Port of Seattle

Please see two attachments from the Port of Seattle: a letter and detailed comment document

July 12, 2024

Lucienne Banning
Washington State Department of Ecology
P.O. Box 47696
Olympia, WA 98504-7696

Re: Comments on Washington's Draft National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities

Dear Ms. Banning:

The purpose of this letter is to provide comments on the Washington Department of Ecology's (Ecology) draft *National Pollutant Discharge Elimination System* (NPDES) *Industrial Stormwater General Permit* (ISGP), released May 15, 2024.

The Port of Seattle supports the efforts to improve stormwater quality put forth in the draft ISGP. Managing stormwater discharges and protecting Washington's receiving waters is a critical goal for the Port and has been reflected in our Century Agenda goals since 2012. Over the years, the Port has successfully managed ISGPs and Phase I municipal stormwater permits for our 1,000 acres of maritime properties, with the goal to meet or exceed permit compliance for stormwater discharges and improve regional water quality. The Port of Seattle as well as The Northwest Seaport Alliance (NWSA) and tenants have invested heavily in stormwater improvements, including $3.6 million by the Port's Marine Stormwater Utility at marine container terminals since 2019. Beyond that, our remediation and habitat programs have direct impacts on improving water quality in the region by helping to remove or contain historic contaminants in the Duwamish Basin and Elliott Bay, and expanding critical aquatic habitat to support salmon runs and other marine species along the shores of our facilities.

In today's economic climate, changes to the ISGP can have a major economic impact on Washington ports, Port of Seattle customers and related business's ability to compete with other ports in North America. An expansion of the ISGP, without clear scientific basis or justification, will not necessarily lead to improved water quality and will divert scarce public funds from other programs that do improve the Salish Sea ecosystem, and negatively impact Washington's transportation sector's ability to compete with other regional transportation hubs. These comments on the draft ISGP are submitted with the aim of achieving environmental protection and regulatory predictability and supporting the economic needs and priorities of Washington's local and regional communities and businesses.

The Port of Seattle appreciates that this draft maintains important water quality benchmarks and includes new language addressing the following:

- Clarified definitions
- Increased time to submit extension requests or waivers for Level 2 and Level 3 corrective actions
- Increased time to implement Level 3 corrective actions when an engineering report is required
- A "grace period" during which benchmark exceedances do not count toward additional Level 3 corrective actions

The Port does not support expansion of permit coverage beyond the Federal NPDES Program when there are no compelling and science-supported reasons to do so. Ecology's proposed expansions add industries beyond those federally defined as industrial, require permit coverage for areas without industrial activity as defined in 40 CFR 122.26, and add discharges to groundwater. These changes will cause significant operational and economic impacts to local and regional businesses with no clear benefit or improvement to water quality.

Further, many of these changes are beyond the scope of Ecology's delegated authority under the Clean Water Act. To the extent Ecology seeks to impose more stringent state requirements, Ecology should clarify that these new requirements are pursuant to the State Water Pollution Control Act (RCW Chapter 90.48).

The Port of Seattle's highest priority concerns in the draft ISGP include the following:

1. Expanding the ISGP to cover any material handling and storage activities at all transportation facilities is a sweeping inclusion of activities that are not traditionally considered industrial and not likely significant contributors of pollution. We request that Ecology provide a scientific, data-supported justification to expand the ISGP for these new activities, and if no specific supporting data exist, do not expand the permit until further study can be completed.

2. Existing facilities newly added due to changes to 'Table 1, Activities Requiring Permit Coverage and the Associated NAICS Groups,' need a grace or transition period. It takes time to assess new industrial activities and develop the required documents for ISGP compliance. It is unreasonable to expect facilities that have so far not had ISGP coverage to comply on January 1, 2025. We recommend a 2-year grace period to allow careful assessment and development of the needed ISGP documents.

3. Expanding the 'reasonable potential' definition by adding pollutants that cause or contribute to 'loss of sensitive and/or important habitat' will increase confusion and ambiguity for permit compliance. We recommend that this new language be removed and maintain water quality criteria as the basis for the 'reasonable potential' determination.

4. Requiring ISGP permittees to train all vendors or contractors that access their facilities and perform duties in industrial areas is an unreasonable burden and unlikely to improve stormwater quality beyond the current best management practices and training for a business's employees. We recommend revisions to make vendors or contractors aware of the importance of stormwater management.

5. Adding 'any liquid chemical release onsite regardless of size or flowability … must be logged and addressed' to spill section is too expansive and ignores that fact that Ecology has spill guidance that ISGP permittees must follow. We recommend that you rely on existing spill guidance rather than adding possibly conflicting language to the ISGP.

6. Requiring 6PPD-quionone sampling by transportation facilities imposes a burden on that sector without a science basis. Current research on detrimental impacts of 6PPD-q on salmon involves freshwater streams only, with little or no information on fate and transport in the marine environment. While we support the need for better information on impacts and possible solutions to this newly identified chemical that has serious impacts on salmon populations, we recommend that Ecology pursue this research using other avenues of investigation.

We believe the state can continue a strong, consistent, science-based stormwater regulatory framework to improve water quality without negatively impacting the state economy. We include Attachment A with this letter, which contains specific and detailed comments on permit sections. Thank you in advance for considering our comments.

If you have any questions concerning the contents of this letter or attachment, please contact Port of Seattle Senior Manager Marine Stormwater Utility, Jane Dewell at: (206) 475-8079.

Sincerely,

Stephen P. Metruck
Executive Director

cc: Stephanie Jones-Stebbins, Managing Director Maritime Division and Director Marine Stormwater Utility – Port of Seattle
Sandra Kilroy, Senior Director Environment and Sustainability – Port of Seattle
Sarah Ogier, Director, Maritime Environment and Sustainability – Port of Seattle
Elizabeth Black, Deputy General Counsel – Port of Seattle
Jane Dewell, Senior Manager, Marine Stormwater Utility – Port of Seattle

#	Permit Reference / Draft 2025 ISGP Language	Comments	Recommended Change to Draft 2025 ISGP
1	S1: PERMIT COVERAGE A. Facilities Required to Seek Coverage Under This General Permit This statewide permit applies to **facilities** conducting **industrial activities** that directly or indirectly discharge **stormwater** to ~~a~~ **surface** ~~waterbody waters~~ water **of the state**, ~~including but not limited to roadside ditches or dry waterways, or to a storm sewer system that drains to a surface waterbody~~ water ~~of the state~~ which includes but is not limited to roadside ditches and **storm sewer** systems. Beginning on the effective date of this permit and lasting through its expiration date, the Permittee is authorized to discharge stormwater and conditionally approved non-stormwater **discharges to waters of the State**. All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The permit requires coverage for private entities, state, and **local government facilities**, and includes **existing facilities** and **new facilities**. Facilities conducting industrial activities listed in Table 1 or referenced in S1.A.3 shall apply for coverage under this permit or apply for a Conditional No Exposure exemption, if eligible (Condition S1.F). The **Department of Ecology**	In Special Condition S1.A, use of the terms "directly and indirectly" to qualify stormwater discharges is not necessary, causes confusion for permittees and potential permittees, and conflicts with other ISGP language on discharges to groundwater. The applicability of the ISGP to direct and indirect stormwater discharges is clearly defined in other parts of the ISGP, and including the ambiguous reference to indirect stormwater discharges at the beginning of the ISGP is likely to lead to confusion among the regulated community about the overall applicability of the ISGP. The ISGP applies to point source discharges to surface waters, and in proposed ISGP language in Special Condition S1.E.1, Ecology proposes to determine if a discharge point to groundwater is functionally equivalent to a point source discharge to surface waters in accordance with County of Maui v. Hawaii Wildlife Fund (2020). This is a very specific instance of when a facility would be indirectly discharging stormwater to surface waters of the state. As such, the references to facilities indirectly discharging stormwater to surfaces waters of the state should be removed. After the references to indirect stormwater discharges are removed, the references to direct stormwater discharges are not necessary. All references to "directly or indirectly" in Special Condition S1.A should be removed.	Remove the reference to "directly or indirectly" in the first sentence of Special Condition S1.A and in bullet #1 above Table 1: S1.A "This statewide permit applies to facilities conducting industrial activities that ~~directly or indirectly~~ discharge stormwater to surface waters of the state, which includes but is not limited to roadside ditches and storm sewer systems." "Facilities engaged in any industrial activities in Table 1 shall apply for coverage if stormwater from the facility discharges ~~directly or indirectly~~ to surface waters of the state…"

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	(Ecology) may also require permit coverage for any facility on a case-by-case basis in order to protect waters of the State (Condition S1.B).		
2	S1.A Table 1 Transportation facilities which have **vehicle maintenance** activity, equipment cleaning operations, <u>material handling/storage</u>, or airport deicing operations: • Railroad Transportation 482xxx, 488210 • Transit and Ground Passenger Transportation 485xxx, 488490, 487110 • Truck Transportation 484xxx, <u>562111</u> • Postal Service 491xxx Water Transportation 483xxx, 487210, 4883xx, 532411 • Air Transportation 481xxx, 487990 • Petroleum Bulk Stations and Terminals 4247xx	**<u>New Industrial Activity</u>** Adding material handling/storage to the definition of industrial activity for transportation facilities significantly expands the scope/applicability of the ISGP. The term "material handling" (defined as "storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product") is vague and overly broad. Including the term "material handling/storage" as part of the definition of industrial activity for transportation facilities goes beyond the intent of the Clean Water Act to regulate point source discharges that are industrial in nature as it would require activities that are inherently not industrial in nature to be included under ISGP coverage. This is unnecessary and is not in the public interest. For example, a building associated with a transportation facility (based on NAICS code) where the only potential triggering activity is receiving FedEx/UPS deliveries could be considered loading/unloading of a final product and required to seek coverage under the ISGP. Using such a broadly defined term as a triggering activity for transportation facilities will create significant uncertainty within the transportation sector as to what should be covered or not covered under the ISGP. This threatens to drive transportation-sector businesses out of Washington to other states or countries (e.g., British Columbia) and would not be	Remove proposed language from Table 1 for "material handling/storage" as an industrial activity requiring coverage under the ISGP for transportation facilities: S1.A Table 1 "Transportation facilities which have **vehicle maintenance** activity, equipment cleaning operations, ~~material handling/storage~~, or airport deicing operations"

