

July 15, 2024

Lucienne Banning  
Washington State Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

**RE: PMSA Comments on Draft 2025 Industrial Stormwater General Permit (ISGP)**

Dear Ms. Banning,

On behalf of the members of the Pacific Merchant Shipping Association (PMSA), we submit the following comments on the Department of Ecology's Draft 2025 ISGP.

PMSA is a trade association that represents ocean carriers and marine terminal operators doing business at public port authorities on the U.S. West Coast. PMSA member companies are on the leading edge of environmental innovation in reducing air emissions, the threat of invasive species, and improving water quality issues. We work closely with public port authorities and regulatory agencies up and down the U.S. West Coast to achieve aggressive targets to reduce environmental footprints.

PMSA had been pleased that we were able to participate in a number of meetings with Ecology staff before the release of the Draft 2025 ISGP. During these meetings, PMSA and others in the regulated community were clear that expanding the ISGP's coverage at transportation facilities under the ISGP presents a threat to the economic viability of Washington's seaports, in particular, and to the supply chain, in general, without any measurable environmental benefit.

Unfortunately, it is with great disappointment that we must observe that Ecology did not incorporate any of the feedback from these meetings, as none of these substantive concerns are addressed, mitigated, or acknowledged in the Draft 2025 ISGP. We must, therefore, respectfully oppose the addition of "material handling/storage" as an activity-triggering ISGP coverage requirements as included in the Draft 2025 ISGP. As Ecology is well aware, the United States Environmental Protection Agency (US EPA) does not consider the transportation or handling of general products at a transportation facility as requiring NPDES permit coverage under the Clean Water Act. Rather, the US EPA limits permit coverage at transportation facilities to only the portions of the facility associated with vehicle maintenance, equipment cleaning, and airport deicing. Yet, contrary to its prior determination expressly rejecting inclusion of "material handling" in the 2010 ISGP, Ecology now inexplicably includes "material handling" as entirely new category of activity covered by the 2025 ISGP.

Ecology has also expanded the scope of ISGP coverage to all portions of transportation facilities, including but not limited to wharves at marine terminals. Among other things, compliance with this requirement will require tearing up existing and newly upgraded port facilities in order to even be able to sample stormwater and, if necessary, install treatment systems with little to no environmental value. These obligations will impose hundreds of millions of dollars and more in capital costs, with untold significant additional disruption costs and job losses upon the entire goods-movement system.

The federal Clean Water Act's uniformity of application protects interstate commerce by restricting individual states from unduly interrupting the flow of interstate commerce through imposition of unnecessary costs on transportation facilities. But Ecology is electing to go beyond US EPA's triggering activities of vehicle fueling, equipment maintenance, and airport deicing through adding the proposed triggering activity of "material handling/storage" and expanding the scope of coverage at transportation facilities to every single portion of a facility. In doing so, Ecology has created a profound economic burden on Washington transportation facilities and economy that is not imposed by the federal government or any other state.

Simply put, Washington's competitors in other states or Canada will not face these costs and adverse economic impacts. The increased costs imposed on every commodity requiring transportation into, out of, or through the state, from agricultural products (e.g., wheat, hay, and apples) to machinery and finished products, in intrastate and interstate commerce will be profound. Producers of commodities and transportation brokers will inevitably look to alternative transportation means beyond Washington's borders to avoid these added costs, reducing the volume of cargo moving through Washington's ports and rail yards.

Additionally, Washington companies that export manufactured and agricultural commodities are currently able to take advantage of infrastructure developed and maintained by revenues generated by discretionary import cargo from Asia. The companies that make decisions about where that discretionary cargo goes do so based on cost, productivity, and regulatory certainty. When—it is not a question of if—terminals are fully or partially closed due to installing or replacing infrastructure to address an expanded scope of the ISGP (assuming they are not just closed altogether due to the impossible economics of complying with the additional permit requirements), cargo will be diverted to ports in Canada, up and down the West Coast, or through the Panama Canal in order to reach their destinations in the Midwest and South. This will in turn limit the number of ships and containers available to Washington's exporters, resulting in greater cost and limiting access to foreign markets. Notably, all this disruption will result in exchange for little, if any, ecological benefit, as these areas are already regulated under municipal permits.

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Thank you for the opportunity to comment. Should you have any questions or require further information, please contact Jordan Royer in our Seattle office at (206) 604-1850 or [jroyer@pmsaship.com](mailto:jroyer@pmsaship.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Jacob", written over a diagonal line.

Mike Jacob  
President