologies can meet benchmarks, there is no one single treatment or technology, or even combination of technologies that can or does consistently meet benchmarks. Minor process changes or environmental changes could mean that whole treatments system must be reevaluated and either optimized or completely changed. If there were a treatment available that would consistently meet benchmarks, then Ecology could assign the treatment standard consistently attainable by that technology as a numerical effluent limit. However, Ecology is not aware of any treatment at this time that is capable of meeting that requirement.

Ecology will not require flow collection or measurement with this permit. This would require permittees to channelize or otherwise direct their stormwater flow through a meter. This may have unintended consequences on the receiving water flows and wouldn't allow for infiltration where available. Calculating all the discharge flows leaving facilities are also ineffective as it would be impossible to account for all evaporation and infiltration and lead to flow numbers that are inaccurate and make numerical effluent limits indefensible.

Ecology will continue to evaluate each sector and the treatments available and update the permit to reflect the current available technology.

S5.A.3 Duplicative Language

Commenters: Ross Dunning, King County, Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- There is duplicative language after the first sentence. Recommend striking the duplicative language as it is already stated in S4.B.1.f

Ecology's Response: Ecology has removed the duplicate language.

Table 2: Visible Oil Sheen

Commenters: Jerry Schamel, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Require the Visual Oil Sheen as monthly. Since they are inspecting their sites anyway, they should already be looking for this.
- Since there is no test to pay for, and if they see it is an exceedance, require it monthly.
- 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.
- 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.
- We urge Ecology to require TPH monitoring at all facilities, as is required for certain industrial sectors.
- If Ecology insists on retaining the visible oil sheen benchmark, we urge it to require permittees to submit photos to verify that no sheen was present.

Ecology's Response: Ecology has considered the comments and chosen to increase the monitoring for visible oil sheen to monthly. This coincides with the site inspection requirements.

Many industries have had monitoring for TPH added to their additional monitoring. The visible oil sheen allows for more real time feedback to permittees if pollutants are leaving the site. Oil sheen also typically begins to show up around 2-3 mg/L, which is below what the benchmark would be. Ecology is opting not to require the submission of photos as photographing sheen can be difficult due to light and water conditions and due to a range of permit implementation, electronic reporting, and data management concerns. If commenters know of sites misreporting their oil sheen, they are encouraged to report them to Ecology immediately. Willful misreporting of data is considered criminal in nature and may be referred to criminal enforcement.

Footnote about using other Method

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: Footnote a to Table 2, footnote a to Table 3, footnote d to Table 4, footnote c to Table 5, footnote c to Table 6, footnote b to Table 7, and footnote a to Table 8 would allow a permittee to use a method for sample analysis that is less sensitive than the 40 CFR 136-approved methods identified in the table. This is inappropriate and inconsistent with state and federal regulations. WAC 173-201A-260; 40 CFR 122.44(i)(1)(iv) and 40 CFR 136.1(b). Furthermore, the possibility that permittees are using alternative test methods makes it more difficult to identify instances when permittees report discharge concentrations in the wrong units (mg/L rather than µg/L for example), which is still a fairly common problem in our experience.

Ecology's Response: The footnotes state the method must be an approved method in 40 CFR 136. Ecology disagrees that the footnotes are inconsistent with federal or state laws, as they specifically require the methods to be approved by 40 CFR 136.

40 CFR 122.44(i)(1)(iv) states: "According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR part 136 for the analysis of pollutants or pollutant parameters or required under 40 CFR chapter I, subchapter N or O." WAC 173-201A-260 (3)(h) states: "The analytical testing methods for these numeric criteria must be in accordance with the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (40 C.F.R. Part 136) or superseding methods published. The department may also approve other methods following consultation with adjacent states and with the approval of the USEPA."

40 CFR 136.1(b) is not applicable to this permit as it pertains to sewage sludge, which is not an authorized discharge under this permit.

Footnote about pH

Commenter: King County

Summary of the Range of Comments:

- Footnote about pH is Ambiguous. "resolution not greater than"... Unlikely, to interpret as such, but literally as written this says synonymously 'resolution not better than'. To remove all ambiguity, recommend modifying the text to say: "resolution numerically not greater than"; OR "resolution of \pm 0.5 SU or better"

Ecology's Response: Ecology has modified the language to provide clarity as follows:

Permittees shall use either a calibrated pH meter or narrow-range pH indicator paper with a resolution ~~not~~ greater than of \pm 0.5 SU or better.

S5.B.2 Duplicative Language

Commenters: Ross Dunning, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- There is duplicative language after the first sentence. Recommend striking the duplicative language as it is already stated in S4.B.1.f.

Ecology's Response: Ecology has removed the duplicate language in both S5.A.3 and S5.B.2.

Table 3 Additional Benchmarks and Sampling Requirements Applicable to Specific Industries

Commenters: King County

Summary of the Range of Comments:

Recommend adding dissolved metals analysis, so reporting is for both total and dissolved. The benchmark would still be based on total metals. Should state at the onset that subtitle number codes are NAICS. Recommend adding dissolved metals analysis, so reporting is for both total and dissolved. The benchmark would still be based on total metals."

Ecology's Response: 40 CFR 122.45(c) requires that NPDES reporting for metals is in total metals. While dissolved may help permittees evaluate which treatment options will work for their site, Ecology is not collecting this data at this time.

Commenters: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper, and Center for Biological Diversity

Summary of the Range of Comments:

- Require sampling for microplastics
- Require the BMPs that California implemented in their permit
- Prohibit the discharge of plastic pellets and other particles

Ecology's Response: Ecology is aware of the microplastic issue brought up by the commenters. Plastic pollution is not solely attributed to industrial activity, and is found everywhere. Currently there is no approved water quality standard or method for sampling and counting microplastics. While the draft permit does not contain specific BMPs for facilities who generate plastic pollution, the draft permit and Stormwater Management Manuals do contain BMPs for all facilities regardless if they generate plastic pollution. If these BMPs are implemented by the permittees, Ecology believes they will work to control microplastics and other pollutants from leaving their sites. Ecology is actively watching the work California and others are doing with microplastics and will update the BMPs as necessary, and those BMPs will be required of all facilities, not just those that process plastic.

Commenters: Mel Oleson

Summary of the Range of Comments:

- The levels established for benchmarks are the result of a variety of inputs, many of which change as more information is developed. The inclusion of additional benchmarks for certain highly impacting chemicals may be justifiable for selected industries.
- A larger problem is the more ubiquitous chemicals that are either the result of heritage uses (i.e.: PCB's) or are air deposits across wide areas from sources not related to the industries (i.e.: Mercury from coal fired facilities in SE Asia).
- While neither of these is the "fault" of the industry under permit it does create the question of is the industry responsible for removing these highly toxic substances.

Ecology's Response: Permittees are responsible for all the pollutants leaving their site regardless of origin. This is consistent with applicable federal and state laws as well as case law.

Table 3 Specific Groups (1)

Commenter: King County

Summary of the Range of Comments:

- Seems like a really odd pairing. I'd expect to see very different pollutant profiles from these two categories.
- While the list may be appropriate for Food and Kindred Products, it seems wholly inadequate for Chemical and Allied Products.

