

RESOLUTION NO. 1257

**A RESOLUTION OF THE PORT COMMISSIONERS OF THE PORT OF BELLINGHAM ESTABLISHING A POLICY PERTAINING TO THE PROHIBITION OF ILLICIT DISCHARGE INTO MUNICIPAL SEPARATE STORM SEWER SYSTEMS LOCATED ON PORT PROPERTIES.**

**WHEREAS**, the Washington State Department of Ecology issued the Western Washington Phase II Municipal Stormwater Permit on January 17, 2007; and

**WHEREAS**, the Port of Bellingham was granted coverage as a Secondary Permittee under the Western Washington Phase II Municipal Stormwater Permit by the Washington State Department of Ecology on May 14, 2007; and

**WHEREAS**, Special condition S6.D3.b of the permit requires all Secondary Permittees to adopt appropriate policies prohibiting illicit discharges and illegal dumping and identifying possible enforcement mechanisms for those policies; and


**WHEREAS**, virtually all existing Port lease agreements and all new lease agreements establish (1) the right of entry for inspection, (2) prohibit the existence of a condition of waste upon Port property, (3) prohibit the damage of Port property and (4) require the tenant to comply with all applicable laws and regulations, including all applicable environmental laws and regulations; and

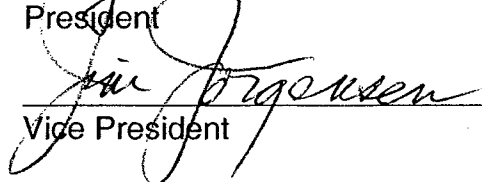
**WHEREAS**, the Commission deems it necessary to establish a new policy to prohibit illicit discharges and illicit connections to the Port's stormwater system; and

**WHEREAS**, the policy as proposed is in the best interest of public health and welfare;

**NOW, THEREFORE**, be it resolved that the Board of Commissioners of the Port of Bellingham hereby adopts the *Policy to Prohibit Illicit Discharges to Municipal Separate Storm Sewer System*, a copy of which is attached hereto as Exhibit A and by this reference incorporated herein.

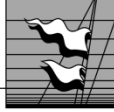
**ADOPTED** by the Port Commission of the Port of Bellingham at the regular meeting thereof held this 20th day of May, 2008.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Vice President

\_\_\_\_\_  
Secretary

## Exhibit A



# PORT OF BELLINGHAM

*Washington State*

## Policy to Prohibit Illicit Discharges to Municipal Separate Storm Sewer System

### I. PURPOSE/INTENT

The purpose of this Policy is to regulate non-stormwater discharges to the Port of Bellingham's MS4 to the maximum extent practicable as required by federal and state law. The objectives of this Policy are:

- A. To meet the requirements of the *Western Washington Phase II Municipal Stormwater Permit*;
- B. To regulate the introduction and contribution of unauthorized non-stormwater discharges to the MS4;
- C. To prohibit illicit connections and discharges to the MS4; and
- D. To establish institutional authority to carry out all inspection procedures necessary to ensure compliance with this Policy.

### II. DEFINITIONS

- A. Best Management Practices. Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.
- B. BMPs – Best Management Practices
- C. Ecology. Washington State Department of Ecology.
- D. Illicit Connections. Any man-made conveyance that is connected to the MS4 without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.
- E. Illicit Discharge. Any discharge to the MS4 that is not composed entirely of stormwater except discharges covered by another NPDES permit (other than the Phase II Permit for discharges from the MS4) and discharges resulting from fire fighting activities.
- F. MS4. Municipal Separate Storm Sewer System.

- G. Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, pipes, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Port;
  2. Designed or used for collecting or conveying stormwater;
  3. Which is not a combined sewer; and
  4. Which is not part of a Publicly Owned Treatment Works as defined at Part 122.2 of Title 40 of the Code of Federal Regulations (40 CFR 122.2).
- H. Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- I. NPDES. National Pollutant Discharge Elimination System.
- J. Phase II Permit. *Western Washington Phase II Municipal Stormwater Permit.*
- K. Policy. The Port's illicit discharge policy presented herein entitled *Policy to Prohibit Illicit Discharges to Municipal Separate Storm Sewer System.*
- L. Port. The Port of Bellingham
- M. Premises. Any leased, unleased, Port owned, and/or tenant owned building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- N. Stormwater. Runoff during and following precipitation and snowmelt events, including surface runoff and drainage.
- O. Stormwater Manager. The employee of the Port designated by the Port Executive Director to assist with the implementation of this Policy.

