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**SUBMITTED ONLINE VIA: <https://wq.ecology.commentinput.com/>
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The Washington Department of Ecology (Ecology) is soliciting comments on its Industrial Stormwater National Pollutant Discharge Elimination System and State Waste Discharge General Permit (permit). The current permit was last issued in November 2019 and is scheduled to expire Dec. 31, 2024; the new permit is slated to be effective on January 1, 2025.

The J.R. Simplot Company (Simplot) is a privately held agribusiness company headquartered in Boise, Idaho. Simplot's operations in Washington State include several food processing plants and high-bay freezers which may be affected by the new permit.

In general, the proposed permit includes some revisions that make compliance more onerous and more costly to various Permittees, with little value to the environment. Please find specific comments detailed below.

Specific Comments

#1 – 6PPD and 6PPD-q Report-only Quarterly Sampling

Table 3., Additional Benchmarks and Sampling Requirements Applicable to Specific Industries, Footnote d. states that, "*Report only* reporting may not be applied to consistent attainment." This is also noted in **S4.B.9.**

Consistent Attainment per **S4.B.7.a** relieves Permittees of more frequent sampling when eight consecutive quarterly samples demonstrate a reported value equal to or less than the benchmark value. For constituents that have *no* benchmark value, it is overly onerous to require Permittees to sample quarterly indefinitely, especially for new and emerging contaminants such as 6PPD and 6PPD-q. The nationwide certified laboratory that Simplot utilizes does not yet even offer this analysis. Simplot reached out to another major laboratory, who quoted \$300 per sample; samples must be shipped to a laboratory location in Canada which does not hold any US-based certifications for the testing.

Permittees should be able to stop sampling and reporting ‘Report Only’ results after so many non-detects (perhaps four, as is common with benchmark monitoring) or after a certain period. The *National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities Fact Sheet* (Ecology 2024) states that, “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.” These efforts should not be at the ongoing cost of the Permittees.

#2 – Discharges to Ground per condition S1.E

S1.E, Discharges to Ground, Paragraph 1, seems to conflict with the overall permit applicability in **S1.A., Facilities Required to Seek Coverage Under This General Permit**. S1.A. notes that, “This statewide permit applies to facilities conducting industrial activities that directly or indirectly discharge stormwater to a surface water of the state” [emphasis added]. **S1.E** Paragraph 1 states that, “The terms and conditions of this permit apply to sites with a discharge point to groundwater.” Per the draft permit, Discharge Point means “*the location where a discharge leaves the Permittee’s facility. Discharge point also includes the location where a discharge enters the ground on-site (e.g., infiltration BMP)*”. **S1.E** Paragraph 1 should be expanded to read: “The terms and conditions of this permit apply to sites with a discharge point to groundwater which is deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters” [proposed addition underlined]. The relief from the requirement to sample discharges to ground, found later in **S1.E.1.**, is not the equivalent to relief from all permit terms and conditions.

Note also: “The rationale for requiring monitoring of certain discharges to ground, if they constitute a functional equivalent of a point-source discharge, is based on the Supreme Court case known as *County of Maui v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020) (Maui).” (2025 ISGP Fact Sheet)

#3 – Inactive and Unstaffed Sites

Because the permit includes mining sectors in **Table 1, Activities Requiring Permit Coverage and the Associated NAICS Groups, S7, Inspections** should provide a provision to decrease the required inspection frequency for “inactive and unstaffed” mining sector permittees, despite and including cases in which stockpiles remain, consistent to the Environmental Protection Agency’s (EPA’s) 2021 Multi-Sector General Permit (MSGP) Part 3.1.5, *Exceptions to Routine Facility Inspections for Inactive and Unstaffed Facilities* and Part 8.J.9.1, *Inactive and Unstaffed Sites – Conditional Exemption from No Exposure Requirement for Routine Inspections, Quarterly Visual Assessments, and Indicator, Benchmark and Impaired Waters*

Monitoring.

#4 – ‘Conditional No Exposure’ Automatic Approvals

In **S1.F.3**, the draft permit has struck the automatic approval of a No Exposure Certification (NEC) for the case in which no response is received from Ecology within 90 days. This leaves the NEC review window open indefinitely for Ecology, with Ecology having little to no urgency to complete a timely review of the application. Applicants should receive a response from Ecology within 90 days or less, so that the need for permit coverage does not remain uncertain. It is costly to prepare a Stormwater Pollution Prevention Plan (SWPPP), train staff, sample runoff, and ensure overall permit compliance, and entities should not be forced to conservatively comply with the permit due to a non-response from Ecology after a 90-day time period.

#5 – Contractor and Vendor Training

SB.4.b.i.5, Employee Training, requires that in addition to fulltime employees, contractors and vendors “who have duties in areas of industrial activities subject to this permit” receive annual training. This is overly onerous to the Permittee. *Presence* “within an area of industrial activity” does not equate to *responsibilities* “within an area of industrial activity” such as fueling, bulk material handling, etc. For instance, it would not be reasonable to require a visiting sales vendor, surveyor, or technical consultant to complete annual SWPPP training. Employees and other personnel requiring annual SWPPP training should be more narrowly defined.

#6 – Definition of ‘Industrial Activity’

While Simplot appreciates the plain language definition of ‘Industrial Activity’ within the draft permit’s **Appendix 2, Definitions**, the provided summary of 40 CFR 126(b)(14)(i-xi) is missing some critical information, such as the inclusion of: “The term does not include discharges from facilities or activities excluded from the NPDES program under this part 122” (40 CFR 126(b)(14)). Without this clarification or a reference to 40 CFR 126(b)(14), *Storm Water Discharge Associated with Industrial Activity*, which was included within the previous version of the permit, permit applicability may be confusing to the reader and/or inconsistent with the EPA’s 2021 MSGP.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan L. Prouty", is positioned above a light blue rectangular background.

Alan L. Prouty
Vice President, Environmental & Regulatory Affairs

Cc: Moly Dimick, J.R. Simplot Company
Rachel Roskelley, J.R. Simplot Company