Ecology's Response: The parameters are based on what is expected to be found in stormwater. When the pollutants were compared, some industries were grouped together. Many of the parameters are carried over from the first EPA MSGP. Ecology does have the ability to assign additional monitoring based on the site specific conditions if needed (Condition G12).

Table 3 Specific Groups (2)

Commenter: King County

Summary of the Range of Comments:

- Metals mining monitoring should include Mercury (Hg) - in particular for gold mining, probably for copper mining, and possibly for others.
- Arsenic monitoring is probably a prudent add for some to all of these.
- Recommend adding mercury (Hg) and asbestos as monitoring parameters.

Ecology's Response: The parameters are based on what is expected to be found in stormwater associated with that activity. While mercury is used in some gold mining operations, it is not used by all of them. Ecology does have the ability to assign additional monitoring based on the site specific conditions if needed (Condition G12).

Table 3 Specific Groups (3)

Commenters: Nisqually Environmental and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- The Laboratory Quantitation Level for Total Ammonia with the SM4500-NH3 method appears to be a misprint. A QL of 0.02 (changed from 0.3 mg/l) may not be achievable with this method. Please review and confirm this change.
- Many QL's changed and it is not clear why. Please clarify why these changes were made.

Ecology's Response: The quantitation level for Total Ammonia was changed to the correct number stated for the method SM4500-NH3. Other quantitation levels were updated to reflect the correct quantitation level required for the methods.

Commenters: Jerry Schamel

Summary of the Range of Comments:

Remove the magnesium benchmark, there are no water quality standards for this and it was added by EPA for no other reason than they didn't know what they were doing.

Ecology's Response: Ecology has considered the comment and determined that the method EPA used to derive the magnesium benchmark and the lack of a water quality standard in Washington for magnesium justify removing the magnesium benchmark pursuant to 40 CFR 122.44 (I)(2)(i)(B)(1) and (2). The magnesium benchmark has been removed from the permit.

EPA derived the magnesium benchmark by taking the minimum level based on the highest method detection limit times a factor of 3.18. However, EPA doesn't explain the rationale for using this method for establishing a benchmark when there currently is no data showing acute or chronic toxicity due to magnesium. Washington took that benchmark from EPA's MSGP.

40 CFR 122.44 (I)(2)(i) prohibits backsliding on NPDES permits unless the following criteria is met:

A) Material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(1) Information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(2) The Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under section 402(a)(1)(b);

(C) A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) The permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification). (40 CFR 122.44.I.2.i)

Table 3 Specific Groups (5)

Commenter: King County

Summary of the Range of Comments:

- Why not include BOD5 as a monitoring parameter?
- For Paper and Allied Products, why not include total residual chlorine as a monitoring parameter?"

Ecology's Response: The parameters are based on what is expected to be found in stormwater associated with that activity. In paper mills, bleaching is generally done indoors and the final product is kept indoors and dry. Ecology does have the ability to assign additional monitoring based on the site specific conditions if needed (Condition G12).

COD replaced the BOD5 monitoring requirement during the 2009 ISGP reissuance. Ecology made that switch based on data that showed the COD benchmark was just as protective if not more protective as the BOD5 benchmark. This decision was affirmed by the PCHB in 2011 [PCHB Nos. 09-135 through 09-141 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER].

Table 3 Specific Groups (6)

Commenter: King County

Summary of the Range of Comments:

- For Petroleum Bulk Stations and Terminals, where the stored material is gasoline, why not require NWTPh-Gx as a monitoring parameter?

Ecology's Response: The NWTPh-Dx test is more appropriate to catch the semi-volatile compounds that are likely to be found in stormwater at these sites. While gasoline may be stored on site, NWTPh-Gx does not have the capability to capture anything outside of the gasoline range, such as oil and diesel that may be associated

with equipment used to transport gasoline to and from the storage areas. Ecology is also unaware of any bulk stations that only have gasoline stored on site. However, at sites where gasoline is the only product stored, Ecology can add additional monitoring for NWTPH-Gx (Condition G12).

Table 3 Specific Groups (6)

Commenters: Northwest Seaport Alliance and Port of Tacoma, Ross Dunning, and King County

Summary of the Range of Comments:

- Please define "report only" in the glossary.
- Why not require monitoring for tributyltin (TBT)? And while that has been banned (monitoring suggested for legacy residuals), what anti-fouling paints are now used?
- Need to list specific PAH compounds

Ecology's Response: Ecology has opted not to define "report only" in the glossary. However, Ecology has modified the footnote to state:

A benchmark does not apply, but permittees must report the sampling result. "Report only" reporting may not be applied to consistent attainment. Ecology will use the data collected during this permit term to determine if the pollutants listed will need to be included in the next permit, and if so, develop benchmarks based on the data received and water quality criteria.

Ecology has also added a footnote listing the PAH compounds to be tested for. The additional footnote now states:

e PAH Compounds include: acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(ghi)perylene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, and pyrene

The parameters added were based on commonly found products associated with this category. If Ecology becomes aware of other materials at specific sites, additional monitoring can be required per condition G12.

Table 3 Footnote a

Commenters: Northwest Seaport Alliance and Port of Tacoma and King County

Summary of the Range of Comments:

- Footnote dropped the following sentence: If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR. Recommend restoring this sentence or clarifying why it was dropped

Ecology's Response: Ecology has reinserted the language into the footnotes including the requirement that permittees must upload the QA/QC documentation from the lab on the QL development.

Table 3 Footnote c

Commenter: King County

Summary of the Range of Comments:

- Are the deicers organic and not salts, and as such are they indicated by BOD5 and COD? Or would addition of chloride monitoring be advisable?

Ecology's Response: The pollutants in the table are based on concerns from the use of ethylene and propylene glycols and urea as deicing/anti-icing agents. Chloride based deicing/anti-icing chemicals are not used at airports due to their corrosive effects on aircraft.

Table 4 Effluent Limits subject to 40 CFR Part 445 Subpart B

Commenter: King County

Summary of the Range of Comments:

- What's the nexus between Table 4 and Table 2? The title suggests Table 4 may be in lieu of Table 2, but Table 2 says, "Benchmarks and Sampling Requirements Applicable to All Facilities". Yet Table 4 differs from Table 2 in that Table 2 has single benchmark values and Table 4 has average monthly and maximum daily values.

Ecology's Response: Table 4 are numerical effluent limits applicable to non-hazardous waste landfills subject to 40 CFR part 445 subpart B. The benchmarks in Table 2 are applicable to all sites, except when an effluent limit is in place. For facilities subject to the effluent limits, any parameter listed in the Table 4 will replace the parameter in Table 2 as a numerical effluent limit.

Table 4 Footnote f

Commenters: Northwest Seaport Alliance and Port of Tacoma and King County

Summary of the Range of Comments:

- No annotation in the table referring to f. What is the link here?

Ecology's Response: The annotation is located on the Laboratory Quantitation Level for both Alpha Terpineol and Benzoic Acid.

S6. Discharges to Impaired Waters

Eligibility for Coverage of New Discharges to Impaired Waters

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

Riverkeepers: 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. Ecology has recognized the arbitrariness of this practice. Specifically, Ecology announced a policy to change this practice to have listings correspond to segmentation indicated by the National Hydrology Dataset. WQP Policy 1-11 (July 2012) at 5. Does Ecology intend to continue to use the obsolete and arbitrary grid-based designation system for ISGP purposes, or to implement its 2012 policy in the ISGP?

