

DEPARTMENT OF ECOLOGY

JUL 12 2019

WATER QUALITY PROGRAM

June 26, 2019

Ms. Heather Bartlett, Water Quality Program Manager
Mr. Travis Porter, Permit Writer
Washington State Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

Dear Ms. Bartlett and Mr. Porter:

Thank you for the opportunity to comment on the 2020 Draft Industrial Stormwater General Permit (ISGP). As you know, the members of the Washington Public Ports Association (WPPA) are dedicated to meeting water quality standards in our state. In the communities served by port districts protecting and preserving the health of our shared waters is non-negotiable.

The mission of Washington's seventy-five port districts is to attract, encourage, and develop industry and to promote trade for the economic benefit to the state of Washington. Perhaps no other subdivision of the state is as closely tied to and affected by economic activity. In today's competitive economic climate, the cost of implementing the ISGP can and does have a major impact on our ability to achieve the public purposes we are charged to advance.

Our comments are grounded in a practical approach to compliance. Ports are best able to comply with the permit when its language is unambiguous and easily understood by both the public and permittees. In addition, our members' long history of investment to maintain permit compliance should be reflected in reasonable flexibility and timelines defined in the new industrial permit.

Please consider the following comments as you draft the final permit:

- Eliminating or changing definitions have injected uncertainty into the draft ISGP. Not all new language or language changes add value. In some cases changes do harm by increasing ambiguity and, as a result, the likelihood of third-party lawsuits. A few examples of terms and definitions follow:
 - Use of the undefined term, "qualified personnel" (SWPPP S3. A.). There is reference to need for a Washington business license to be considered "qualified", which seems an unfair and irrelevant burden. At a minimum the definition of "qualified" must be clearly defined to reduce litigation risk.
 - The term "significant contributor of pollutants" (S1.B.1.) should be measurably defined.

Washington Public Ports Association

A Trade Association Representing the 75 Public Port Districts of Washington State

1501 Capitol Way, Suite 304 • Olympia, WA 98501 • 360.943.0760 • 360.753.6176 FAX • www.washingtonports.org

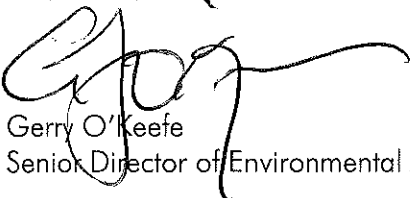
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- Additional time is needed for permittees to implement level 3 corrective actions at large, complex facilities. For example, smaller facilities (10 acres or less) should be allowed to submit 'no later than September 30th of the following year,' while 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.' We believe this is consistent with what is typically necessary for large facilities with large, complex stormwater treatment projects that need to be designed, approved, and budgeted.
- We disagree with the addition of industries not defined by U.S. Environmental Protection Agency (EPA) as industrial, or that require ISGP coverage beyond those portions of facilities identified by EPA as industrial, without support of science documentation or a public review process.
- We disagree with the inclusion of groundwater discharges as stormwater permit regulated discharges when these are not subject to the Clean Water Act and are covered under other state and federal laws.
- Incorporating guidance currently included in the Frequently Asked Questions (FAQs) section of Ecology's ISPG 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.

Fully transparent and science-based public processes support Ecology's decisions by helping the agency anticipate the significant operational and economic impacts that may result from new policies or permit conditions. Public consideration and a formal appeals process are tools the state wisely uses to ensure that environmental regulations and their economic consequences achieve the best results at the least cost to the state's economy. A public review process also provides the opportunity for formal appeals to ensure changes are consistent with the law. Both the agency and the public are well served when significant changes to public policy and permit conditions are vetted in this manner.

Thank you for your considering our comments.

Respectfully,



Gerry O'Keefe
Senior Director of Environmental Affairs