### **III. APPLICABILITY**

This Policy shall apply to all water entering the Port's MS4 generated on the premises, unless explicitly exempted by an authorized enforcement agency. Non-stormwater discharges generated on property not owned by the Port and entering the Port's MS4 will be addressed with the local city or county jurisdiction.

### **IV. RESPONSIBILITY FOR ADMINISTRATION**

Responsibility for administration, implementation, and enforcement of this Policy shall be with the Port Executive Director. The Port Executive Director will designate a Stormwater Manager to assist with the implementation of this Policy.

### **V. SEVERABILITY**

The provisions of this Policy are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Policy or the application thereof

to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Policy.

## **VI. ILLICIT DISCHARGE PROHIBITIONS**

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Sections VI.A and VI.B. The commencement, conduct, or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

A. The following discharges are exempt from this Policy:

1. Rising ground waters.
2. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)).
3. Uncontaminated pumped ground water.
4. Foundation and footing drains.
5. Air conditioning condensation.
6. Irrigation water from agricultural sources that is commingled with urban stormwater.
7. Water from crawl space pumps.
8. Flows from riparian habitats, wetlands, springs, and diverted streams.
9. Non-stormwater discharges covered by another NPDES permit.
10. Discharges from emergency fire fighting activities.

B. The following discharges are allowable if the stated conditions are met:

1. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water are prohibited unless the discharge is first dechlorinated to concentration of 0.1 parts per million or less, pH-adjusted if necessary, and velocity controlled to prevent resuspension of sediments in the MS4.
2. Discharges from lawn watering and other irrigation runoff shall be minimized through use of water conservation practices and BMPs.
3. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents shall be minimized through use of water conservation practices and BMPs. At active construction sites, street sweeping shall be performed prior to washing the street.
4. Other non-stormwater discharges shall be in compliance with the requirements of a stormwater pollution prevention plan reviewed by the Port which addresses control of such discharges.

## **VII. ILLICIT CONNECTION PROHIBITIONS**

The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Policy if the person connects a line conveying any materials other than stormwater (except as provided in Sections VI.A and VI.B) to the Port's MS4, or allows such a connection to continue.

## **VIII. SPILLS, DUMPING, AND IMPROPER DISPOSAL**

Spilling, dumping, or otherwise improperly disposing on the Premises of any material deemed a "hazardous material" under any federal, state, or local law or regulation is prohibited. Likewise, the dumping and improper disposal of litter and/or pet waste on the Premises is also prohibited.

## **IX. ENFORCEMENT AUTHORITY AND PROCEDURES**

- A. Enforcement Authority. The Port Commission authorizes the Port Executive Director or his or her designee to administer the terms of this Policy by verbal or written instruction.
- B. Enforcement Procedures. In the event of an illicit discharge the Port shall implement the following procedures:
  - 1. The responsible party shall be contacted immediately to establish appropriate procedures.
  - 2. Any Port tenant responsible for an activity on Port property, which is, or may be, the source of an illicit discharge will be required to submit a written statement to the Port Stormwater Manager describing the events surrounding the discharge and the BMPs or other measures that will be used to ensure it will not reoccur.
  - 3. If a repeat or continued violation of this policy is committed by a Port tenant, the Port shall enforce the terms of this Policy by any means it deems appropriate including, but not limited to, bringing an action under any applicable provision contained in the lease between the Port and said tenant.
  - 4. If the illicit discharge appears to be in violation of the City of Bellingham or Whatcom County illicit discharge ordinances, as applicable, the City of Bellingham or Whatcom County shall be notified.
  - 5. If a violation of this policy is committed by a person other than a Port tenant, the appropriate City of Bellingham, Whatcom County, or Ecology enforcement authorities shall be notified.

**X. ACCESS AND MONITORING OF DISCHARGES**

- A. Applicability. This section applies to all facilities that the Stormwater Manager or his or her designee must inspect in order to ensure compliance with the provisions of this Policy, or whenever he or she has cause to believe that there exists, or potentially exists, in or upon any of the Port's Premises any condition which constitutes a violation of this Policy.
  
- B. Access to Facilities. The Port Stormwater Manager or his or her designee shall have the authority to inspect any and all Port or Port tenant facilities that are subject to this Policy as often as may be necessary to determine compliance with this Policy. If a discharger has security measures in force which require proper identification and clearance before entry into a Port tenant building or property, the discharger shall make the necessary arrangements to allow access. The Port Stormwater Manager or his or her designee will coordinate access to Port tenant facilities for any required inspections by the City of Bellingham or Whatcom County illicit discharge detection and elimination programs.

**XI. ADOPTION OF POLICY**

This Policy shall be in full force and effect immediately and will be posted on the Port's website.