Ecology's Response: Ecology will use Policy 1-11 which was updated in 2018. Policy 1-11 uses grid-based designation for marine waters and segment-based designation for freshwaters. The ISGP must use the current tools in place.

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

Commenters: Boeing

Summary of the Range of Comments:

- When adopting the 2015 ISGP, Ecology removed the 2010 ISGP language that authorized Ecology to issue compliance schedules, without explanation.
- Reinstate a compliance schedule of up to two full wet seasons to implement necessary BMPs to meet the numeric effluent limits.

Ecology's Response: Ecology has opted to reinstate a compliance schedule for existing permittees. Given that permittees have expended resources to install treatment to meet the benchmarks and will have to now modify that treatment to meet the numeric effluent limits, Ecology will allow for a compliance schedule not to exceed two years. This time frame will give permittees a full wet season to characterize their effluent and the necessary time to install and adjust additional BMPs in order to meet the numeric effluent limits. The modified permit language now states:

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. If a discharge point is subject to an impaired waterbody effluent limit (Condition S6.C) for a parameter that also has a benchmark, the effluent limit supersedes the benchmark. Permittees discharging to a 303(d) – listed waterbody (Category 5) that was not 303(d)-listed at the time of 2015 permit coverage shall comply with the applicable sampling requirements and numeric effluent limits in Table 6 as soon as possible, but no later than January 1, 2022.

Table 6 Sampling and Effluent Limits Applicable to Discharges to 303(d) Listed Waters

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

S6.C and Table 6 omit a numeric benchmark for fecal coliform, E. coli, and Enterococci concentrations in discharges to waterbodies that are bacteria-impaired. Commenters urge the inclusion of fecal coliform, E. coli, and Enterococci numeric benchmarks here.

Ecology's Response: Ecology has decided to retain the existing narrative effluent limitation, without revision. Various site visits from Ecology to facilities with higher bacteria numbers have shown that the bacteria is not caused by industrial processes, but rather native and non-native wildlife as well as illicit discharges outside the permittees control. Ecology believes that by instituting a numeric benchmark for bacteria, permittees may run the risk of violating federal, state, or local laws such as the Migratory Bird Treaty Act in order to meet a limit. Ecology has found that permittees who implement bacteria related BMPs tend to have a lower result for bacteria than those who do not. And since permittees are still required to control pollutants leaving their sites, the narrative requirements must still be implemented.

Commenter: King County

Summary of the Range of Comments:

- The analytical methods for the three listed bacteria parameters are membrane filtration (MF). Anecdotally, my recollection from when I worked at Ecology's Environmental Assessment Program was that 'most probable number (MPN) was supposed to be used for marine and industrial water.
- Consult with EAP staff with regard to the appropriate analytical method, and if warranted, change the listed methods in Table 6 to MPN methods.

Ecology's Response: Membrane filtration is the more appropriate method for stormwater and the methods listed in the draft ISGP are consistent with 40 CFR 136. Permittees may use other methods listed in 40 CFR 136 if the reporting level is the same.

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- S6.C.1, Table 6, note g provides that site-specific effluent limitations for phosphorus, ammonia, copper, lead, zinc, and pentachlorophenol "will be assigned at the time of permit coverage." However, we have encountered multiple permittees that discharge to 303(d)-listed waters that are impaired for one of these parameters, but were not assigned a site-specific effluent limitation at the time of permit coverage due to an oversight or a mistake in the permit application. The permit should specify the water quality criteria as the default numeric effluent limitation for these dischargers, rather than relying on a site-specific letter process that is not applied consistently. What is the utility of a site-specific numeric effluent limit for these discharges which are not subject to a mixing zone?

Ecology's Response: Many waterbodies were listed after the last permit issuance. Effluent limits are imposed to those permittees at the time of issuance. Those permittees will have the new effluent limits assigned to them at the issuance of this permit. Some permittees had effluent limits assigned to them during this permit cycle because they either modified their permit coverage or modified their discharge points, at which time Ecology could impose the effluent limit.

Ecology must use hardness and translator values in order to calculate effluent limits. Setting the numeric effluent limit at the water quality standard would require permittees to sample for hardness at the same time as their regular sample, and then back calculate the effluent limit. Permittees would not know what the effluent limit was until they received their results. Assigning the effluent limit at the time of coverage allows

Ecology to use the criteria and assign a numeric effluent limit to each facility based on their discharge and the appropriate hardness and translator value.

Commenters: Mel Oleson

Summary of the Range of Comments:

- Ecology needs to collect substantial data on pollutant discharge quantity/quality and the impact on the receiving waters in order to conduct the needed evaluation of the use of mixing zones and wet weather water quality criteria. The continued use of dry weather criteria creates an inherent excess of restrictive standards, especially for waterbodies covered by 303d designations or dry weather based TMDL waste load allocations.

Ecology's Response: This comment pertains to how water quality standards are set and is beyond the scope of the draft ISGP.

TSS Effluent Limit

Commenters:

Summary of the Range of Comments:

- 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 the limit not 10 or even 5 mg/L?
- Has Ecology considered the reasonable potential characterization factors identified at WAC 173-204-400(6) for ISGP-authorized discharges?
- What is the basis for Ecology's determination that no ISGP permittee need apply for a sediment impact zone?
- The TSS effluent limit should be statewide.
- TSS effluent limit is not the best means of preventing recontamination of cleanup sites.

Ecology's Response: 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. 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)."

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. However, the factors listed in WAC 173-204-400(6) are factors to consider in establishing monitoring conditions in an individual permit and are not applicable to the ISGP.

The ISGP does not include a mechanism to require Permittees to apply for a sediment impact zone and 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.

Commenter: Joyce Mercuri

Summary of the Range of Comments: reference to a requirement from paragraph S6.C.1.c - note that paragraph S6.C.1.c is no longer present as it has been stricken from the text of the permit.

Ecology's Response: The reference has been removed.

Table 7 Sampling Requirements for Puget Sound Cleanup Sites

Commenters: Joyce Mercuri and Ross Dunning

Summary of the Range of Comments:

- Oakland Bay and Shelton Harbor sediment sites should be included
- Clarify where are PSSCs. Link to a map that's easy to understand and identify.

Ecology's Response: Oakland Bay and Shelton Harbor sediment cleanup site have been added to the Puget Sound Sediment Cleanup Site list. The sites are listed in Ecology's Water Quality Atlas as well as on Ecology's webpage for the spills and cleanup program.

