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July 15, 2024

Sent via email to: Email: Lucienne.banning@ecy.wa.gov

Ms. Lucienne Banning
Washington State Department of Ecology
P.O. Box 47696
Olympia, WA 98504

Re: Comments Regarding Industrial Stormwater General NPDES Permit Renewal

Dear Ms. Banning:

Western States Petroleum Association (WSPA) appreciates this opportunity to comment on the Washington State Department of Ecology (Ecology) proposed revisions and additions to the Industrial Stormwater General NPDES Permit Renewal (ISWGP). WSPA is a trade association that represents companies which provide diverse sources of transportation energy throughout the west, including Washington. This includes the refining and market of liquid fuels, renewable and biodiesel, petroleum products, natural gas, and other energy supplies.

The WSPA comments and recommendations reflect the perspective of members regulated through individual NPDES permits developed and administered by Ecology's Industrial Section. It is important to note that Ecology incorporates most program elements from the ISWGP. Consequently, WSPA greatly values the opportunity to review and evaluate the proposed permit.

General Comment

Uncertainty in Determining Requirements for Stormwater Discharges to Groundwater

The proposed new permit language introduces ambiguity in determining permitting requirements for stormwater discharges to groundwater. Currently, various terms must be sorted to understand permitting obligations confidently:

- **S1.B.1:** Ecology may require coverage under this permit if it determines a facility is a significant contributor of pollutants to a water-of-the-state, including groundwater.
- **S1.C.3:** Exempts from permit coverage those facilities that discharge/infiltrate only to groundwater.
- **S1.E.1 and S1.E.3:** State that the terms and conditions of this permit apply to sites with a discharge point to groundwater, mentioning functional equivalence to a point source discharge to surface water and requiring treatment/infiltration Best Management Practices (BMPs).
- **S1.E.2:** References groundwater discharges through an Underground Injection Control (UIC) well and requirements in WAC 173-218.

- **S4.B.2:** Addresses conditions requiring sampling for PFAS in discharges to groundwater and refers to “functional equivalency to a point source” as described in the County of Maui v. Hawaii Wildlife Fund decision.

The Stormwater Management Manual for Western Washington¹ encourages reliance on infiltration basins, swales, and similar methods for stormwater management. Ecology should develop guidance on key terms such as “significant contributor,” “functional equivalence to point source,” the jurisdictional court’s holding in the County of Maui case, and the distinction between a UIC and an infiltration basin.

Specific Comments

Permit Section S1.A. New Permit Triggering Criteria

Ecology proposes new permit triggering criteria that may create confusion rather than address some currently unregulated stormwater drainage scenarios. The term “indirectly” can introduce uncertainty, especially for larger industrial facilities with engineered subsurface drainage piping that conveys stormwater off-site and ultimately to a water-of-the-state. It is essential to clarify that the ISWGP’s inspection and monitoring requirements apply at the point where stormwater enters a water-of-the-state, not at an internal facility manhole.

Further, WSPA believes that the current permit language under Section S1.A. is clear and should perhaps be retained:

“This statewide permit applies to facilities conducting industrial activities that discharge stormwater to a surface waterbody or to a stormwater sewer system that drains to a surface waterbody.”

Permit Section S3.B.4.b.i.4)i) SWPPP - Operational Source Control BMPs

The proposed language for Stormwater Pollution Prevention Plan (SWPPP) BMPs states that:

“Any liquid chemical release onsite regardless of size or flowability is considered a spill and must be logged and addressed.”

Using absolute terms like “any” and “regardless of size” raises concerns for both permittees and regulators. The agency should clarify if these terms and subsequent actions are intended to apply literally. Facilities typically implement appropriate BMPs to control the benchmark parameter “Oil Sheen” so that “No Visible Oil Sheen” is observed at the discharge point. Other liquid chemical releases would presumably be managed through appropriate BMPs.

Given the multiple regulatory programs and guidance documents defining expectations for spill reporting, containment, cleanup, documentation, and reporting, WSPA encourages Ecology to reconsider this absolute language. With consideration of related regulatory programs consistency and the overall ISWGP to address any liquid chemical releases, WSPA suggests the following alternate language:

“A liquid chemical release onsite is considered a spill and must be logged and addressed if there is potential for its discharge to a water-of-the-state.”

¹ Washington State Department of Ecology. Stormwater Management Manual for Western Washington, Publication 19-10-021, July 2019.

Permit Section S3.4.b.i.5)c) Stormwater Pollution Prevention Plan – Employee Training

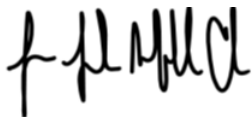
Employees with direct responsibilities for implementing or accomplishing the various elements of the facility's SWPPP, or the ISWGP in general, certainly need routine training. However, the agency should recognize that resources are finite, and priorities must be established when developing and delivering the numerous training programs required by regulation and company policy. The requirement that all employees be trained, regardless of their employment status or position, is unnecessarily burdensome. WSPA proposes that this permit section be rewritten to focus the regulatory training requirements on employees with direct responsibilities in this area.

Permit Section S8. Corrective Actions

Ecology should consider developing a summary of the Corrective Action Levels 2 and 3 responses that permittees have accomplished over the past five years. Sorting by industry/NAICS codes would be informative. Additionally, collecting observations from Ecology inspectors could provide important perspectives on BMP effectiveness and Ecology's practical expectations. This information would offer insights to the agency and public on the ISWGP's effectiveness.

Thank you for this opportunity to comment on these proposed ISWGP revisions. If you have any questions regarding the comments presented in this letter and attachment, please do not hesitate to contact me via e-mail at amachado@wspa.org or by phone at (360) 594-1415.

Sincerely,



Attachment