



Port of Grays Harbor

On Washington's Pacific Coast

July 15, 2024

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Lucienne Banning
Washington Department of Ecology
Water Quality Program, General Permit Unit
Delivered electronically via the online comment form web portal

Dear Lucienne Banning,

The Port of Grays Harbor (Port) is providing the following comments during the formal comment period for the 2025 Industrial Stormwater General Permit (ISGP) reissuance. The Port was able to participate during the Department of Ecology's listening sessions on the draft 2025 ISGP, and the Port has been able to review the draft permit with our stormwater compliance team and consider the impacts. The Port has also participated in Washington Public Ports Association (WPPA) Stormwater Workgroup meetings to discuss this topic, and the Port agrees with the comments that WPPA submits to Ecology as part of the formal comment period. The Port provides the following comments in addition to the WPPA comments.

Thank you for the opportunity to comment and the Port of Grays Harbor looks forward to further discussion and development of permit improvements.

Comment #1 – Definition Change of Industrial Activity (page 83)

The definition of Industrial Activity in this proposal is significantly changed and expanded to include material handling and the loading and unloading of products. The proposed definition change leaves room for differing interpretations, and a port may have a difficult time assessing the boundaries of areas requiring coverage in a marine terminal complex. For example, intermediate access roads and rail lines travelled by carriers do not have clear start or end points in transportation facilities such as marine terminals.

The definition is similar to the EPA definition of "Stormwater Discharges associated with Industrial Activities" but cuts out key parts that limit the boundaries to areas with industrial activities. The revision of the definition of "Stormwater Discharge associated with Industrial activities" included in 40 CFR 122.26(b)(14) excludes the important first sentence with language reading "...means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant." It also replaces the term "plant" at other locations in the definition. As originally defined, permittees would easily be able to identify the areas considered to contain industrial activity at their "industrial plant" and could confidently

Commissioners

Stan Pinnick

Phil Papac

Tom Quigg

Executive Director

Leonard Barnes

delineate boundaries of areas requiring coverage. The Port of Grays Harbor requests further clarification of the definition in consideration of the below listed concerns with additional material handling/storage language added to the draft permit.

Comment #2 – Addition of Material Handling/Storage as Transportation Industrial Activity (page 10)

Expanding the existing transportation triggers (maintenance, cleaning, deicing) to include “material handling/storage” for ISGP coverage and increasing Ecology’s oversight would significantly increase the amount of area requiring permit coverage at the Port of Grays Harbor’s marine terminal complex to include areas where there is no industrial activity but where low impact cargos such as new autos are stored.

The definition (page 84) for “material handling” is broad to the point that any type of item could be considered a material, whereas “storage” is left undefined and open to interpretation when added as a transportation trigger. If this is not clarified further, the Port believes it will lead to regulatory uncertainty, and this change could be interpreted as a huge regulatory expansion with significant impacts to port operations.

Expanding the existing transportation triggers has the potential to require ISGP coverage for many areas at the Port of Grays Harbor that currently do not trigger coverage. This could add a significant administrative and financial burden to the Port, primarily due to the staff time required to manage ISGP permit areas. The Port is staffed appropriately for its existing ISGP coverage, but an expanded area would likely require the hiring of additional staff. The Port estimates this could add over \$200,000 per year in permit management and compliance costs, a significant new financial burden for the community’s port. Without corresponding new revenue, these new costs would have to be covered by existing revenues and within existing budgets, effectively reducing funds available for existing capital, maintenance, and operations costs, reducing the Port’s financial capability to fulfill its primary mission.

Adding new areas to ISGP coverage also creates new exposure to third-party lawsuits with respect to operation and maintenance of the Port and its stormwater facilities. While this would be an indirect impact, it is a concern for the Port due to recent third-party lawsuits against other ports, and it increases the risk of significant and unexpected legal costs.

Based on the Port’s initial assessment, the Port requests that the full impacts of expanding transportation triggers be understood prior to implementation to

allow for the Port of Grays Harbor to define and plan for the anticipated financial and operational impacts, and to allow for development of implementation strategies to increase the success of new ISGP permit coverage.

Comment #3 – 6PPD-q Sampling Requirements (page 39)

The permit proposal adds 6PPD-quinone quarterly, report-only sampling requirements starting in year 3 of the permit (Jan 1, 2028) of certain listed transportation facilities. Facilities that meet the “small business” definition (50 or less employees) would be exempt, but the Port of Grays Harbor has 57 employees. This new testing will be a financial burden on the Port without a benefit to water quality of the Port’s permit compliance. Currently the cost of a 6PPD-q sample is estimated at over \$500.

Tire wear occurs everywhere in the urban environment, it's not industrial in nature and should not be solely focused on the ISGP to manage the larger issue and provide the data. This puts a disproportionate burden on a single sector of the transportation community representing a small contribution to the larger tire wear issue. The Port does not believe it is appropriate for 6PPD-q sampling to be included in the ISGP and requests its removal at this time.

Comment #4 – SWPPP Training Requirement for All Employees and Contractors/Vendors (page 28)

The proposal adds SWPPP training requirements for all employees and contractors/vendors who have duties in areas of industrial activities subject to the ISGP and requires all employees must be trained within 30 days of hire regardless of full, part, or seasonal time. The Port of Grays Harbor has a wide variety of services, vendors, contractors, staff, workers, and other visitors that access the marine terminal and permit areas. Many of the people that visit the marine terminal have no more relevance to implementing a SWPPP as users of a public roadway have with complying with a Municipal Stormwater Permit. Many users are one-time, sporadic, or otherwise transient visitors with limited to no impact to stormwater or water quality. Requiring all who have duties in the marine terminal complex to have SWPPP training would be a significant administrative, time, and financial burden without benefit to water quality. The Port requests that this requirement be removed or simplified to be reasonably implemented. For example, providing a general SWPPP handout to people accessing the marine terminal complex when they enter. The Port would continue to be ultimately responsible for meeting water quality thresholds and would have the freedom to implement training as needed based on the Port of Grays Harbor’s unique layout and characteristics.

Comment #5 – Sampling Waivers (page 34)

It is a priority for the Port to be in regulatory compliance, however with the numerous changes in the 2025 draft ISGP and requiring compliance Jan 1, 2025, and sampling the following quarter is concerning and potentially not achievable. The Port requests consideration of a phase in period for seeking sampling waivers or clarification on how they will be processed and on what timeframe.

Comment #6 – Spill Logs/Spill Thresholds (page 28)

The proposal adds that any liquid chemical released onsite regardless of size or flowability is considered a spill and must be logged and addressed. The Port requests additional clarity, definition, or thresholds for what constitutes a spill that needs to be logged. As currently worded, a single drop of liquid could constitute a spill.

Thank you again and we look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard Barnes", with a long horizontal flourish extending to the right.

Leonard Barnes
Executive Director
Port of Grays Harbor
lbarnes@portgrays.org

CC: Kris Koski, Port of Grays Harbor, Port Engineer