Storm Drain Solids Sampling

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

Summary of the Range of Comments:

- This requirement may discourage routine line cleaning.
- Ecology should reward facilities who maintain the 30 mg/L TSS effluent limit by not requiring line cleaning samples.
- Recommend that Ecology revise the permit to require removal early in the permit term, e.g., June 30, 2020, rather than anytime during the permit term.
- Commenters are concerned that the storm drain cleaning and solids analysis requirement is limited to "storm drain lines (including inlets, catch basins, sumps, conveyances lines [sic], and oil/water separators) owned or controlled by the permittee." (emphasis added). Many of the largest permittee facilities presenting the most significant water quality risks are tenants, including cargo terminal operators and lessors of port property, which may attempt to avoid this requirement by asserting that they do not own or control the storm drain lines and facilities.
- Commenters suggest adding the following for dischargers to the Puget Sound Sediment Cleanup Site that requires the following: "If Permittees detect PCBs in their storm drain solids under Condition S6.C.e, the Permittee must add total PCBs to its stormwater discharge monitoring plan, analyze its discharges for total PCBs using Method 8082, and report PCB concentrations on its quarterly DMRs."
- Ecology should also consider language from Seattle Iron & Metals permit, which states: "[T]his permit prohibits discharge of stormwater contaminated by the Permittee's activities from areas beyond the Permittee's processing area and stormwater collection and treatment system. Polluting materials from solids tracked out on vehicle wheels (trackout), airborne dust, spills from transport vehicles, and any other source of solids carrying pollutants generated by the Permittee's activities must be controlled to

prevent transport to neighboring public or private areas and their discharge to Seattle's stormwater conveyance system. The Permittee must immediately control and clean up any fugitive emissions from its metals processing area onto neighboring properties to prevent fugitive solids from reaching the public storm drain system and waters of the State.”

Ecology’s Response: Ecology has considered the comments and decided to retain the draft language as written. Ecology will use the data collected to determine if the results collected last permit cycle were caused by long term historical buildup or short term issues. Ecology has decided to give permittees the term of the permit in order to complete this sample. Many permittees were granted extensions last permit cycle which led to the collection of sediment samples as late as 2018. Allowing this time will give facilities some flexibility as well as allow sediment to accumulate to sample.

Ecology disagrees that this requirement discourages more frequent storm line cleaning, and believes it helps incentivize the cleaning of the storm lines. The cleaning of storm lines is a required BMP, and the sampling requirement helps ensure that BMP is being implemented. Regarding concerns about Permittees asserting that they need not clean out lines they do not own or control; Ecology is not aware of any permittee who attempted to use the reasoning stated by the commenters to not sample. However, Ecology has modified the permit language to state:

Permittees shall remove accumulated solids from storm drain lines (including inlets, catch basins, sumps, conveyance lines, and oil/water separators) on or beneath your facility ~~owned or controlled by the facility~~ at least once in the term of the permit.

Ecology has decided not to add the language proposed by the comments around PCBs. Method 8082 is only applicable to characterizing sediment and is not an approved method for compliance with NPDES permits. Ecology will analyze the results and determine if additional monitoring is required. If so, Ecology can request additional monitoring using an appropriate method. (Condition G12)

Ecology has decided not to add the language from the Seattle Iron and Metals permit. The language as written is not an enforceable condition that would be applicable to all sites covered by a general permit. The ISGP does not have control over airborne materials. The ISGP also prohibits the activities mentioned in that language through the implementation of the required BMPs. S10.A prohibits discharges that cause or contribute to a violation of Surface Water Quality Standards (Chapter 173-201A WAC), Groundwater Quality Standards (Chapter 173-200 WAC), Sediment Management Standards (Chapter 173-204 WAC), and federal human health-based criteria for Washington (40 CFR 131.45). Any discharge not in compliance with those standards is prohibited with this permit.

Requirements for Discharges to Waters with TMDLs

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- 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).

Ecology's 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 because these TMDLs do not identify stormwater as a significant source of pollutants of concern and did not require ISGP discharges to be reduced or eliminated. More recent TMDLs are incorporating stormwater discharges and assigning WLAs where appropriate.

S7. Inspections

Certified Inspectors

Commenter: Mel Oleson

Summary of the Range of Comments:

- Imbedded in the NAS recommendation is the use of certified inspectors or the permitting authority. Does Ecology have standards for what would constitute as certified inspector. There are programs that provide certifications for a range of professions. The professional engineer is an example that is written into state law as a requirement for "signing off" on many engineering related projects- including some level 3 corrective actions. There is the Envirocert program that focuses on stormwater certifications at various levels including inspectors and industrial site management. If WDOE chooses to go this route, then they need to specify the type of qualification that can be used by industry to certify an inspection only facility.
- Mandatory training for any person responsible for the sampling and flow measuring efforts must be incorporated into the permit. The training should cover the basics of sampling mechanics for grab and multi-grab or composite sampling. It should provide instructions on how to store and transport the samples and necessary custody documentation. Further, the training must cover visual inspections protocols and documentation. This training shall be documented in the SWPP by name, and repeated periodically. While it would be good to hold this training in person it is recognized that on-line training maybe appropriate for smaller discharge sites.
- There needs to be additional training for Ecology staff.

Ecology's Response: The permit requires that the permittees ensure inspections are conducted by qualified personnel. It is up to the permittee to determine the personnel at their facility that meet the definition. Ecology is not implementing an inspector credential program for the ISGP. Ecology will offer technical assistance to permittees who request it if they need help conducting inspections.

We appreciate your comment suggesting inspectors have the appropriate skills and training to implement the permit. Ecology agrees that this is an important aspect of permit implementation and we are confident that our recruiting and training of field inspectors meets this goal. Ecology is not implementing an inspector credential program for the ISGP.

The National Academy of Science report was provided to EPA for their Multi Sector General Permit. The report did not evaluate Washington's ISGP.

S8. Corrective Actions

Corrective Actions General

Commenter: Mel Oleson

Summary of the Range of Comments:

- Bad or lack of relevant information creates an unreliable basis for issuing corrective actions. As data builds about the inaccuracy of benchmarks and lack of wet weather or other relevant water quality standards that are the foundation upon which the current corrective action system is based creates a system “on wet sand about to undergo a legal/technical earthquake”; The corrective action provisions should be significantly altered at the level 1 and level 2 condition to validate the level 3 actions being imposed. The following is provided as an example of the type of level 1 and level 2 corrective actions that should be triggered by benchmark exceedance.

Level 1: In addition to review of site source control measures and verification of functional SCM the permittee will be required to develop and implement a composite data collection approach for all its discharges that will operate through out at least one storm event each month. The permittee will be required to install and operate flow / volume monitoring processes that will provide automatic data on flows every 15 minutes to an automated data recording system during the composite sampling event. The permittee will be required to obtain the receiving water flow from the nearest waterbody flow measurement station (i.e.: USGS) for each hour of the event. There will be no exception for unmanned or after hour facilities. All data will be provided to WDOE in an acceptable electronic format. WDOE will be responsible for reviewing the data and determining if an EMC based benchmark is being exceeded. [note: as mentioned previously WDOE may need to develop variations on this approach for tidal and still water situations] If no exceedance, then the permittee will be allowed to return to standard sampling practices but will also be required to collect flow data over at least one storm event per month (preferably the one(s) that samples are taken. The entire sampling effort will be overseen by a qualified professional to ensure accurate data collection. WDOE will be required to evaluate the collected data to determine the ECM for exceedance of a benchmark. The permittee may evaluate the ECM to apply for benchmark exemption based on compliance with provisional Wet Weather water quality standards developed by WDOE. If there is continued benchmark exceedance, then:

Level 2: The permittee will be required to continue monitoring, source control and visual inspection requirements of level 1. The permittee will also engage a professional inspector to examine the site with special emphasis on structural controls that could be implemented to address discharge concerns. The report will be submitted to WDOE and included in the SWPP. The permittee will address all the inspection report findings and provide WDOE /SWPP an annual update on structural and source control improvements. The permittee will also conduct quantifiable testing of the SCMs on site to ensure they are working properly. The test results will be provided to Ecology and included in the SWPP. Non function SCM will be repaired or replaced as needed as part of structural controls. The monitoring data will be evaluated by WDOE each year to identify if the level two actions are resulting in improvements that will bring the site within in benchmark standards (or numeric limits on 303d listed waterbodies). If yes, then the permittee will revert to level one for one year and if conditions continue to be acceptable will revert to standard sampling and flow monitoring. The permittee may evaluate the ECM to apply for benchmark exemption based on compliance with provisional wet weather water quality standards developed by WDOE. If progress is not acceptable; then,

Level 3: existing requirements for additional SCM, structural and source control measures will be required. Level 2 monitoring requirements will remain in force.