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		in the overriding public interest considering the broader economic impacts for the Pacific Northwest. **<u>Significant Contributor of Pollutants Designation</u>** Page 35 of the Draft 2024 ISGP Fact Sheet states that "*The draft ISGP includes a modification for the transportation category, and now includes all material handling areas as well. Ecology is using its State Authority under Chapter 90.48 RCW to require ISGP coverage for these areas. Ecology has determined that these areas are significant contributors of pollutants due to the increased tire wear and material exposed to stormwater which cause solids, zinc, and other pollution to leave the facility. This is supported in part by the Department of Ecology's Brief to the Court of Appeals, Division II of the State Court of Appeals. This is intended to bring all areas of industrial activity at transportation facilities under permit coverage and not just the vehicle maintenance, equipment cleaning and airport deicing areas. This does not include areas that are administrative and not comingled with industrial stormwater.*" Any material handling activity at a transportation facility cannot be considered a "significant contributor of pollutants" by default, regardless of the volume, frequency or intensity of the material handling activities. Using this blanket determination to state that any material handling/storage activity at any transportation facility is a "significant contributor of pollutants" is an overreach of Ecology's NPDES authority, not supported by technical evidence, and does not meet the definition for "significant contributor of pollutants" in the ISGP. ISGP Appendix 2 defines	

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		"Significant Contributor of Pollutant(s)" to mean a facility determined by Ecology to be a contributor of a significant amount(s) of a pollutant(s) to waters of the State. As such, this term cannot be applied to an activity, it must be applied to a facility as described below. Moreover, citing a legal brief – as opposed to a technical analysis supported by scientific data - as the basis for making such a determination is wholly inappropriate. The determination for a facility to be deemed a "significant contributor of pollutants" must be made on case-by-case basis (i.e., for a single facility at a time or a category of discharges within a geographic area). Due to the broad definition of "material handling" and the wide range of frequency and intensity of material handling activities, a determination that material handling activities is a significant contributor of pollutants must be based on *facility-specific* activities such as the type and level of activities occurring at a site, BMPs that are in place, and the quality of stormwater runoff being discharge from the facility. For example, one facility could have five instances of "material handling" per day while another facility could have 1,000 and the type of equipment used could be different, resulting in a significant difference in the quality of stormwater runoff from each distinct facility. Material handling in and of itself cannot be considered to be a category of discharges as it is an activity with wide range of potential impacts based on type of materials and frequency/intensity, compared to a type of business with a specific NAICS code where the quality of stormwater runoff would be expected to be similar across the same type of operation. In Ecology's Brief to the Court of Appeals cited on	

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		page 35 of the Fact Sheet, it states that Ecology determined that transportation facilities are significant contributors of pollutants because "DMR (discharge monitoring report) data from all transportation collected since 2009 demonstrates that activity on these sites…" However, no information is provided on how many transportation sector facilities were meeting benchmarks, what the size and scale of transportation sector facilities were evaluated and provide a technical basis for the significant contributor determination for all transportation sector facilities. Further, DMRs are only provided by facilities that are *already subject* to the ISGP; the new requirements would pull in countless (hundreds, if not thousands) of new facilities for which there is no such data. The data used for this determination needs to be provided in a clear and understandable format, including specific references to each facility's DMR data that was used to make this determination, and inclusion of all data for transportation facilities from 2009 that identifies what types of transportation facilities were meeting benchmarks and complying with ISGP requirements. Further, simply exceeding a benchmark value does not mean that a facility is reasonably expected to cause a violation of water quality standards. The contribution of transportation-sector facilities alone cannot be used as the sole determination that water quality standards will be violated.	

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		<u>Defined Process Needed for Significant Contributor of Pollutants Designation</u> Further, the process for determining when a facility is considered a "significant contributor of pollutants" is not defined. For a term with such significant ramifications for the regulated community, Ecology must establish a well-defined process for making a "significant contributor of pollutants" determination and this process must be vetted through the public review process. Ecology should define this process in writing in an appendix to the ISGP and release for public review and comment. **<u>Material Handling/Storage Thresholds</u>** Facilities with minor amounts of material handling/storage cannot be considered to be "significant contributors of pollutants" and including the term "material handling/storage" as a blanket term for coverage is not supported by technical evidence. Thresholds need to be established as to what type of or what level of material handling/storage would be considered as an industrial activity for transportation facilities requiring coverage under the ISGP. More time is needed to evaluate if and where these thresholds should be set and would establish/strengthen the technical basis for making this significant change. Ecology should initiate a study in collaboration with the transportation sector to be completed during the 2025-2029 ISGP cycle so that the types and levels of material handling/storage that have the most potential to contribute a significant amount of pollutants to waters of the state are better understood, and specific material handling/storage thresholds can be established. Ecology is using information from the largest and most active transportation	

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		facilities to establish a blanket standard for any transportation facility, regardless of size or level/type of activity. There are many options to better define the thresholds of material handling/storage that would require coverage under the ISGP such as the scope (e.g., acreage), type, or level of activity of material handling/storage. The time must be taken to evaluate these options before implementing such a significant change in the ISGP. With anti-backsliding provisions, significant changes such as including "material/handling storage" as an industrial activity for transportation facilities under the ISGP cannot be taken lightly and must be thoroughly vetted with a solid technical basis. We are all in agreement that the protection of water quality is of the highest priority. The transportation sector has spent millions of dollars implementing BMPs, installing and maintaining stormwater treatment systems, and taking other measures to improve the quality of stormwater runoff from transportation facilities. However, including "material/handling storage" as a blanket requirement for transportation facilities to obtain ISGP coverage would create an unnecessary burden on both private and public sector resources with questionable water quality benefit results for certain types of transportation facilities (e.g., smaller facilities or facilities that only have minor amounts of material handling/storage). For the reasons described above, the term "material handling/storage" should be removed from Table 1 as a defined activity for ISGP coverage for transportation facilities.	

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3	S1.C Facilities Not Required to Obtain Coverage	Ecology's proposed expansion of the applicability of the ISGP will have far-reaching implications in the transportation-sector. No grace period is provided for these facilities which have previously not been required to obtain coverage under the ISGP, and immediately on January 1, 2025, these facilities which are newly required to obtain coverage under the ISGP will become "unpermitted existing facilities" with the potential for Notices of Violation and third-party lawsuits. A grace period must be provided for the regulated community to evaluate the implications of any new requirements in the final ISGP. Given the scope of the proposed changes for the transportation sector, two years must be provided to allow for a thorough and proper evaluation of each facility which may have the potential to be required to obtain coverage under the new requirements of the ISGP that are planned to go into effect on January 1, 2025. A new condition should be added to Condition S1.C to provide for this grace period.	Include a new Condition S1.C.10: "Coverage requirements in the 2025 ISGP for transportation facilities beyond those provided in 40 C.F.R. 122.26(b)(14) become effective on January 1, 2027."
4	S1. E **Discharges to Ground** 1. <u>The terms and conditions of this permit apply to sites with a discharge point to groundwater</u>~~. 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 <u>1) the facility is</u>	Read on its own, Condition S1.E could be interpreted that all discharges to groundwater are required to obtain coverage under the ISGP. However, Condition S1.C.3 states that "Industrial facilities that discharge stormwater only to groundwater (e.g., on-site infiltration) with no discharge to surface waters of the State under any condition, provided the facility doesn't meet the requirements of S1.B.1."	Update Condition S1.E.1 to: The terms and conditions of this permit apply to sites with a discharge point to groundwater <u>that are otherwise required to obtain coverage under this General Permit (e.g., facilities with industrial activities that discharge stormwater to surface water of the state)</u>. However, <u>facilities that discharge stormwater only to groundwater are not required to obtain coverage under this General</u>

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	subject to PFAS sampling per condition S5B5~~c~~), 2) is specifically required by Ecology (Condition G12), or 3) ~~area~~ discharge point to groundwater is deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters. 2. Facilities with a discharge point to groundwater through an Underground Injection Control well shall comply with any applicable requirements of the **Underground Injection Control** (UIC) regulations, Chapter 173-218 WAC. ~~2.~~3. Facilities discharging to ground (e.g., infiltration, Class V UIC wells, etc.) must have infiltration all treatment/infiltration BMPs designed, installed and maintained in accordance with Special Condition S3.A.2 ~~implemented and built in a way that is demonstrably equivalent to the Stormwater Management Manuals~~.	For clarity, a specific reference to Condition S.1.C.3 should be included in Condition S1.E that facilities discharging stormwater only to groundwater are not required to obtain coverage. This would provide clear instruction/guidance to permittees when requirements of ISGP apply to discharges to groundwater.	Permit unless deemed on a facility-specific basis to be a significant contributor of pollutants – see Condition S1.C.3. Permittees are not required to sample on-site discharges to ground (e.g., infiltration), unless...
5	S1. E **Discharges to Ground** 1. The terms and conditions of this permit apply to sites with a discharge point to groundwater~~. 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 1) the facility is subject to PFAS sampling per condition S5B5~~c~~), 2) is	Ecology needs to clearly define a process in writing for determining if a discharge point to groundwater is functionally equivalent to a point discharge to surface waters. Ecology should define this process in an appendix to the ISGP and release for public review and comment. Best professional judgment is not an acceptable process to be used when making critical determinations regarding the applicability for requirements of the ISGP, as this can vary from person to person and will result in inconsistent application of the ISGP to different facilities.	Update Condition S1.E.1 to: 1. The terms and conditions of this permit apply to sites with a discharge point to groundwater~~.~~ However, permittees are not required to sample on-site discharges to ground (e.g., infiltration), unless 1) the facility is subject to PFAS sampling per condition S5B5~~c~~), 2) is specifically required by Ecology (Condition G12), or 3) discharge point to groundwater is deemed by Ecology to constitute a

