

Thurston County

Seeking clarification whether industrial facilities that discharge to groundwater are covered under this permit. Several incongruencies are present that allow for various interpretations of how the permit applies to industrial permittees discharging to groundwater.

S1.A. states that the permit "...applies to facilities conducting industrial activities that discharge stormwater to a surface waterbody or to a storm sewer system that drains to a surface waterbody...the Permittee is authorized to discharge stormwater and conditionally approved nonstormwater discharges to waters of the state".

Under S1.C. (Facilities Not Required to Obtain Coverage):

"Ecology does not require the types of facilities listed below to obtain coverage under this permit, unless determined to be a significant contributor of pollutants..."

3. Industrial facilities that discharge stormwater only to groundwater (e.g., on-site filtration) with no discharge to surface waters of the State under any condition, provided the facility doesn't meet the requirements of S1.B.1."

Under S1.E (Discharges to Ground)

"1. For sites with a discharge point to groundwater the terms and conditions of this permit shall apply. However, permittees are not required to sample on-site discharges to ground (e.g., infiltration), unless specifically required by Ecology (Condition G12)."

Under S1.A, we interpret that the permit covers only discharges to surface waters, and Ecology authorizes these permittees to discharge to waters of the state, which includes groundwater.

Under S1.C, we interpret that coverage is not required for permittees that discharge only to groundwater unless the facility is a significant contributor of pollutants to waters of the state.

Under S1.E, we interpret that coverage is required for facilities that discharge to groundwater but are not required to sample on-site unless otherwise specified by Ecology.

It appears that S1.A, S1.C and S1.E have conflicting interpretations. S1.A leads us to believe that the permit coverage is required for discharges to surface waterbodies and not to waters of the state (including groundwater). S1.C provides clarification that facilities that discharge to only groundwater are not required to seek coverage unless they are a significant contributor of pollutants to waters of the state (including groundwater). However, S1.E conflicts this indicating that the permit does apply to sites with a discharge point to groundwater.

In our opinion there is a lack of clarity in terms of whether the permit applies to facilities discharging to surface waters of the state vs. waters of the state, and which facilities are required to seek coverage under the industrial stormwater general permit if they do only discharge to groundwater. A clear stance and language regarding groundwater discharges is required in order for municipal stormwater permittees to 1) be able to properly refer industrial facilities to Ecology when conducting source control inspections and to 2) keep Ecology accountable for covering facilities that are obligated to be covered according to the permit language.