- Ecology needs to collect flow and receiving water data to determine if a permittee needs to install treatment or is violation water quality standards before requiring treatment.

Ecology's Response: Ecology has considered the comment and chosen not to change the requirements of corrective actions. Data shows that the current corrective action requirements work and are implementable by permittees.

Included in the corrective action process is the option to apply for a waiver. It is up to the permittee if they wish to apply for a waiver, and if so, must do the water quality study to show that by implementing AKART their discharge is not impacting water quality.

Corrective Actions Required Timeline

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- S8.C.4.e and S8.D.5.e (which state "For the year following the calendar year the permittee triggered a Level 2 [or 3] corrective action, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions") should be revised to make it clear that they only apply to permittees that are in fact implementing Level 2 or Level 3 Corrective Actions and only during the time they are actually implementing the Corrective Actions.
- Commenters urge Ecology revise the arbitrary "calendar year" delineation in the permit. We recommend that the conditions triggering Level Two and Level Three Corrective Actions be determined by benchmark exceedances in a 12-month period, regardless of the calendar year.
- If a facility fails to sample in a quarter when there was a discharge, it should be presumed that there was an exceedance for the purposes of determining Level 2 and Level 3 triggers.

Ecology's Response:

Ecology has decided not to make any changes to the corrective action requirements based on these comments. Permittees who opt to not complete corrective actions during their implementation year are out of compliance with the permit and subject to enforcement. Similarly, facilities who fail to sample (except those facilities who do not discharge) are in violation of the permit and also subject to enforcement.

Ecology has decided to retain the permit requirements to be based on exceedances acquired during the calendar year. This approach lines up with reporting requirements and allows Ecology to quickly and easily determine who is required to complete corrective actions.

Ecology will not count missed samples as an exceedance. This would result in an arbitrary approach to corrective actions. Ecology has investigated several permittees who claim "no discharge" during wet quarters and found that several of them in fact may not discharge during wet quarters due to conditions on site such as storm systems with extra capacity for holding water and detention ponds. The approach proposed by the commenters would then force these permittees into corrective actions that would not be required. Permittees who fail to sample their discharge are out of compliance with the permit, and Ecology is working to enforce on those permittees.

Requesting a Waiver or Extension

Commenter: Nisqually Environmental

Summary of the Range of Comments:

- In discussions with the field Ecology staff, it was our previous understanding that waiver requests were reviewed by a team of Ecology staff familiar with the permit and the site in question. It has come to our attention that modification or waiver requests in this section are not necessarily reviewed by a team or by persons familiar with the site before “Ecology” provides a decision on the request. This seems unreasonable and limits the opportunity for clients to present their cases effectively. Please provide some clarification in the level 2 and 3 waiver and time extension process inside of Ecology

Ecology’s Response: Waiver and time extension requests are reviewed by a team. This team ensures Ecology’s decisions comply with the permit, state and federal laws, and applicable case law. The facilities inspectors are able to provide input about the decision including activities at the site, however, they do not make the final determination.

Level 3 Corrective Action (Waiver from QISP)

Commenter: Anonymous

Summary of the Range of Comments:

- Please provide clarity of process to the following: "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."

Ecology’s Response: The request is only for a waiver from having a QISP review the SWPPP. This does not waive the installation of BMPs or treatment. That is handled through a separate request detailed in the permit. The permittee can request the waiver from having a QISP review by simply emailing their regional inspector.

Level 3 Corrective Action (submittal of engineering report)

Commenters: Jerry Schamel, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Require 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—not just Level 3 responses that involve treatment BMPs which require site specific engineering.
- Commenters urge Ecology to clarify that catch basin and roof downspout filtration constitute Level 2 structural source control BMPs, or be 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.

Ecology's Response: Ecology has considered the comments and opted not to require engineering reports for options that do not require site specific design or sizing. The permit requires a Qualified Industrial Stormwater Professional to ensure that SWPPP revisions are appropriate and reasonably expected to meet benchmarks.

Filtration is considered a treatment BMP by definition. Ecology disagrees that the use of catch basin and roof downspout filtration is "applicable" to many permittees as stated by the commenters. The Stormwater Management Manuals list roof downspout or catch basin filtration as "recommended" to some types of activities, and applicable only in certain instances where specific criteria is met. Many permittees are able to install other source control prior to installing filtration and meet benchmarks. These BMPs will remain allowable as a Level 3 Corrective Action response.

Level 3 Deadline

Commenters: Port of Seattle, Association of Washington Business, King County, Northwest Seaport Alliance and Port of Tacoma, Port of Port Angeles, Boeing, Port of Vancouver, BNSF, Washington Public Ports Association, and Mel Oleson

Summary of the Range of Comments:

- Additional time is needed for permittees to implement level 3 corrective actions at large, complex facilities. For example, smaller facilities (10 acres or less) should be allowed to submit "no later than September 30th of the following year," while larger facilities(>10 acres or design/construction costs greater than \$1 million) should be allowed to submit "no later than September 30th two years after triggering the level 3 requirement."
- The draft permit provides Ecology 60 days to approve/decline a level 2 extension request, and then, if declined, provides only 45 days for the Permittee to implement the level 2 corrective action. Similarly, with the level 3 extension letter, Ecology has 60 days to approve/decline and then, if declined, provides only 75 days for the Permittee to design and construct a complete treatment system. Ideally, the submittal/approval process would happen earlier in the year so that design can be completed in winter/spring, and construction start no later than June 1st. This would require shifting the ISGP reporting year by one quarter: from October 1 to September 30. If this is not possible, extension requests and engineering reports should be reviewed and approved/declined by Ecology in no more than 30 days to maximize Permittees design and construction window and provide certainty to the process. These submittals/approvals should be automatically approved after 30 days, similar to the Notice of Intent process.
- Facility managers cannot approach management for design funding/approval until they are certain the extension has been declined by Ecology, and an organization cannot responsibly proceed with design/construction of a complex treatment system until they have certainty that Ecology has approved the design approach.

Ecology's Response:

Ecology has considered the comments and decided not to adjust the schedules based on facility size or cost. Past performance has shown that facilities of any size can implement Level 3 corrective actions in the time allowed under the permit. By applying the changes proposed by the commenters, Ecology would be creating an unfair advantage to a small group of permittees. The proposed language punishes small business with a smaller footprint or limited budget while arbitrarily granting extra time to large facilities with larger budgets and more manpower when additional time may not be warranted.