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	specifically required by Ecology (Condition G12), or 3) ~~area~~ discharge point to groundwater is deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters.	The current guidance memorandum associated with County of Maui v. Hawaii Wildlife Fund does not clearly outline how to apply the seven factors identified for determining when a discharge point to groundwater would be considered functionally equivalent to a point source discharge to surface waters, nor does it include thresholds for making this determination. A well-defined process is not identified or established for making the determination described above. As such, a scientific and standardized process for this determination is needed to ensure that this requirement will be applied consistently for all permittees and potential permittees. This process should clearly define the steps to follow and factors to evaluate when completing this analysis of functional equivalency and establish metrics or thresholds to facilitate making accurate and consistent determinations across facilities and geographies. Considerations that should be incorporated into the process include: - Transit time from discharge point to groundwater to surface water(s) - Distance from discharge point to groundwater to surface water(s) - Geology of the area	functional equivalent to a point source discharge to surface waters in accordance with the process defined in Appendix 4.
6	S1.F.3.a Ecology will respond to all CNE exemption requests in writing, either approving or denying the request. A Permittee is ~~automatically~~ granted a No Exposure	Ecology has an obligation to provide timely responses to permittees that have changed operations or implemented BMPs to qualify for a CNE exemption. Failure to respond in a timely manner results in continued expenditure of resources such as	Add timeframe for 90-day response to Condition S1.F.3.a: Ecology will respond to all CNE exemption requests in writing within 90 days, either approving or

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	exemption ~~90 days from Ecology's receipt of a complete and accurate No Exposure Certification Form, unless~~ after Ecology informs the applicant in writing or electronically ~~within 90 days~~ that it has ~~denied or~~ approved the request.	staff labor to meet permit requirements. In addition, the ISGP does not include any language stating that Ecology even needs to response to a CNE exemption request and could leave permittees in limbo indefinitely without resolution. During this period, the permittee must comply with full ISGP requirements even if they have adequately met the criteria to quality for a CNE. The 90-day timeframe for Ecology to respond should be retained in the permit, while the automatic granting of a CNE is removed.	denying the request. A Permittee is granted a No Exposure exemption after Ecology informs the applicant in writing or electronically that it has approved the request.
7	S2.A A. Obtaining Permit Coverage 1. Unpermitted facilities that require coverage under this permit shall submit to Ecology, a complete and accurate Notice of Intent (NOI) using Ecology's Water Quality Permitting Portal – Permit Coverage Notice of Intent form as follows: a. Existing Facilities i. Unpermitted existing facilities that require coverage under this permit shall submit a complete and accurate permit application to Ecology. ii. Existing facilities are facilities in operation prior to the effective date of this permit, January 1, 2025.	Ecology's proposed expansion of the applicability of the ISGP will have far-reaching implications in the transportation-sector as well as for NAICS 562111 Solid Waste Collection. No grace period is provided for these facilities which have previously not been required to obtain coverage under the ISGP, and immediately on January 1, 2025, these facilities which are newly required to obtain coverage under the ISGP will become "unpermitted existing facilities" with the potential for Notices of Violation and third-party lawsuits. A grace period must be provided for the regulated community to evaluate the implications of any new requirements in the final ISGP. Given the scope of the proposed changes for the transportation sector, two years must be provided to allow for a thorough and proper evaluation of each facility which may have the potential to be required to obtain coverage under the new requirements of the ISGP that are planned to go into effect on January 1, 2025.	S2.A A. Obtaining Permit Coverage 1. Unpermitted facilities that require coverage under this permit shall submit to Ecology, a complete and accurate Notice of Intent (NOI) using Ecology's Water Quality Permitting Portal – Permit Coverage Notice of Intent form as follows: a. Existing Facilities i. Unpermitted existing facilities that require coverage under this permit shall submit a complete and accurate permit application to Ecology. <u>ii. Existing facilities that are now required to obtain ISGP coverage due to the expanded definition of industrial activity under the 2025 ISGP, including transportation-sector facilities and NAICS 562111, shall submit an NOI by January 1, 2027.</u>

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			iii. Existing facilities are facilities in operation prior to the effective date of this permit, January 1, 2025.
8	S3.A.3.c If a Permittee covered under the 20201~~5~~ ISGP needs to update their SWPPP to be consistent with the 20250~~~~ ISGP, the update shall be completed and implemented on or before ~~by January 30~~ March 1, 20250~~~~.	We appreciate the additional time to complete the SWPPP update after the reissued ISGP goes into effect. Ecology typically releases the final version of the ISGP within 30 days of the ISGP going into effect, leaving little time for permittees to evaluate updated requirements and update the SWPPP, let alone implement new requirements. Changes to the ISGP can be significant and allowing only two month (59 days) to implement new requirements such as additional BMPs is not reasonable, particularly during the winter months. Additional time should be allowed for completing the SWPPP update. No timeframe should be specified for implementation of the SWPPP. Permittees are bound by the ISGP to implement the BMPs identified in the facility's SWPPP, and while some BMPs can be implemented quickly, others may take more time depending on what is required.	Change SWPPP update: S3.A.3.c If a Permittee covered under the 2020 ISGP needs to update their SWPPP to be consistent with the 2025 ISGP, the update shall be completed ~~and implemented~~ on or before ~~March 1~~ June 30, 2025.
9	S3.B.1 d. Direction of surface and conveyance stormwater flow (use arrows). e. Locations of all structural source control BMPs. f. Locations of all receiving water (including wetlands, discharges to ground, and drainage ditches) in the immediate vicinity of the facility.	Including the terms "surface and conveyance" prior to stormwater flow is not necessary as this is already covered by existing ISGP language. Some site maps may become illegible when showing all surface and conveyance flow based on the size of the facility and amount of stormwater infrastructure. For paved facilities with extensive subsurface stormwater systems, showing surface flows would make the SWPPP maps largely unreadable with many	S3.B.1 d. Direction of ~~surface and conveyance~~ stormwater flow (use arrows). e. Locations of all structural source control BMPs. f. Locations of all receiving water (including wetlands~~, discharges to ground, and drainage ditches~~) in the immediate vicinity of the facility.

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	i. Location of all stormwater conveyances including ditches, pipes, catch basins, vaults, ponds, swales, UICs, etc. o. Locations of fueling and **vehicle** maintenance areas, and areas where equipment cleaning is conducted. p. Areas where industrial activity is conducted.	surface flow arrows pointed to the nearest catch basin (would not be valued-added to show surface flow arrows in this scenario). The term "discharges to ground" is not defined and it is not clear if this would include localized low spots at a site where stormwater may temporarily collect on-site. If Ecology will include discharges to ground in this instance, then it should be identified as "discharges to groundwater that are functionally equivalent to a point source discharge to surface waters" as the reference to discharges to ground here is associated with the discharge to ground being a receiving water. Drainage ditches should be removed from "f" as this indicates that a drainage ditch is a receiving water which is not accurate and drainage ditches are included under "i." Including a generic reference to "areas where industrial activity is conducted" for identification on the SWPPP map will not provide the specificity that Ecology is looking for. If there are specific types of industrial activity that should be included on the SWPPP map, that should be specified. If any new requirements are added to the SWPPP map requirements, this should be released for public review and comment.	i. Location of all stormwater conveyances including ditches, pipes, catch basins, vaults, ponds, swales, UICs, etc. o. Locations of fueling and vehicle maintenance areas, and areas where equipment cleaning is conducted. ~~p. Areas where industrial activity is conducted.~~
10	S3.B.2.b	This is the only instance of the term "cargo" in the entire ISGP. The term "cargo" is overly broad and not defined in the ISGP, and	Remove reference to "cargo" under S3.B.2.b.i:

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	The inventory of industrial activities shall identify all areas associated with industrial activities (see Table 1) that have been or may potentially be sources of pollutants, including, but not limited to, the following: i. Loading and unloading of <u>cargo,</u> dry bulk materials or liquids.	in many instances the simple act of loading and unloading cargo would not have an impact on the quality of stormwater runoff from a facility. In it essence, the loading and unloading of cargo is not an industrial activity. For example, cargo is loaded and unloaded at grocery stores and essentially any business. There needs to be more specificity in the types of cargo that would be considered a potential pollutant as nearly all cargo is containerized and would not be considered a potential stormwater pollutant, even if spilled onto the ground (e.g., most cargo is a solid). Including loading and unloading of dry bulk materials or liquids makes sense as dry bulk materials that are spilled can be mobilized during a storm event, and spills of bulk liquids also have the potential to impact surface waters if a spill occurs, either during a storm event or when it is dry. In many instances, cargo is covered and containerized from start to finish during the loading or unloading process and would not be exposed to precipitation. As the handling of most types of cargo would not impact the quality of stormwater runoff from a site (e.g., teddy bears, board games, etc.), even if a spill occurred, this should be removed from the inventory of industrial activities. Further, cargo can include final materials that are designed for outdoor use. Specific types of cargo need to be identified for inclusion on the inventory of industrial activities, not just a general reference to the term “cargo” itself. This is already accomplished through the inclusion of dry bulk materials or liquids.	The inventory of industrial activities shall identify all areas associated with industrial activities (see Table 1) that have been or may potentially be sources of pollutants, including, but not limited to, the following: i. Loading and unloading of ~~cargo,~~ dry bulk materials or liquids.
11	S3.B.4.b.i.3	Permittees should be provided with flexibility on methods to demonstrate compliance with preventive maintenance	Update language in S3.B.4.b.i.3:

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	Preventive Maintenance: The SWPPP shall include BMPs to inspect and maintain the stormwater drainage, source controls, treatment systems (if any), and plant equipment and systems that could fail and result in contamination of stormwater. The SWPPP shall include the schedule/frequency and a maintenance log for completing each maintenance task.	requirements for BMPs and show maintenance records upon request. Many organizations have systems for maintenance work orders in place which can be queried to provide maintenance records to demonstrate compliance with the ISGP. Requiring a separate BMP maintenance log to be included in the SWPPP will be redundant for many permittees and create an unjustified administrative burden as the maintenance log would need to be continually updated to remain current, as maintenance tasks occur frequently (daily at some facilities). This would also put permittees at unwarranted risk of noncompliance due to a maintenance log that is not kept current (even though maintenance work being performed and tracked in a separate system). If a permittee does not have maintenance records available upon request, then Ecology can take enforcement action on permittees who are not conducting or tracking required ISGP-related maintenance.	**Preventive Maintenance:** The SWPPP shall include BMPs to inspect and maintain the stormwater drainage, source controls, treatment systems (if any), and plant equipment and systems that could fail and result in contamination of stormwater. The SWPPP shall include the schedule/frequency ~~and a maintenance log~~ for completing each maintenance task. BMP maintenance records do not need to be maintained with the SWPPP, but must be made available upon request by Ecology or the local jurisdiction.
12	S3.B.4.b.i.4.i Maintain a spill log that includes the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved. Any Liquid chemical release onsite regardless of size or flowability is considered a spill and must be logged and addressed.	The additional language that "any liquid chemical release onsite regardless of size or flowability is considered a spill and must be logged and addressed" is redundant in that existing ISGP language already indicates that a spill log needs to be maintained for chemical and petroleum spills. Thresholds/criteria for a spill to be logged in the SWPPP need to be established that aim to protect stormwater quality while balancing operational burden and staying within the purpose of the ISGP. Spills that are not exposed to precipitation or create the potential for stormwater pollution	Remove proposed language in S3.B.4.b.i.4.i: Maintain ~~a~~ spill records ~~log~~ that include~~s~~ the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved. Spill records do not need to be maintained with the SWPPP, but must be made available upon request by Ecology or the local jurisdiction. ~~Any Liquid chemical release onsite~~

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		should not be required to be maintained in the SWPPP spill log as they are not related to stormwater and are outside the purview of the ISGP. For example, spills can occur inside a building, within secondary containment, or in areas that drain to an on-site industrial wastewater system and discharged to sanitary sewer. If a person is washing a window inside a building and spills four ounces of glass cleaner, would that need to be logged in the SWPPP spill log? Based on the proposed language in the ISGP, it would seem that it would need to be logged, but this would be left to the interpretation of each permittee with inconsistency in application and likewise in enforcement. The language proposed to be added to S3.B.4.b.i.4.i is not necessary and should be removed. In addition, the requirement to maintain a log with the SWPPP is becoming antiquated as many organizations maintain electronic records and have systems in place for tracking and responding to spills.	~~regardless of size or flowability is considered a spill and must be logged and addressed.~~
13	S3.B.4.b.i.4.i Maintain a spill log that includes the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved. <u>Any Liquid chemical release onsite regardless</u>	Thresholds/criteria for a spill to be logged in the SWPPP need to be established that aim to protect stormwater quality while balancing operational burden and staying within the purpose of the ISGP. Spills that are not exposed to precipitation or create the potential for stormwater pollution should not be required to be maintained in the SWPPP spill log as they are not related to stormwater and are outside the purview of the ISGP. For	Change language in S3.B.4.b.i.4.i.: Maintain ~~a~~ spill <u>records</u> ~~log~~ that include~~s~~ the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved. ~~Any Liquid chemical release onsite regardless of size or flowability is~~

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	of size or flowability is considered a spill and must be logged and addressed.	example, spills can occur inside a building, within secondary containment, or in areas that drain to an on-site industrial wastewater system and discharged to sanitary sewer. Including reference to only "any liquid chemical release" conflicts with other sections of the ISGP where dry materials or petroleum products are called out. It is already understood that a liquid chemical release would need to be included on a spill log and reported appropriately. The language proposed to be added to S3.B.4.b.i.4.i needs to be revised to provide clear direction on when certain spills do not need to be recorded (e.g., de minimis spills). Requiring permittees to record all spills, even those that are of a de minimis amount such as small vehicle/equipment drips and leaks, will become an impossible compliance task to track at many facilities that have vehicle traffic from many sources. If a permittee identifies a few drips of oil or small softball sized stain on the pavement from an unknown source (e.g., vehicle owned/operated by a third-party vendor or the public), this should be considered a de minimis amount and not be required to be recorded. Permittees understand the importance of preventing spills, and quick cleanup and reporting should a spill occur and threaten environmental health. Logging and tracking a drip on a site is neither feasible nor reasonable. Industrial	~~considered a spill and must be logged and addressed.~~ Chemical and petroleum releases that are exposed to precipitation or create the potential for stormwater pollution are considered a spill and must be logged and addressed. Spills that are inside a building, within secondary containment, in an area that discharges to combined or sanitary sewer, or that are a de minimis amount do not need to be logged. Spill records do not need to be maintained with the SWPPP, but must be made available upon request by Ecology or the local jurisdiction.

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		facilities currently have requirements to respond to, clean up and report all spills. This proposed change could open permittees up to costly third-party lawsuits over activities that have been cleaned up and do not pose a threat to water quality. The way the proposed language is written puts the same level of importance on 2 drops of motor oil as for 2 drops of mercury. Ecology's document "F-TC-95-608 Department of Ecology Guidance for Reporting Spills and Overfills of Petroleum" provides clear guidance on *de minimis* amounts of petroleum spills. We recommend adding the option of *de minimis*, and following Ecology's "Department of Ecology Guidance for Reporting Spills and Overfills of Petroleum" definition of *de minimis* as "A *de minimis* amount of petroleum" is now defined as an amount that either: (1) immediately evaporates or (2) has been sufficiently recovered or contained so that it will not pose a threat to human health or the environment." For spills of dangerous waste or hazardous substances, as defined in WAC 173-303-145, we recommend that Ecology reference the reporting requirements as referenced under their Spill Reporting requirements located at the following website (Spills - If you spill - Washington State Department of Ecology).	

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		In addition, the requirement to maintain a log with the SWPPP is becoming antiquated as many organizations maintain electronic records for tracking and responding to spills.	
14	S3.B.4.b.i.4.i Maintain a spill log that includes the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved.	A "log" is defined as "an official record of events." Common application for maintaining a spill log is to have a table listing out the spills which have occurred at a facility. Based on permittee roundtable feedback with the Washington Stormwater Center, there was much confusion and concern as to what would be accepted as a "spill log" and what would need to be maintained to demonstrate compliance with the ISGP. Maintaining a spill log with the SWPPP becomes a redundant administrative exercise with electronic recordkeeping and systems that are used by many organizations to track, respond, and document spills and associated responses. Permittees should be afforded the flexibility to demonstrate permit compliance by producing spill records upon request, and this language should be clarified in the ISGP.	S3.B.4.b.i.4.i: Maintain ~~a~~ spill records ~~log~~ that include~~s~~ the following information for chemical and petroleum spills: date, time, amount, location, and reason for spill; date/time cleanup completed, notifications made and staff involved. Spill records do not need to be maintained with the SWPPP, but must be made available upon request by Ecology or the local jurisdiction.
15	S3.B.4.b.i.5 Employee Training: The SWPPP shall include BMPs to provide SWPPP training for all employees and contractors/vendors who have duties in areas of industrial activities subject to this permit. (Contractors/vendors may be excluded if the permittee	Adding the word "all" before employees creates ambiguity in this permit requirement where the updated requirement could be to be "all employees" and also "contractors/vendors who have duties in areas of industrial activities subject to this permit" or it could be read as "all employees who have duties in areas of industrial activities subject to this permit" and "all	S3.B.4.b.i.5: Employee Training: The SWPPP shall include BMPs to provide SWPPP training for ~~all~~ employees ~~and contractors/vendors~~ who have duties in areas of industrial activities subject to this permit. The SWPPP shall include BMPs that when working with

