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Washington State Department of Ecology
Industrial Storm Water Permit
300 Desmond Drive SE
Lacey, WA 98503

06/24/19

Regarding the 2020 Industrial Storm Water Permit Renewal public comments.

Dear Permit Writer,

Thank you for allowing for public comments on the 2020 industrial storm water permit, we appreciate this opportunity to provide some insight and suggestions to the permit. As you are aware, there are third parties who help Ecology enforce the Industrial Storm Water permit through the paths made available in the Clean Water Act. Due to this, it is important that ambiguity in interpreting the permit be reduced as much as possible. Several of the comments below are to reducing ambiguity in interpretation and some are simply to request clarification.

S1. Permit Coverage – Table 1

In the table there is a column for NAICA Groups and for Marine Construction there is a NAICS Group code ECY003. This code does not show up in the definitions nor is it a valid NAICS code. Further, “Marine Construction” does not show up in the definitions either. It is possible, without definition, that Marine Construction could mean many different things. ***Please clarify the NAICS codes for Marine Construction or provide a definition of Marine Construction for clarification.***

S1. E.1 Discharges to Ground.

In this section the previous permit was modified to remove the requirement to obtain a permit from sites that discharge to BOTH surface and ground waters to sites that discharge to groundwater only. The change suggested by Ecology removes the word “and” and modifies the permit requirement to those facilities that discharge to ground water only. Further, the permit defines ground water as “Groundwater means water in a saturated zone or stratum beneath the land surface or a surface water body”. Other places in the permit, infiltration is used as an alternative discharge process that may not require a storm water permit. ***Please define “infiltration” and perhaps add some words describing the difference between infiltration and ground water. For sites that provide for infiltration of their storm water, with this change proposed by Ecology, is it now their responsibility to prove that there is no contact with groundwater?***

S1 F Conditional “No Exposure” Exemption.

Ecology adds the lines “Industrial 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.” In this section describing the ability to obtain a CNE if there is none of the above. With the specificity of “finished goods” that eliminates the ability of manufacturers to store their coated, wrapped, painted, plastic, or other non-polluting materials outside. ***Please clarify it that is Ecologies intent, to basically remove the possibility of a CNE to those clean manufactures who may store their finished goods outside for purchase or transport.***

S3 B 1 M Specific SWPPP requirements

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.” “discharge structure” is not defined, presumably Ecology is referring to storm water drainage pipes, tanks, inserts, treatment systems, etc. The way that this is written, every site map for any site that is leased will need to be modified with the owner’s name stating that the property is leased to them. Additionally, sites that lease storm water treatment equipment, inserts, media (recycling programs), will also need to identify the owners of this equipment and material. ***Please provide an explanation as to why this information is required by Ecology and also provide clarification that the site map does, indeed, need to be modified with the owners of the property and any storm water equipment.***

S3 C 4 b Specific SWPPP requirements

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 is ill considered and should have been reviewed by Ecology’s internal legal staff or by the assistant attorney general. 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.

S3 I 4 a Operational Source Control BMP's

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”.*

Further in this section 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. Adding this section, requiring only UL approval, will put many sites out of compliance immediately with the permit. This addition should be changed to reflect the option to use other approval agencies or should allow for some relief for the sites that have complied with other regulations for liquid materials outside of this permit. *Please remove this addition.*

S3 I 4 c i Operational Source Control BMP's

This section adds the words “capable of absorbing the minimum anticipated spill amount if more than 15 gallons”. This term “minimum anticipated spill amount” should be defined in the permit. For a site that have a fueling station with a 500 gallon above ground tank, double walled, would the anticipated spill amount be 5 gallons or 500 gallons? For a site that has a 1000 gallon double walled plastic tank holding process cooling water have a minimum anticipated spill amount of 1000 gallons should a vehicle run into the tank. If Ecology choses to use the words “minimum anticipated spill amount” they should define what that term means. *Please clarify the term “minimum anticipated spill amount”.*

S5 Table 3.3, 4, and Table 5.

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.*

S6 C 2 d Accumulated Solids.

In this section Ecology asks again for solids sampling for sites that discharge to waters with a sediment limitation. In the previous permit Ecology set the limit to 30mg/L for TSS for these sites and required storm water conveyance system cleaning and sediment sampling. Ecology now asks for sediment sampling once per the permit cycle and also asks for the storm drain conveyance system to be cleaned once per the permit cycle. Many industrial sites have moved to cleaning their storm drain systems once per year based on what was discovered in the last permit. This keeps the solids down and improves the sampling results. Ecology now asking to repeat the past “one-time event” may encourage sites to discontinue the frequent cleaning in order to accumulate enough solids to sample. Ecology does provide a method to request a waiver from this requirement, but this waiver request requires a public notice, technical basis, and usually a storm water professional to write the request (which costs money). Perhaps Ecology could reward those who have maintained the 30 mg/L TSS values by writing into the permit that those who have had no failure of the TSS limits are exempt from the solids sampling requirement.

Please reconsider this requirement for those sites who have demonstrated storm water conveyance cleanliness through acceptable TSS values.

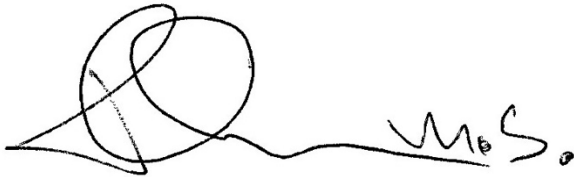
S8 Corrective Actions

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.***

Thank you again for the opportunity to provide comment to the proposed 202 Industrial Storm Water Permit. We believe it is important to provide as much clarity as possible and remove ambiguity to allow for ease of use and minimize opportunity for violation.

If you have any questions, please give me a call.

Thank you

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by the letters 'A', 'L', 'L', 'E', 'N' in a cursive script.

John Allen
Nisqually Environmental & Consulting