The permit already contains an option for time extensions. Permittees are encouraged to work with Ecology engineers prior to the default deadlines in the permit and provide the information required so Ecology engineers can quickly process and approve the engineering reports. The timelines in the permit are consistent with state and federal laws and have been validated by the PCHB [BNSF Railway v. Ecology, PCHB 12-062c, Order on Motions for Partial Summary Judgment (May 28, 2013)].

S9. Reporting and Recordkeeping

Reporting Permit Violations

Commenters: King County and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Clarify the purpose for reporting to the local jurisdiction as follows: "1. b. Immediately notify the local MS4 permit holding jurisdiction and appropriate Ecology regional office of the failure to comply:"

Ecology's Response: Ecology requires this so that local emergency response agencies can respond quickly when there is a danger to human health or the environment.

Public Access to SWPPP

Commenters: Jerry Schamel, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Require that all people who have a permit put their SWPPP online for review
- Concerned that relying on permittees to frequently update online copies of their SWPPP may lead to confusion and mistakes, and that the URL provided in an NOI may not be readily accessible to Commenters who regularly request and rely on permittees' SWPPPs. We suggest that S9.G.3 be revised to read: "Provide a URL to your current SWPPP within 14 days of receipt of the written request."
- Request Ecology clarify this section to read, "...To remain current, you must post any SWPPP modifications, records, and other reporting elements required for the permit term at the same URL as the main body of the SWPPP unless such records are already posted to PARIS via the Water Quality Portal."

Ecology's Response: Ecology has decided to allow permittees who wish to participate to keep and maintain their SWPPP online. Many permittees do not have websites or may not want to do the extra work that would be required to maintain everything online. As with any SWPPP, all the information that is required must be present with the SWPPP. PARIS is the database of record for information required by Ecology, not a database for SWPPP information. In order to remain compliant, the SWPPP posted online must contain all the requirements in the permit.

Ecology disagrees that a permittee who provides a URL in the NOI may mean the SWPPP is not readily available to requesters. The NOI is publically available on the PARIS database. Permittees who provide a URL but do not provide access to that URL would not meet the public availability requirements. The permit explicitly states

that SWPPP can be found at that URL. Merely providing Ecology with a URL does not mean that permittees have made their SWPPP publicly available. In cases where the SWPPP is not available at the URL listed on the NOI, the permittee must still provide that SWPPP within 14 days of written notification.

Public Availability of Data

Commenters: Mel Oleson

Summary of the Range of Comments:

- Make all stormwater data public. Right now it's almost impossible to find an integrated and easily understood source of data and water quality standards related to stormwater. It needs to be in a simple Excel spreadsheet so everybody can look at it and we all can evaluate what's going on.

Ecology's Response: All DMR data is available through Ecology's PARIS database (<https://apps.ecology.wa.gov/paris/PermitLookup.aspx>) and is available to be downloaded into Microsoft Excel. The water quality standards are located in Chapter 173-201A of the Washington Administrative Code (WAC).

S10. Compliance with Standards

Addition to Language

Commenters: Association of Washington Business, King County, and Northwest Seaport Alliance and Port of Tacoma

Summary of the Range of Comments:

- Propose New Section D. We propose the following: "A Permittee remains in compliance with S10.A when the Permittee notifies Ecology in writing within 30 days of becoming aware, based on credible site-specific information that a discharge from the facility is causing or contributing to a known or likely violation of Water Quality Standards in the receiving water. Written notification provided under this subsection shall, at a minimum, identify the source of the site-specific information, describe the nature and extent of the known or likely violation in the receiving water, and explain the reasons why the discharge is believed to be causing or contributing to the problem. For ongoing or continuing violations, a single written notification to Ecology will fulfill this requirement. Propose New Section E. In the event that Ecology determines, based on a notification provided under S10D or through any other means, that a discharge by the Permittee is causing or contributing to a violation of Water Quality Standards in a receiving water, Ecology will notify the Permittee in writing that corrective action in accordance with S8 is required, unless: (1) Ecology also determines that the violation of Water Quality Standards is already being addressed by a Total Maximum Daily Load (TMDL) or other enforceable water quality cleanup plan; or (2) Ecology concludes the Permittee's contribution to the violation will be eliminated through implementation of other permit requirements.

Ecology's Response: Ecology has considered the comments and chosen not to add new sections under this condition. If a permittee knows that it is causing or contributing to a violation of water quality standards, the permittee is required to take action to correct these violations. Ecology will continue to use enforcement discretion for facilities who act in good faith to self-report possible violations of water quality standards and act diligently to address the violations.

Definitions

Discharge

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: “Discharge.” Why is “discharge [of a pollutant]” defined in terms of discharges to waters of the United States rather than waters of the State?

Ecology’s Response: This definition initially came from the EPA MSGP. Ecology has chosen to modify the definition as follows:

Discharge [of a pollutant] means any addition of any pollutant or combination of pollutants to surface waters of the State of Washington ~~United States~~ from any point source. This definition includes additions of pollutants into surface waters of the State of Washington from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Discharger

Commenter: ASSOCIATION OF WASHINGTON BUSINESS

Summary of the Range of Comments: Modify “Discharger” by adding a definition for “Operator” as follows: Discharger means the operator of the industrial facility covered by this General Permit. an owner or operator of any facility or activity subject to regulation under Chapter 90.48 RCW or the Federal Clean Water Act. Operator – any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria: 1. The entity has operational control over industrial activities, including the ability to make modifications to those activities; or 2. The entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit). Discussion: The Permit currently uses the term Discharger to describe the operator subject to coverage under the Permit. For example, the Permit uses the term to distinguish the (existing) discharger and a proposed new discharger in explaining Permit Coverage transfers (Condition S2.D.1). The Permit uses the term to describe the geographic location of the operator’s facility for purposes of identifying receiving water-specific conditions (Condition S6.B; G4; G5). Third, the Permit uses the term Discharger to identify the entity authorized to appeal Permit terms or modify Permit coverage (Condition G22, G23). The proposed definition of discharger is based on that adopted by California in its General Permit for Storm Water Discharges Associated with Industrial Activities. The proposed definition of Operator is adopted from Appendix A of EPA’s Multi-Sector General Permit (MSGP). Adopting these definitions will clarify that the entity identified in these Permit conditions is the facility’s operator and clarify the standard for identifying a facility operator.

Ecology’s Response: Ecology has considered the comment and defined the term operator as follows:

Operator means any entity with a stormwater discharge associated with industrial activity.

Equivalent BMPs

Commenter: King County

Summary of the Range of Comments: Spell out the acronym SWMM

Ecology's Response: Ecology has considered the comment and opted not to change the definition. The acronym is provided in both the acronym sheet and in the definitions.

Facility

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments:

- Ecology modified the definition of "facility" slightly, substituting the word "establishment" where the current permit uses the word "source." Is this intended to change the meaning of the term "facility," and if so, how?
- Ecology stated that "Once a transportation facility has permit coverage, the permit conditions for sampling, inspection and stormwater management practices are required in all areas of industrial activity, rather than only those areas where vehicle maintenance, equipment cleaning and airport de-icing occur." Does Ecology interpret the new draft permit the same way?

Ecology's Response: Ecology has reverted the definition back to use the term source. This was an accidental change that didn't get caught prior to the draft going out for public notice. Ecology interprets the draft permit the same way it did the 2015 ISGP, the permit applies to all areas of industrial activity at transportation facilities because those facilities are significant contributors of pollutants that are reasonably expected to cause or contribute to one or more violations of water quality standards.