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	has an employee who has been trained on the SWPPP supervising the activity at all times.) At a minimum, the training plan shall include: a) The content of the training. i) An overview of what is in the SWPPP, who is responsible for maintaining the SWPPP, and its location onsite. ii) How employees make a difference in complying with the SWPPP ~~and,~~ preventing contamination of stormwater, and their role in ensuring BMPs are properly maintained and in place. iii) Spill response procedures, good housekeeping, maintenance requirements, and material management practices. b) How the Permittee will conduct training. c) The frequency/schedule of training. The Permittee shall train all employees annually, at a minimum. All employees must be trained within 30 days of hire regardless of full, part, or seasonal time. d) A log of the dates on which specific employees received training. This log must be kept with the SWPPP and made available upon request.	contractors/vendors who have duties in areas of industrial activities subject to this permit." This needs to be clarified so the requirement is clear. The word "all" should be removed and requirements related to employee training and contractor/vendor training should be identified separately. Requiring permittees to train contractors and vendors creates risk and liability on permittees for training employees of other companies, and in many situations, it will not be possible for a permittee to impose training requirements on another company/organization. With proposed changes in the draft ISGP such as those related to material handling, it is not clear where the proposed requirement to train contractors/vendors would begin and end. For example, would a contractor/vendor be a company or organization, or an individual within a company/organization? Would a delivery driver need to be trained? Would this delivery driver need to be trained on every site that they deliver to which has coverage under the ISGP? Bounds need to be identified for the applicability of contractor/vendor training as a delivery driver who may only be on-site for 30 minutes per week should not be required to receive training on the ISGP. On the other hand, a contractor/vendor who is on-site the majority of the time at a facility covered under the ISGP and performing functions in areas of industrial activities subject to the ISGP, should be provided industrial stormwater	vendors or contractors in areas of industrial activity on-site, to ensure that they are aware of the importance of stormwater management. (Contractors/vendors may be excluded if the permittee has an employee who has been trained on the SWPPP supervising the activity at all times.) At a minimum, the training plan shall include: a) The content of the training. i) An overview of what is in the SWPPP, who is responsible for maintaining the SWPPP, and its location onsite. ii) How employees make a difference in complying with the SWPPP preventing contamination of stormwater, and their role in ensuring BMPs are properly maintained and in place. iii) Spill response procedures, good housekeeping, maintenance requirements, and material management practices. b) How the Permittee will conduct training. c) The frequency/schedule of training. The Permittee shall train all employees annually, at a minimum. All employees must be trained within ~~30~~ 45 days of hire regardless of full, part, or seasonal time.

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		training by the company/organization they are employed by, with the company/organization providing training records to permittees for verification. The onus to complete training should be on each individual company/organization, and the permittee can verify training related to industrial stormwater has been completed for contractors/vendors rather than requiring permittees to train third parties themselves. In addition, contractors cannot be supervised or escorted at all times, this would be an unnecessarily costly and inefficient use of staff labor and is not feasible. We recommend striking the requirement of training all vendors and contractors, and instead include a topic in employee training that when working with vendors or contractors in areas of industrial activity on-site, to ensure that they are aware of the importance of stormwater management. With the proposed requirement to train new employees within a certain number of days of hire, maintaining a training log with the SWPPP will become a redundant administrative exercise. Companies often track training through a Learning Management System with training records maintained in electronic format. Permittees should be afforded the flexibility to demonstrate permit compliance by producing training records upon request.	d) A ~~log~~ record of the dates on which specific employees received training or the location where training records are maintained. ~~This log must be kept with the SWPPP and made available upon request.~~ Training records do not need to be maintained with the SWPPP, but must be made available upon request by Ecology or the local jurisdiction.

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16	S4.B.2.b The Permittee is not required to sample on-site discharges to ground (e.g., infiltration) or sanitary sewer discharges, unless 1) the facility is required to sample PFAS in discharges to groundwater per Special Condition S5B), or 2) specifically required by Ecology (Condition G12), or 3) ~~.~~ a discharge point to groundwater is deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters in accordance with County of Maui v. Hawaii Wildlife Fund, 140 S. Ct. 1462 (2020) (Maui).	Ecology needs to clearly define a process in writing for determining if a discharge point to groundwater is functionally equivalent to a point discharge to surface waters. Ecology should define this process in writing in an appendix to the ISGP and release for public review and comment. This will ensure this requirement will be applied consistently for all permittees and potential permittees. Best professional judgment is not an acceptable process to be used when making critical determinations regarding the applicability or requirements of the ISGP, as this can vary from person to person and will result in inconsistent application of the ISGP to different facilities.	S4.B.2.b: The Permittee is not required to sample on-site discharges to ground (e.g., infiltration) or sanitary sewer discharges, unless 1) the facility is required to sample PFAS in discharges to groundwater per Special Condition S5B), or 2) specifically required by Ecology (Condition G12), or 3) a discharge point to groundwater is deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters in accordance with Appendix 4. ~~County of Maui v. Hawaii Wildlife Fund, 140 S. Ct. 1462 (2020) (Maui).~~
17	S4.B.2.c Ecology may require sampling points located in areas where unsafe conditions prevent regular sampling be moved or add sampling structures to areas where regular sampling can occur through an administrative order or permit modification (Condition G12).	The requirement to add sampling structures should be removed. Ecology can indicate which discharge points need to be sampled under the ISGP, but the permittee must be allowed the flexibility to determine how the sampling should be conducted to ensure that the monitoring point facilitates the collection of stormwater samples that are representative of the industrial activities occurring at the site and do not include areas of run-on or commingling of stormwater. Any changes to sample points or discharge points should continue to be administered by Ecology through the ISGP Discharge/Sample Point Update Form.	S4.B.2.c: Ecology may require sampling points located in areas where unsafe conditions prevent regular sampling be moved ~~or add sampling structures~~ to areas where regular sampling can occur. ~~through an administrative order or permit modification (Condition G12).~~

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18	S4.B.2.e Sampling Point Waiver Request Process i. If a permittee believes that the sampling location requirements of this section are not feasible, Ecology may authorize case-by-case waivers from and/or adjustments to sampling locations by approving a Modification of Permit Coverage. ii. To request a sampling point waiver from Ecology, a Permittee shall submit a detailed explanation of why it is making the waiver request (technical basis), the BMPs implemented in the areas draining to the sample points requested to be waived, and a Modification of Coverage form to Ecology in accordance with Condition S2.B. Ecology will approve or deny the request and notify the permittee in writing iii. Approvals for sampling point waiver requests will be processed as a modification of permit coverage and approved through the issuance of an administrative order to the requestor. iv. All sampling location requirements of the ISGP remain in effect and enforceable unless	There is no deadline for Ecology to respond to a Sampling Point Waiver Request. As the regulatory authority, Ecology has an obligation to permittees to respond to requests in a timely manner. We understand that Ecology would like more time to review requests and submittals related to the ISGP, and as such, propose a 90-day review period for Ecology to approve or deny a Sampling Point Waiver Request. The sampling point waiver approval should be processed as a permit modification and not as an administrative order. This reduces administrative burden on Ecology and saves time for both Ecology and the permittee. New sampling locations that would be in effect due to proposed changes should be allowed a grace period for the sampling point waiver process to be fully reviewed and completed before the new sampling requirements take effect. Sampling requirements should not go into effect while a waiver is under review by Ecology or the courts.	S4.B.2.e: Sampling Point Waiver Request Process i. If a permittee believes that the sampling location requirements of this section are not feasible, Ecology may authorize case-by-case waivers from and/or adjustments to sampling locations by approving a Modification of Permit Coverage. ii. To request a sampling point waiver from Ecology, a Permittee shall submit a detailed explanation of why it is making the waiver request (technical basis), the BMPs implemented in the areas draining to the sample points requested to be waived, and a Modification of Coverage form to Ecology in accordance with Condition S2.B. Ecology will approve or deny the request and notify the permittee in writing within 90 days of receipt of a complete Modification of Permit Coverage request. iii. Approvals for sampling point waiver requests will be processed as a modification of permit coverage ~~and~~

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	and until a waiver/modification is approved by Ecology. ~~If sampling is infeasibility due to conditions beyond the permittees control, a sampling waiver can be requested. Permittees must submit a modification request to Ecology. The modification request must go through public notice and include the following information: Reason why sampling cannot be conducted in that location or any other location that is substantially identical. Ecology may require sampling points to be moved as described above. (eg. Personal Safety)~~ ~~All BMPs implemented by the facility in the area that drains to the sampling point(s).~~ ~~A written plan to evaluate and update BMPs on an annual basis to ensure the permittee is at AKART for the portion where sampling cannot occur.~~		~~approved through the issuance of an administrative order to the requestor.~~ ~~iv. All sampling location requirements of the ISGP remain in effect and enforceable unless and until a waiver/modification is approved by Ecology.~~
19	S5.B.3 / Table 3 For the Transportation Facilities listed in Table 3, Section 1, the sampling requirements for 6PPD-quinone go into effect on January 1, 2028. These requirements do not apply to any facilities that meet the definition of a "small business."	The requirement to sample 6PPD-quinone (6PPD-q) should be removed until more information on fate and transport, human health, and other aquatic health issues have been researched and identified. Ecology has the capability to conduct further research to better understand the items listed above, and the ability to include new requirements related to 6PPD-q in the next draft ISGP. Including these requirements in the current ISGP is getting	S5.B.3 / Table 3: Remove the requirement to sample for 6PPD-q.

