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Please see the attached document for questions and comments on the 2026 CSWGP. Thank you for your time. Tiffany Nibler

2026 draft CSWGP QUESTIONS

SUMMARY

Document is separated into 3 sections.

- Section 1. Clarification on seeking coverage. Questions 1-3
- Section 2. Clarification on Sampling Point. Questions 4-13
- Section 3. Clarification on the CSWGP definition of ‘Hazardous Substance’. Questions 14-15

Section 1- Clarification on Seeking Coverage

S1.B.2.a.

“2. Operators of the following activities are not required to seek coverage under this CSWGP (unless specifically required under Special Condition S1.B. 1.b, above):

a. Construction activities that discharge all stormwater and non-stormwater to groundwater, sanitary sewer, or combined sewer, and have no point source discharge to either surface water or a storm sewer system that drains to surface waters of the State.”

QUESTION 1

Are permittees to understand that when all construction-related stormwater and non-stormwater discharges are to groundwater with no point source discharge to either surface water or a storm sewer that drains to surface water, a CSWGP is not required?

QUESTION 2

Why does the CSWGP NOI require an outfall when discharging to ground?

QUESTION 3

Does Ecology recognize a difference between “infiltration to ground” and “discharge to ground” when infiltrating (not by use of an injection well)?

Section 2- Clarification On Sampling Point

S1.C.1

“..... (Note that “surface waters of the State” may exist on a construction site as well as off-site; for example, a creek running through a site.)....”

QUESTION 4

When a stream runs through the construction site but is protected by BMPs with no activities occurring below the OHMW and no site stormwater discharges to the stream (stormwater either infiltrates or has a different discharge location that does not enter the stream in question) is sampling required where the surface water leaves construction limits?

S3. C.

“Where construction sites also discharge to groundwater, the groundwater discharges must also meet the terms and conditions of this CSWGP. Permittees who discharge to groundwater through an injection well must also comply with any applicable requirements of the Underground Injection Control (UIC) regulations, Chapter 173-218 WAC.”

QUESTION 5

Does this section only pertain when construction sites covered under the CSWGP are discharging to surface waters AND discharging to ground through infiltration or an injection well?

QUESTION 6

Clarification- when only discharging to ground through infiltration, a CSWGP is not required? (see S1.B.2.a)

EXAMPLE: 1.5-acre site sits like an oval with silt fence installed around perimeter- when it rains, no stormwater is discharged offsite. Stormwater ponds within site boundary and infiltrates into soil to groundwater.

QUESTION 7

In the above example, a CSWGP is not required?

QUESTION 8

Are permittees to understand all infiltration areas (i.e, temporary infiltration basins, holding ponds, rain puddles, etc.) are required to be sampled weekly for compliance with benchmark turbidity and pH standards (when applicable) ?

S4. 3.a

*“Sampling is required at all points where stormwater associated with construction activity (or authorized non-stormwater) is discharged off-site, **including** where it enters any on-site surface waters of the state (for example, a creek running through a site).”*

By use of the word “including”, the statement above infers that sampling is required when construction-related discharge exits the project boundary, even if it doesn’t enter waters of the state.

However, within the fact sheet under Description of receiving water, last sentence:

*“The sampling point is where construction stormwater discharges exit the project site boundary, **before entering the receiving water (outfall)**”*

QUESTION 9

Is the intent for the permittee to understand that this only applies when the discharge will reach surface waters of the state?

QUESTION 10

In other words, are CSWGP permittees to understand when site discharge does not enter any receiving waterbody, stormwater sampling is **NOT** required?

QUESTION 11

Does Ecology agree with the following description for point of discharge? If not, please explain.

Point of discharge: Where construction stormwater exits the project boundary (aka leaves construction limits) provided it has the potential to enter surface waters of the state, unless documentation can be provided proving the potential for site discharge to enter surface waters of the state does not exist at time of inspection when site discharge is exiting project boundary.

Example

When construction stormwater discharges exit the project boundary but never reaches the receiving water/outfall (ie. Discharges off site in a roadside ditch but infiltrates before reaching receiving water)

QUESTION 12

Is sampling of this site discharge still required?

QUESTION 13

Under the new permit, can sampling requirements for site discharge be eliminated when visually clear at the time of inspection? Provided photo documentation is included in the inspection.

Section 3- Clarification on the CSWGP definition of ‘Hazardous Substance’

*“**Hazardous Substance** means any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste as designated by rule under chapter 70.105 RCW; any hazardous sub-stance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under chapter 70.105 RCW; any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law, 42U.S.C., Sec. 9601(14); petroleum or petroleum products; and any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment. The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.”*

QUESTION 14

With this definition, should the term be “Hazardous Waste” instead of ‘Hazardous Substance’?

QUESTION 15

Should RCW.105.010 be updated to RCW 70A.300.010?

Notes to help with clarification and update to definition of Hazardous Substance-

1. Under RCW 70A.300.010, 'Dangerous Waste', 'Extremely Hazardous Waste', 'Hazardous Waste', 'Moderate Risk Waste' all have their own definitions.
2. WAC 296-843-099 defines 'Hazardous Substance' and Hazardous Waste.
 - a. Hazardous waste. Any substance designated by the department of ecology as a dangerous or extremely hazardous waste by chapter 173-303 WAC, Dangerous waste regulations.

All CWA hazardous substances and CWA toxic pollutants are CERCLA hazardous substances, whereas only some CERCLA hazardous substances are CWA hazardous substances. CERCLA section 101(14) defines "hazardous substance" by reference to lists, including the lists in CWA section 311(b)(2)(A) and CWA section 307(a).

- **CWA Hazardous Substances** are designated under CWA section 311(b)(2)(A). CWA Hazardous Substances are listed in [40 CFR 116.4](#) in Table 116.4 A "List of Hazardous Substances" and Table 116.4 B "List of Hazardous Substances by CAS Number". Additionally, Table 117.3 in 40 CFR 117.3 provides the CWA Reportable Quantities (RQs) for these CWA hazardous substances.
- **CWA Toxic Pollutants** are designated under CWA section 307(a). There are three lists of CWA Toxic Pollutants:
 - Toxic Pollutants listed in [40 CFR 401.15](#),
 - Priority Pollutants listed in [Appendix A to Part 423](#), and
 - Toxics criteria for states not complying with CWA section 303(c)(2)(B) listed in [40 CFR 131.36](#).

All substances listed in [Table 116.4 A](#), [Table 116.4 B](#), [40 CFR 401.15](#), [Appendix A to Part 423](#), and [40 CFR 131.36](#) are also in the list CERCLA hazardous substances. The [list of CERCLA hazardous substances](#) can be found at [40 CFR 302.4](#).