Industrial Activity

Commenters: Northwest Seaport Alliance and Port of Tacoma, Port of Grays Harbor, Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, Spokane Riverkeeper, and King County

Summary of the Range of Comments:

- We request definition (2) be deleted from the definition. We request definition (3) be modified as follows: "(3) identified by Ecology as a significant contributor of pollutants by written notification to the facility."
- On page 7 of the permit, it reads "Industrial materials and activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, and final products, or waste products." This is an expansion of "industrial activities" not supported in 40 CFR 122.26.
- The definition of "industrial activity" may benefit from more consistent formatting.

Ecology's Response: Ecology has considered the comments and modified the definition as follows:

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) the activities occurring at any facility identified by Ecology as a significant contributor of pollutants. [Table 1](#) lists the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi) in a different format.

Stormwater Discharge Associated with Industrial Activity

Commenter: Columbia Riverkeeper, Citizens for a Healthy Bay, Puget Soundkeeper Alliance, RE Sources for Sustainable Communities/North Sound Baykeeper, and Spokane Riverkeeper

Summary of the Range of Comments: “Stormwater Discharge Associated with Industrial Activity.” The definition of “Stormwater Discharge Associated with Industrial Activity” is confusing in that it references 40 CFR 122(b)(14) but not the permit’s more particular definition of “industrial activity” which includes activities that are not listed in 40 CFR 122(b)(14). Wherever the permit uses the term “Stormwater Discharge Associated with Industrial Activity,” it appears that the permit’s definition of “industrial activity” is actually intended. We suggest that Ecology delete the separate definition of “Stormwater Discharge Associated with Industrial Activity” to reduce confusion. If Ecology is using the term “Stormwater Discharge Associated with Industrial Activity” to intentionally reference a more limited set of activities for certain permit provisions, please explain.

Ecology’s Response: Ecology has deleted this definition as the term was not used in the permit, nor was it used in the 2015 permit.

Unsafe Conditions

Commenter: King County

Summary of the Range of Comments: What unsafe conditions - relative to sampling - are caused by drought? If drought prevents sample collection, the more relevant reporting explanation is "no discharge". Recommend removing drought from this definition.

Ecology’s Response: Ecology has considered the comment and opted not to change the definition at this time. Drought would make sampling inaccessible or impractical, and is stated as such in the definition.

General Comments

Commenter: Jim Bjorkman

Summary of the Range of Comments:

- It would nice if there was a simple place to find the changes being made.
- It would nice if the sections numbers from the old permit were not relabeled. Now we have to change every section in our plans based on new labels.

Ecology's Response: Ecology provided a redline version that had all the changes shown as well as a table of changes in the fact sheet. The only section that was renumbered was Section 9, and Ecology is providing permittees time to update their SWPPPs accordingly.

Commenter: Jerry Schamel

Summary of the Range of Comments:

- Ecology needs to provide more guidance to small permittees. As it is now, the only trainings are by independent places that are too expensive or put on by consulting firms who try to sell their "magic seeds" that never work. Ecology training would allow us to get the info from the people who actually know what is going on and not secondhand.
- Ecology should attempt to accredit consultants/engineers/etc the same way they do labs. This would ensure the work we get is actually correct and not some way for a consultant to fleece us out of our money. While the manuals help figure some stuff out, and Ecology engineers review the plans, many places try to use off the shelf stuff without even attempting to see if it would work according to Ecology.
- Looking over the data in the fact sheet, it is obvious certain industries are problematic (i.e. water transportation). The median is far above the marine water quality standard. Why hasn't ecology initiated enforcement on those people? Instead, 3rd parties must get involved to level the playing field for those of us who try to do the right thing. Just because they have a powerful lobby and union does not excuse them from the requirements of the law.

Ecology's Response: Ecology provides technical assistance to permittees when asked. It is up to the permittees if they wish to hire consultants, and they must do their own due diligence when choosing which consultant to hire. Ecology has used its residual Clean Water Act authority to expand the scope of Permit coverage at transportation facilities, including water transportation facilities. Once a transportation facility has permit coverage, the permit conditions for sampling, inspection and stormwater management practices are required in all areas of industrial activity, rather than only those areas where vehicle maintenance, equipment cleaning and airport de-icing occur. Ecology believes that requiring stormwater management practices in all areas of industrial activity at transportation facilities will address the significant contribution of pollutants from these facilities. Ecology offers technical support to these facilities, and takes enforcement action when necessary.

Commenter: Ross Dunning

Summary of the Range of Comments:

- Please continue to show terms that are defined in the glossary in bold throughout the glossary. It often helps remind the reader when important terms are used.
- Please continue to list the page leading section and subsections. It helps the reader to accurately and efficiently identify sections when communicating with others, providing comments, etc.

Ecology's Response: Terms that are defined in the glossary are bolded the first time they are used in the permit. Permit sections will be added to the headers for the final permit.

Summary of the Range of Comments: King County

- Insert Permit Condition Number in the header, that is very helpful tracking where in the permit the reader is looking

Ecology's Response: The final permit will have the permit conditions listed in the header.

Commenter: Manufacturing Industrial Council of Seattle

Summary of the Range of Comments:

- Present challenges were driven home for our group when we reviewed PARIS compliance records for 2017. These appear to confirm anecdotal reports from our members about their frustrations involving US EPA, state staff training practices that appear to vary by regions within the state, and dubious litigation practices based on antiquated, Nixon-era provisions of the US Clean Water Act. These systemic concerns now cloud the very significant practical challenges that face our region as we continue to search for better approaches. Our discussions with other stakeholders reveal several good ideas for new approaches. We appreciate the opportunity to bring these ideas forward for DOE review and we look forward to working with you on these issues in the months ahead.

Ecology's Response: Comment noted.

Commenter: Port of Grays Harbor, Washington Public Ports Association

Summary of the Range of Comments:

- Ecology has referenced their "Frequently Asked Questions" document in correspondence and decisions. This document should be incorporated by reference and kept updated to make it consistent with the permit, or the practice of using it as a guidance document should stop.
- Incorporating guidance currently included in the Frequently Asked Questions (FAQs) section of Ecology's ISGP web page is requested by WPPA. Our members prefer the ISGP to include all policies related to stormwater regulations in Washington State. FAQs can be a useful tool to provide guidance during the term of an existing permit. They should not exist at the time a new permit is adopted.

Ecology's Response: The "Frequently Asked Questions" document will be updated for the final permit. The FAQ is a guidance document, and as such, does not contain any independently enforceable requirements. The permit contains all the requirements, the FAQ and other guidance documents provided by Ecology are meant to help permittees comply with the permit.

Commenter: William Lider

Summary of the Range of Comments:

- Many industrial activities have challenging problems in preventing pollution from industrial activities from entering stormwater and leaving the site. In order to meet its benchmark discharge limits permit holders often utilize emerging treatment technologies specific to a permit holder's activities; however, the effectiveness and long term maintenance requirements for these facilities are often unknown. To address this issue: 1. The permit holder shall submit emerging technology design drawings to both

Ecology and the local municipality for permit review. 2. Ecology and the local permitting municipality shall inspect the completed design and confirm that it was constructed in strict accordance with the approved drawings. 3. Unproven or new technologies lacking a Use Level Designation (ULD) shall be enrolled in the Technical Approval Protocol-Ecology (TAPE) program to monitor its effectiveness and maintenance requirements over time.