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	Table 3: Additional Benchmarks and Sampling Requirements Applicable to Specific Industries. 1. Transportation Facilities: Railroad Transportation (482xxx, 488210); Transit and Ground Passenger Transportation (485xxx, 488490, 487110); Truck Transportation (484xxx); Postal Service (491xxx); Water Transportation (483xxx, 487210, 4883xx, 532411); Air Transportation (481xxx, 487990); Petroleum Bulk Stations and Terminals (4247xx); and Warehousing and Storage Facilities (493xxx, 531130) 6-PPD-quinone, ng/L, Report Only, EPA or Ecology-approved Method, 2.0 ng/L,1/ quarter	ahead of the data, lab capabilities to analyze samples, unknown costs associated with sampling/lab analyses, and what is known about 6PPD-q. For example, EPA has not established proper sampling methods, laboratory analytical methods, and the cost for a lab to analyze stormwater samples for 6PPD-q is unknown. Further, it is not clear what labs would be able to process stormwater samples for 6PPD-q and whether approved labs will be able to process collected samples. With anti-backsliding provisions, each regulatory agency has the obligation to carefully consider each new requirement and fully understand and provide the basis for each proposed change. The EPA has cited evidence that shows 6PPD-q affects fish in freshwater ecosystems and does not specify marine waters (https://www.epa.gov/newsreleases/epa-grants-tribal-petition-protect-salmon-lethal-chemical). The requirement to sample for 6PPD-q should be removed or limited to freshwater only. Many industrial and municipal facilities discharge to marine waters and there is not scientific data/evidence to support the requirement to sample for 6PPD-q in marine waters. Further, requiring 6PPD-q sampling for transportation-sector facilities that discharge to marine waters puts these permittees at risk and undue harm for litigation for a topic that doesn't have the scientific background to prove that it is an issue in marine waters.	

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		It is not clear why 6PPD-q monitoring is limited to only transportation-sector facilities. Other industries also have vehicle traffic and other activities that could lead to 6PPD-q in stormwater. For example, manufacturing facilities can have a significant amount of vehicle and truck traffic. Ecology has the ability to use its administrative authority to collect 6PPD-q data when and where it can provide benefit to further evaluate the fate and transport of 6PPD-q (e.g., establish a QAPP that identifies specific locations for 6PPD-q monitoring). Ecology removed the footnote indicating that "Ecology will use the data collected during this permit term to determine if the pollutants listed will need to be included in the next permit, and if so, develop benchmarks based on the data received and water quality criteria. What is Ecology's intended use for the 6PPD-q monitoring data that is collected under this new permit requirement? Page 31 of the Fact Sheet states: *The reported sampling data will allow Ecology to characterize 6PPD-q in stormwater discharges from these sectors, assess the effectiveness of BMPs and other permit requirements to reduce 6PPD-q, and it may also help identify certain discharges and/or sites for further investigation and/or corrective action.* As a Report Only parameter, it is not clear why or how Ecology would use the collected 6PPD-q monitoring data to "identify	

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		certain discharges and/or sites for further investigation and/or corrective action." We request that Ecology remove the requirement to sample for 6PPD-q and take more time to study the issue first before moving forward with any potential changes to the ISGP, as 6PPD-q is an emerging contaminant of concern, with much to be figured out regarding effective BMPs.	
20	S6.C **Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waters and Puget Sound Sediment Cleanup Sites** 1. Permittees discharging to a 303(d)-listed waterbody (Category 5), either directly or indirectly through a stormwater drainage system, shall comply with the applicable sampling requirements and numeric effluent limits in Table 6. If a discharge point is subject to an impaired waterbody effluent limit (Condition S6.C) for a parameter that also has a benchmark, the effluent limit supersedes the benchmark. Permittees discharging to a 303(d) – listed waterbody (Category 5) that was not 303(d)-listed at the time of ~~2015~~2020 permit coverage shall comply with the applicable sampling requirements and numeric effluent limits in Table 6 as soon as possible, but no later than January 1, 2027~~2~~. ~~a. Facilities subject to these limits include, but may not be limited to, facilities listed in Appendix 4. B.~~	For consistency and clarity, the reference to "directly or indirectly" should be removed and replaced with a reference to "outfall." In ISGP Appendix 2 Definitions, "outfall" means the point where a discharge from a facility enters a receiving waterbody or receiving waters.	S6.C: **Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waters and Puget Sound Sediment Cleanup Sites** 1. Permittees discharging to an outfall for a 303(d)-listed waterbody (Category 5), ~~either directly or indirectly through a stormwater drainage system,~~ shall comply with the applicable sampling requirements and numeric effluent limits in Table 6.

<table>
<tr><th>#</th><th>Permit Reference / Draft 2025 ISGP Language</th><th>Comments</th><th>Recommended Change to Draft 2025 ISGP</th></tr>
<tr><td></td><td><u>a.</u> For purposes of this condition, “applicable sampling requirements and effluent limits” means the sampling and effluent limits in Table 6 that correspond to the specific parameter(s) the receiving water is 303(d)-listed for at the time of permit coverage, or total suspended solids (TSS)~~ if the waterbody is 303(d) listed (Category 5) for sediment quality at the time of permit coverage.~~</td><td></td><td></td></tr>
<tr><td>21</td><td>S6.C
New Marine Waters Effluent limits.
Copper – 5.8 ug/L
Zinc – 95.1 ug/L
Pb – 220.8 ug/L
Pentachlorophenol – 13 ug/L</td><td>Previously, site-specific effluent limitations were assigned at time of permit coverage except for turbidity, TSS, and mercury which have specified effluent limitations both freshwater and marine water. The ISGP Fact Sheet states that numeric effluent limits will be derived at the time of permit coverage based on receiving water type, hardness and a translator factor. Ecology provides no basis in the Fact Sheet or otherwise for adding predetermined effluent limits for copper, zinc, lead and pentachlorophenol for marine waters. Marine waters have a much higher hardness than freshwater (typically 6,000+ mg/L compared to less than 250 mg/L for freshwater).

What is the basis for the proposed effluent limits for copper, zinc, lead and pentachlorophenol for marine waters? What is the justification that effluent limits are prescribed for marine waters and not fresh waters?</td><td>S6.C:
Remove proposed changes.<table><tr><td>Copper, Total</td><td>ug/L</td><td>g</td><td>~~5.8~~ g</td></tr><tr><td>Lead, Total</td><td>ug/L</td><td>g</td><td>~~220.8~~ g</td></tr><tr><td>Mercury, Total</td><td>ug/L</td><td>2.1</td><td>1.8</td></tr><tr><td>Zinc, Total</td><td>ug/L</td><td>g</td><td>~~95.1~~ g</td></tr><tr><td>Pentachlorophenol</td><td>ug/L</td><td>g</td><td>~~13~~ g</td></tr></table></td></tr>
</table>

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		As no basis is provided for making these changes, the existing ISGP language should be retained to assign site-specific effluent limits at the time of permit coverage.	
22	S8.C.4 c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to Ecology in accordance with Condition S2.B, ~~by May 15th~~ prior to Level 2 Deadline. Ecology will approve or deny the request ~~within 60 days of receipt of a complete Modification of Coverage request~~ and notify the permittee in writing. d. While a time extension is in effect, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions. e. During the period of time after a facility triggers a Level 2 corrective action but prior to the corresponding Level 2 corrective action implementation due date, ~~For the implementation year (the year following the calendar year the Permittee triggered a Level 2 corrective action),~~ benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.	**Ecology Response Timeframe** The deadline for Ecology to respond to a Level 2 corrective action extension or waiver was removed from the permit. As the regulatory authority, Ecology has an obligation to permittees to respond to requests in a timely manner. We understand that Ecology would like more time to review requests and submittals related to the ISGP, however, we propose to keep the 60-day review period given the significant implications that Ecology's decision has on permittees, and recommended additional language be added to the permit to address the time period when Ecology is reviewing a request/submittal with this review period potentially overlapping with the identified deadline. **Level 2 Deadline** The Level 2 deadline is August 31 of the year after a Level 2 corrective action is triggered. With the updated permit language, extension requests can be submitted at any time prior to this August 31 deadline. Language needs to be added to the ISGP to address the time period after an extension request is submitted to Ecology because there is potential for the Level 2 deadline to pass when Ecology is reviewing the request but has not yet responded to the permittee. For example, if a Permittee submits an	S8.C.4: c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to Ecology in accordance with Condition S2.B, prior to the Level 2 ~~D~~deadline. Ecology will approve or deny the request and notify the permittee in writing within 60 days of receipt of a complete Modification of Coverage request. The deadline for implementation of the Level 2 corrective action will be automatically extended after a permittee submits a complete Modification of Coverage request and Ecology has yet to respond to the request in writing. Should Ecology deny the request, the permittee shall have 90 days from receipt of Ecology's written response to implement the Level 2 corrective action.

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		extension request on July 30, Ecology may not respond until September or October. If Ecology denies the request after the deadline has passed, then the permittee would be in violation of the ISGP. Language needs to be added to the ISGP for the time when an extension request is submitted to Ecology, but Ecology has not yet responded to the permittee as to whether the extension request is approved or denied. This will clearly define the process and when a permittee is or is not in compliance with the ISGP.	
23	S8.C.4 e. <u>During the period of time after a facility triggers a Level 2 corrective action but prior to the corresponding Level 2 corrective action implementation due date</u>, ~~For the <u>implementation year</u> (the year following the calendar year the Permittee triggered a Level 2 corrective action),~~ benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.	If a time extension is not requested for a Level 2 corrective action, then this is shortening the "grace period" where benchmark exceedances do not count towards additional Level 2 or Level 3 corrective actions (end of "grace period" would be moved from December 31 to August 31 of the year following the calendar year in which a Level 2 corrective action was triggered). Permittees could potentially trigger an additional Level 2 corrective action in the year following the calendar year in which a Level 2 corrective action was triggered if: sampling results exceed benchmarks in September (third quarter exceedance) and then sampling results exceed benchmarks in the fourth quarter. As the intent of the ISGP includes adaptive management, the permittee should be allowed to evaluate the effectiveness of an implemented Level 2 corrective action for the remainder of the calendar year, from September 1 to December 31. During this time, adjustments or modifications could be made to the implemented Level 2	S8.C.4: e. <u>For the year following the calendar year the Permittee triggered a Level 2 corrective action, or</u> <u>d</u>uring the period of time after a facility triggers a Level 2 corrective action but prior to the corresponding Level 2 corrective action implementation due date, <u>whichever is longer,</u> benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 <u>c</u>orrective <u>a</u>ctions.

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		corrective action after evaluating its effectiveness when in operation. Note this would only be applicable when a time extension for Level 2 corrective action is not requested.	
24	S8.D.5 c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to Ecology in accordance with Condition S2.B, ~~by May 15th~~ prior to the Level 3 Deadline. Ecology will approve or deny the request ~~within 60 days of receipt of a complete Modification of Coverage request~~ and notify the permittee in writing.	The deadline for Ecology to respond to a Level 3 corrective action extension or waiver was removed from the permit. As the regulatory authority, Ecology has an obligation to permittees to respond to requests in a timely manner. It is essential to the regulated community that Ecology provide prompt input on proposed Level 3 corrective actions particularly when those corrective actions involve complex treatment systems or emerging contaminants of concern such as 6PPD-q, PFAS, and PCBs. We understand that Ecology would like more time to review requests and submittals related to the ISGP, however, we propose to keep the 60-day review period given the significant implications that Ecology's decision has on permittees, and recommend additional language be added to the permit to address the time period when Ecology is reviewing a request/submittal with this review period potentially overlapping with the identified deadline.	S8.D.5: c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to Ecology in accordance with Condition S2.B, prior to the Level 3 deadline. Ecology will approve or deny the request and notify the permittee in writing within 60 days of receipt of a complete Modification of Permit Coverage request. The deadline for implementation of the Level 3 corrective action will be automatically extended after a permittee submits a complete Modification of Coverage request and Ecology has yet to respond to the request in writing. Should Ecology deny the time extension request, the permittee shall have 180 days from receipt of Ecology's written response to implement the Level 3 corrective action. Should Ecology deny an engineering report submittal for a Level 3 corrective action, Ecology shall provide a reasonable time extension for the Level 3 corrective action implementation deadline.

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25	S9.D. Records Retention 1. The Permittee shall retain the following documents onsite for a minimum of five years: a. A copy of this permit. b. A copy of the permit coverage letter. c. Records of all sampling information specified in condition S4.B.3. d. Inspection reports including documentation specified in Condition S7. e. Any other documentation of compliance with permit requirements. f. All equipment calibration records. g. All BMP maintenance records. h. All original recordings for continuous sampling instrumentation. i. Copies of all laboratory reports as described in Condition S3.B.4. j. Copies of all reports required by this permit. k. Records of all data used to complete the application for this permit. 2. The Permittee shall extend the period of records retention during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee, or when requested by Ecology. 3. The Permittee shall make all plans, documents, and records required by this permit immediately available to Ecology or the local jurisdiction upon request; or within 14 days of a written request from Ecology.	Permit language in S9.D implies that hardcopy records need to be maintained onsite. There are multiple instances of language in the ISGP that require permittees to submit documents to Ecology electronically, but no language in the permit that explicitly allows permittees to maintain the SWPPP and associated documents/records in an electronic format. This needs to be clarified in Condition S9.D and can be accomplished with the proposed language in this comment. Condition S9.3 identifies that *3. The Permittee shall make all plans, documents, and records required by this permit immediately available to Ecology or the local jurisdiction upon request; or within 14 days of a written request from Ecology.* As long as permittees are able to produce the SWPPP and associated documents/records upon request from Ecology or the local jurisdiction, this meets the intent of the ISGP and permittees must be afforded this flexibility. The requirement to maintain hardcopies onsite is not necessary. Further, electronic recordkeeping is more environmentally friendly than maintaining hardcopies and will reduce administrative burden on permittees.	S9.D. Records Retention: 1. The Permittee shall retain the following documents, either as hardcopies onsite or electronically, for a minimum of five years: a. A copy of this permit. b. A copy of the permit coverage letter. c. Records of all sampling information specified in Condition S4.B.3. d. Inspection reports including documentation specified in Condition S7. e. Any other documentation of compliance with permit requirements. f. All equipment calibration records. g. All BMP maintenance records. h. All original recordings for continuous sampling instrumentation. i. Copies of all laboratory reports as described in Condition S3.B.4. j. Copies of all reports required by this permit. k. Records of all data used to complete the application for this permit. 2. The Permittee shall extend the period of records retention during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee, or when requested by Ecology. 3. The Permittee shall make all plans, documents, and records required by this permit immediately

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		In addition, for unstaffed facilities, permittees need to be allowed time to coordinate a site visit with Ecology or the local jurisdiction, and provide the SWPPP and associated documents/records. The 14-day response timeframe to provide these documents is recommended to be consistent with the existing requirement to respond to a written request.	available to Ecology or the local jurisdiction upon request; or within 14 days of a written request from Ecology; or within 14 days of request for unstaffed facilities.
26	S9.F Reporting Permit Violations The Permittee must take the following actions when it violates or is unable to comply with any permit condition: ~~In the event the Permittee is unable to comply with any of the terms and conditions of this permit which may endanger human health or the environment, or exceed any numeric effluent limitation in the permit, the Permittee shall, upon becoming aware of the circumstances:~~ a. Immediately take action to minimize potential pollution or otherwise stop the noncompliance and correct the problem. ~~a.~~b. The Permittee must report the following to the Ecology regional office at the telephone numbers listed below within 24 hours from the time the Permittee becomes aware of any of the following: ~~Immediately take action to minimize potential pollution or otherwise stop the noncompliance and correct the problem.~~	Ecology reorganized Condition S9.F Reporting Permit Violations where the text for "immediately take action to minimize potential pollution or otherwise stop noncompliance and correct the problem" was put before the reference to "any noncompliance that may endanger health or the environment and any violation of a maximum daily discharge limit in this permit. As Condition S9.F is for Reporting Permit Violations, it does not make sense to reorganize this section in the way that Ecology proposes, as it indicates it is for any noncompliance even those that do not need to be reported. The existing ISGP language for Condition S9.F should be retained.	Remove proposed changes and retain existing ISGP language for S9.F: ~~The Permittee must take the following actions when it violates or is unable to comply with any permit condition:~~ In the event the Permittee is unable to comply with any of the terms and conditions of this permit which may endanger human health or the environment, or exceed any numeric effluent limitation in the permit, the Permittee shall, upon becoming aware of the circumstances: ~~a. Immediately take action to minimize potential pollution or otherwise stop the noncompliance and correct the problem.~~ ~~a.~~b. ~~The Permittee must report the following to the Ecology regional office at the telephone numbers listed below within 24 hours from the time the Permittee becomes aware of any of the following:~~ Immediately take action to minimize potential

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	i. Any noncompliance that may endanger health or the environment. ~~b.~~ Any violation of a maximum daily discharge limit in this permit. ~~Immediately no□fy the local jurisdic□on and appropriate~~ ~~Ecology regional office of the failure to comply:~~		pollution or otherwise stop the noncompliance and correct the problem. ~~i. Any noncompliance that may endanger health or the environment.~~ ~~b. Any violation of a maximum daily discharge limit in this~~ ~~permit.~~ Immediately notify the local jurisdiction and appropriate Ecology regional office of the failure to comply…
27	S10. Compliance with Standards	In PUD No. 1 of Jefferson County v. Washington Department of Ecology, 511 U.S. 700 (1994), the Supreme Court concluded that the Clean Water Act provides for protection of water quality by translating water quality standards into specific limits tailored to individual permittees. Ecology describes the ISGP as a Clean Water Permit. The requirement in ISGP Condition S10.A to meet water quality standards does not provide Permittees with specific direction or limits to which discharges must conform. That ambiguity is not consistent with the Clean Water Act's requirements. The federal district court in PSA v. APMT, concluded that the statement in Condition S10.B that "Ecology will presume compliance with water quality standards" does not describe a presumption that is beneficial to Permittees in the context of third party lawsuits because it refers only to a presumption applicable	Remove Conditions S10.A and S10.C. Revise Condition S10.B as follows: Ecology will presume compliance with water quality standards, ~~unless discharge monitoring data or other site-specific information demonstrates that a discharge causes or contributes to violation of water quality standards,~~ when the Permittee is: 1. In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and recordkeeping conditions. 2. Fully implementing stormwater best management practices contained in stormwater technical manuals approved by the department, or practices that are demonstrably equivalent to practices contained in stormwater technical manuals approved by Ecology, including the proper selection, implementation, and maintenance of all

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		to Ecology. The presumption of compliance should apply for Permittees regardless of whether the entity enforcing the Permit is Ecology or a citizen. The requirement in Condition S10.C. to meet AKART by applying "applicable and appropriate BMPs, including the BMPs necessary to meet the [water quality] standards identified in Condition S10.A" is unreasonable and inconsistent with the Clean Water Act by failing to provide Permittees with specific direction or limits to which discharges must conform. A discharge's impact on water quality is a function of many variables, so this language does not provide clarity around what is required for Permit compliance.	applicable and appropriate best management practices for on-site pollution control.
28	G3 The Permittee shall allow an authorized representative of Ecology or an authorized representative (including an authorized contractor acting as a representative of the Administrator)," upon the presentation of, ~~upon the presentation of~~ credentials and such other documents as may be required by law.	Ecology is proposing to use environmental consultants/ contractors to conduct site visits/inspections related to the ISGP. In order for ISGP-related site visits and inspections to be fair and objective, it is imperative that only authorized employees of the Department of Ecology be allowed entry. The use of third-party contractors to conduct compliance inspections on behalf of Ecology will: • create more inconsistency in the application of the ISGP to different facilities, • result in unknown individuals requesting access to facilities covered under the ISGP – many of which have security protocols in place due to sensitive activities taking place and to protect critical infrastructure,	Remove changes to G3: The Permittee shall allow an authorized representative of Ecology ~~or an authorized representative (including an authorized contractor acting as a representative of the Administrator),"~~ upon the presentation of credentials and such other documents as may be required by law.