Ecology's Response: Technologies lacking a TAPE ULD are used in Industrial Permit Level 3 Corrective Actions. The Permit requires the submission of an engineering report to Ecology for stormwater treatment BMPs that require the site-specific design or sizing of structures, equipment, or processes. This also applies to emerging treatment technologies specific to a permit holder's activities. TAPE review is not necessary. The TAPE program does not do any long-term review of the BMPs and is not set up to do this kind of review.

Commenter: Brian Derdowski

Summary of the Range of Comments:

- I believe that you need to have some explanatory text that's designed for policymakers and for the general public. As you go through this process, it's a give-and-take. That is not fully understood by most public policymakers. They think that if you just have the compliance with the manual, that you're good to go and there's no problem, there's no further problem. If you comply with the NPDES permit, compliance is black and white and easy to figure out and you don't need to do anything else. But we know that that's not the case. We know that there are a lot of judgment calls. We know that there are things that local governments can do to go beyond what those requirements are and probably should. And we also know that in a perfect world where you have full compliance, where everybody is complying, everything goes exactly the way it's designed, and people are taking care of exceedances immediately, that in a perfect world, that doesn't exist.
- Policymakers, however, can impose and require conditions under their authority under SEPA or under their other authorities to act as a backstop to compensate for the difference between this regulatory world and the real world and how things actually go down on the ground. And so one way to do that is to do the following, one, to identify when you create a new document like this, to create a definition of changes that you've included.
- So you might consider that in the form of an addendum to the document. Or as an expanded executive summary for policymakers. That may be a technique you could use.

Ecology's Response: Comment noted, however, this is beyond the scope of the draft permit.

Commenter: Gerry O'Keefe

Summary of the Range of Comments:

- So it's hard for me to let go of the data that was provided by your environmental assessments program that said that the largest source of pollutants to Puget Sound in particular comes from air deposition. And in that context, a permit process that creates liability and continues to sort of put pressure on permittees is harder to understand. From our members' point of view, we're spending taxpayer dollars to accomplish or to comply with standards in the context of a system that it's not clear the permit can control.

- And that larger debate is incumbent on the Department of Ecology to have and engage with the people of the state. We think it's critical that you do that.
- So with that in mind, when President Nixon signed the Clean Water Act, there were rivers that were on fire. We don't have that problem in the United States or in the state of Washington anymore. We've made a tremendous amount of progress. And the question that we have is a matter of where we're going now in Washington and elsewhere isn't how to prevent that. It's what is the bang for the buck for the next increment of regulation? And are we hitting the water quality marks that we should be hitting by regulating activity?

Ecology's Response: Permittees are required to control the pollutants leaving their site. This is consistent with the Clean Water Act and NPDES regulations which require discharges to control pollutants discharged from their facility even if pollutant levels are affected by off-site sources. The ISGP also 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 provided industry specific and public listening sessions prior the release of the draft permit. Ecology also provided a 60 day public comment period with 6 workshops and hearings in order to engage the public. The comments received were used in developing the final permit.

Ecology's permitting process is consistent with Federal and State laws and regulations.

Commenter: Northwest Indian Fisheries Commission

Summary of the Range of Comments:

- Among several concerns, of particular importance is the need to reduce discharge of toxic contaminants through Stormwater conveyance, which can be substantially accomplished through soil infiltration pretreatment. These reductions of toxins will benefit the entire food web, from forage fish, to salmonids, orca Whales, and the human residents of the watershed. Watershed-scale stormwater retention, infiltration and treatment can reduce pollutant loads, and excessive flows and flooding.
- Polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs) and a slew of other toxic pollutants in stormwater runoff are responsible for dramatic pre-spawn mortality rates for Coho. Adult coho salmon are exceptionally sensitive to the harmful effects of toxic urban runoff.
- Flow-control best management practices (BMPs) can detain and retain stormwater flows, thereby reducing stream channel erosion.
- The preventable, lethal discharges into fish bearing streams must be addressed in this permit.

Ecology's Response: The permit contains numeric effluent limits for 303(d) listed impaired water bodies as well as incorporates any TMDLs that have a waste load allocation for stormwater. As TMDLs are written, stormwater is taken into account and newer TMDLs may include more stringent requirements for stormwater. Ecology also includes BMPs that, when implemented fully by permittees, will address additional pollutants leaving the site.

Commenter: Mel Oleson

Summary of the Range of Comments:

- The first comment is that in reviewing the records on Ecology's Website, I've been unable to identify whether the stormwater permit has met its stated goals of the last 20 years of being effective, efficient and enforceable. By effective, that means that the stormwater permit has actually resulted in reductions to the pollutants being delivered to the state of Washington's waterbodies. Efficient means that it is a good economic way for industries to actually achieve the reduction in pollutants that was requested or is desired by the permit. And enforceable indicates that the Department of Ecology is able to easily identify those who are causing harm to the receiving water and to take those actions that are necessary to correct those actions.
- Take the current permit, extend it for two years and wait until the EPA comes out with this new 2020 permit or at least gives us guidance where it's going. And then write this permit.
- Ecology needs to develop wet weather standards that are appropriate for stormwater. This is when I mentioned standards now are developed based upon the low water level. That's not appropriate for stormwater. The levels are going to be very different. And that makes a big difference in compliance. And yet it still protects the resource.
- Ecology should try and move to a watershed-based stormwater permitting system. So instead of individually permitting individual companies and construction sites and municipalities, we start to need to be looking at the watershed as a unit.
- What is missing is data collection from a broader range of sources that are normally considered components of the MS4, Construction and many individual permits. The broader data collection will help define what SCMs work in what applications. A comparable collection of pH, TSS and COD data from MS4 discharges along with flow/volume rates would assist in evaluating the impact both industrial and municipal discharges have on the receiving water. Better yet would be MS4 collection of specific pollutant data comparable to that required on the basic ISWGP. Collecting data from one class of permittee and ignoring the contribution of others simply skews the results to point they may be unreliable in developing wet weather discharge standards.

Ecology's Response: The stated goal of the Water Quality Program is to keep Washington's waters clean. Ecology has a responsibility to implement the law, and issues permits to do so. Ecology's permitting process is consistent with Federal and State law and regulations.

Ecology's permit is separate from EPA's permit, and Ecology will not delay the issuance of the ISGP to wait and see what EPA does with their permit. The current ISGP permit has been modified over the years to implement all the Federal, State, and local laws as well as applicable case law.

The current requirements for NPDES permits require each discharger to be permitted. Changing the permitting process as the commenter suggest would not be consistent with the regulations in place.

Fact Sheet

Commenter: Ross Dunning

Summary of the Range of Comments:

- The term “legacy pollutants may cause long term contamination” is too broad and subject to interpretation and argument.
- Identifies several categories of facilities that could unreasonably draw numerous facilities under ISGP coverage “vehicle maintenance, repair, recycling, or service..., concrete or asphalt recycling”. Recycled asphalt is used ubiquitously throughout Washington, would all of the areas where these materials be used be subject to the ISGP and/or 3rd party action?

Ecology’s Response: Comment noted, however, the fact sheet is not the permit and does not contain any independent enforceable requirements.