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		• create more uncertainty for permittees as to whether individuals seeking access to their facility are legitimate or not, and • ultimately end up in conflicts of interest occurring. The Fact Sheet does not provide any information on the use of "authorized contractors" or details on how third-party contractors would be vetted for safety, security, and conflicts of interest. The proposed language allowing an authorized representative or contractor to be allowed entry to ISGP facilities needs to be removed.	
29	Appendix 2 – Definitions *Industrial Activity* means industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by a facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and	Changing the definition of industrial activity as proposed creates ambiguity regarding what activities are subject to the monitoring requirements in Condition S4.B.2 and the inspection requirements in S7.B.1. The proposed definition refers to "immediate access roads and rail lines" but does not explain what activity the roads or rail lines must be immediately near. The definition fails to explain what constitutes a "shipping and receiving area[]." The definition includes "material handling sites," and defines material handling to include transportation of final products. Ecology should not regulate "sites" used for transporting final products, a scope that is unreasonable in its reach, not supported by any science or data, and would include areas that do not constitute fixed industrial spaces. For example, any facility engaged in storing raw materials, intermediate	The existing definition for "Industrial Activity" should be retained: Industrial Activity ~~means industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by a facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are~~

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	are exposed to storm water. For the purposes of this definition, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on a site separate from the facility's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. ~~means (1) the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi) that must apply for either coverage under this permit or no exposure certification, (2) any facility conducting any activities described in Table 1, and (3) the activities occurring at any facility identified by Ecology as a significant contributor of pollutants. Table 1 lists the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i xi) in a different format.~~	products, or final products, regardless of NAICS code (e.g., Home Depot, schools, universities), would be required to obtain ISGP coverage (again, regardless of NAICS code). This conflicts with what the requirements in Special Condition S1.A.	~~exposed to storm water. For the purposes of this definition, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on a site separate from the facility's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.~~ means (1) the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi) that must apply for either coverage under this permit or no exposure certification, (2) any facility conducting any activities described in Table 1, and (3) the activities occurring at any facility identified by Ecology as a significant contributor of pollutants. Table 1 lists the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14)(i-xi) in a different format.
30	Appendix 2 – Definitions *Material Handling* means storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product.	Material handling/storage is proposed to be added as a trigger for ISGP coverage for transportation sector facilities. If this proposed change is carried through to the final version of the ISGP, clarification needs to be added to the Condition S1.A and the definition for “material handling” to clarify when “material handling” activities at a transportation-sector facility would trigger the applicability of the ISGP to the areas of a	Recommend changes to “Material Handling” definition: Material Handling means storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The following types of materials are specifically excluded for the

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		transportation-sector facility where the defined "material handling" activities occurs above a defined threshold. EPA has a clear definition of pollutant sources associated with material handling in the industrial stormwater fact sheet for Sector Q Water Transportation Facilities. These pollutant sources include 1) fueling: spills, leaks, and hosing area; 2) Liquid storage in above ground storage: spills and overfills, external corrosion, failure of piping systems; and 3) waste material storage and disposal: paint solids, solvents, trash, and spent abrasives and petroleum products. At transportation-sector facilities, these are the primary pollutant sources and this must be incorporated into the definition and bounds that Ecology is proposing for when "material handling" would be a triggering activity that would require ISGP coverage at a transportation-sector facility. For example, final products intended for outdoor use should be explicitly excluded from the definition of material handling that would require a transportation-sector facility to obtain coverage under the ISGP. In addition, temporary storage locations which are not typical of ongoing operations at the facility and are temporary in nature should be explicitly excluded from the definition of material handling that would require a transportation-sector facility to obtain coverage under the ISGP. Likewise, materials used for on-	purposes of identifying whether "material handling" activities at transportation-sector facilities trigger the applicability of the ISGP: • final products intended for outdoor use • areas where materials may be temporarily handled or stored for 180 days or less • materials used for on-site construction or facility maintenance • areas designated to the transport of railcars, shipping containers and other containers that are in transit and subject to Department of Transportation regulations

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		site construction or facility maintenance are not part of ongoing operations and are temporary in nature, and should also be explicitly excluded from the definition of material handling that would require a transportation-sector facility to obtain coverage under the ISGP. In many instances, construction-related activities would be covered by the Construction Stormwater General Permit and not the ISGP, but there needs to be a clear distinction made for smaller construction projects that do not require coverage under the Construction Stormwater General Permit.	
31	Appendix 2 – Definitions *Reasonable Potential* means the likely probability for pollutants in the discharge <u>to cause or contribute to a water quality violation in the receiving waterbody, or loss of sensitive and/or important habitat</u> ~~exceed the applicable water quality criteria in the receiving waterbody.~~	Reasonable potential is not referenced in the main text of the ISGP and is only referenced in several definitions. Updating the definition for "reasonable potential" to include "loss of sensitive and/or important habitat" is vague and leaves much to be interpreted. This expands the scope of the ISGP beyond what is required in the Clean Water Act by including reference to "loss of sensitive and/or important habitat." Ecology does not provide a basis for making this change in that: 1) no clear process for determining when a stormwater discharge would be considered to have a likely probability to cause or contribute to loss of sensitive and/or important habitat is provided, 2) an explanation for this change is not provided in the Fact Sheet, and 3) Ecology does not identify that this is an expansion of the scope of the ISGP.	The existing definition for "Reasonable Potential" should be retained: Reasonable Potential means the likely probability for pollutants in the discharge to ~~cause or contribute to a water quality violation in the receiving waterbody, or loss of sensitive and/or important habitat~~ <u>exceed the applicable water quality criteria in the receiving waterbody.</u>

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		In the Fact Sheet, Ecology identifies that 40 CFR Part 122.44 requires the permit to contain effluent limitations to control all pollutants or pollutant parameters which are, or may be, discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard. The definition for "reasonable potential" needs to be limited to referencing water quality criteria in the receiving waterbody, with the reference to "loss of sensitive and/or important habitat" removed from the definition.	
32	Appendix 2 – Definitions *Substantially Identical Discharge Point* One new criteria added for substantially identical discharge point: and <u>5) discharges to the same surface waterbody or waterbodies with demonstrably similar water quality, or to the same segment of a storm sewer.</u>	Ecology proposes to establish a fifth criteria for substantially identical outfalls in the definitions: 5) discharges to the same surface waterbody or waterbodies with demonstrably similar water quality, or to the same segment of a storm sewer. This new criteria for a substantially identical discharge point should be removed as it is not supported by a technical basis and goes beyond the established definition at the federal level. Qualification for substantially identical outfalls is based on the quality of the stormwater discharge at the facility based on industrial activities, BMPs, exposed materials and type of impervious surface. Including this fifth criteria goes well outside the purview of what constitutes a substantially identical discharge point. For example, including the requirement for a substantially identical discharge point to be to the same segment of a storm	The definition for "Substantially Identical Discharge Point" in Appendix 2 should be retained: *Substantially Identical Discharge Point* means a discharge point that shares the following characteristics with another discharge point: 1) the same general industrial activities conducted in the drainage area of the discharge point, 2) the same Best Management Practices conducted in the drainage area of the discharge point, 3) the same type of exposed materials located in the drainage area of the discharge point that are likely to be significant contributors of pollutants to stormwater discharges, <u>and</u> 4) the same type of impervious surfaces in the drainage area that could affect the percolation of stormwater runoff into the ground (e.g., asphalt, crushed rock, grass).~~ and 5) discharges to the same surface waterbody or waterbodies with demonstrably~~

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		sewer does not make sense as different segments of a storm sewer can discharge to the same surface waterbody. Further, if an outfall is subject to effluent limits, then it must be sampled and is not eligible to be a substantially identical discharge point for the parameters which have an effluent limit.	~~similar water quality, or to the same segment of a storm sewer.~~
33	S4.B.4.b.i.4.h h) Use drip pans below leaking vehicles (including inoperative vehicles and equipment) in a manner that catches leaks or spills. Drip pans must be managed to prevent overfilling and the contents disposed of properly ~~drip pans and absorbents under or around leaky vehicles and equipment or store indoors where feasible.~~ Drain fluids from equipment and vehicles prior to on-site storage or disposal if feasible.	Ecology removed the option to use absorbents beneath leaking vehicles. The intent of this BMP is to prevent fluids leaking from vehicles from impacting stormwater runoff. This can be accomplished using a variety of methods including drip pans, duck ponds, five-gallons buckets, loose absorbents, absorbent pads, etc. Permittees must be provided with the flexibility to determine specific types of BMPs that work best at their facility. The language in Condition S4.B.4.b.i.4.h needs to be made more general as to the types of BMPs that can be used and not be so prescriptive as to limit permittees to only using drip pans.	S4.B.4.b.i.4.h: h) Use containment methods such as drip pans, buckets, duck ponds, absorbents or similar methods below leaking vehicles (including inoperative vehicles and equipment) in a manner that catches leaks or spills. Drip pans/containers must be managed to prevent overfilling and the contents disposed of properly. Absorbent materials must be managed to prevent impacts to stormwater runoff during storm events. Drain fluids from equipment and vehicles prior to on-site storage or disposal if feasible.