



July 15, 2024

Submitted Electronically - Online Public Comment Form

Washington State Department of Ecology

RE: Comments on the Draft Industrial Stormwater General Permit

To Whom It May Concern,

The Washington Aggregates and Concrete Association thanks the Washington Department of Ecology for the opportunity to review and comment on the Draft 2025 ISGP.

**S1. A. Page 8** *Draft Permit Text: "This statewide permit applies to facilities conducting industrial activities that directly or indirectly discharge stormwater to surface water of the state, water which includes but is not limited to roadside ditches and storm sewer systems."*

- **Comment:** The term "indirectly" is ambiguous and subject to misinterpretation.
- **Suggested Change:** Include the definition of indirect discharge(s) in Appendix 2. Expand the definition of discharge to explicitly exclude sheet flow and other non-point discharges to waters of the state.
- **Proposed Language:** This statewide permit applies to facilities conducting industrial activities that directly or indirectly discharge stormwater to surface waters of the state. Indirect discharges are discharges that reach surface waters of the state through man-made conveyances such as storm sewer systems.

**S1. A. Page 8** *Draft Permit Text: "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 (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)."*

- **Comment:** The trigger for permit coverage is discharges of stormwater from industrial activities not exposure of stormwater to industrial materials, uses, or activities.
- **Suggested Change:** Replace "Facilities" with "Dischargers".
- **Proposed Language:** Dischargers 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 Discharge exemption, if eligible (Condition S1.F). The Department of Ecology (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).

#### **S1.A.1. Page 8-10**

- **Comment:** Ecology's use of NAICS rather than the SIC system is appreciated.

**S1.A.1. Page 81** *Draft Permit Text: "Any inactive facility where any industrial activity listed in Table 1 was previously conducted and where significant materials remain onsite and are exposed to stormwater shall obtain permit coverage."*

- **Comment:** The presence of materials exposed to stormwater alone is not a trigger for NPDES program permit coverage.
- **Suggested Change:** Revise the language to reflect discharge as the trigger for permit coverage.
- **Proposed Language:** Any inactive facility previously covered by this permit that discharges stormwater to surface waters of the state shall obtain coverage if significant materials remain onsite and are exposed to stormwater.

**Appendix II. Page 81.** *Draft Permit Text: “Days (compliance period interval) - When the compliance period is stated in days: (A) exclude the day of the event that triggers the period; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.*

- **Comment:** Including weekends and holidays in the reporting timeframe can make timely compliance challenging, especially for those observing non-Christian religious holidays.
- **Suggested Change:** Exclude weekends and recognized public holidays from the reporting timeframe and allow for additional religious holidays.
- **Proposed Language:** Reporting timeframes shall exclude weekends and recognized public holidays. Permittees may notify the Department of Ecology in advance of additional non-Christian religious holidays they observe, which will also be excluded from the reporting timeframe. This policy ensures adequate time for response and inclusivity of diverse religious observances.

**S3.B.4. Page 27-28.** *Draft Permit Text: “Any Liquid chemical release onsite regardless of size or flowability is considered a spill and must be logged and addressed.”*

- **Comment:** As written all drips are considered spills and must be logged and addressed. This is infeasible, overly burdensome, and lacks a clear environmental benefit.
- **Suggested Change:** Clearly define “spill” and include criteria to determine if reporting, logging, or other recordkeeping is required.  
**Proposed Language:** 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. Spills that (insert criteria for spills to be logged) must be logged and addressed.

**S5.B.4. Pages 38-39.** *6PPD-Quinone Sampling Requirements*

- **Comment:** There is no EPA-approved testing method for 6PPD-quinone, no Ecology accredited labs available to permittees able to perform testing, and limited scientific understanding of 6PPD-Quinone.
- **Suggested Change:** Data intended to evaluate environmental threats and guide the state’s environmental policy decisions should be performed by Ecology’s Environmental Assessment Program. This is especially important for emerging science when developing and following a quality assurance project plan is critical to data integrity. If Ecology

includes testing requirements in the final document Ecology should provide interim guidance and revise permit language to acknowledge the current limitations.

- **Additional Suggestion:** Small businesses face significant challenges in complying with 6PPDq testing requirements, especially without an EPA-approved method. Consider providing an exemption or alternative compliance options for small businesses.

### **S9.C. Annual Report Requirements**

- **Comment:** Including information that is already readily available to Ecology in the SWPPP or through public record is overly burdensome. Please explain Ecology's authority to request the annual report components listed in the section.
- **Suggested Change:** Streamline the reporting requirements to focus on significant compliance metrics.

### **S1.E.3. Removal or Reduction of "Functional Equivalent to a Point Source Discharge" Language**

- **Comment:** The language stating that a discharge point to groundwater can be deemed by Ecology to constitute a functional equivalent to a point source discharge to surface waters is ambiguous and potentially overly broad.
- **Suggested Change:** Remove or clearly define the criteria for this designation in alignment with the criteria listed in the court findings and the EPA's draft guidance.

**S3.B.4. Page 28. Draft Permit Text:** *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.*

- **Comment:** Requiring facilities to train all contractors/vendors who have duties in areas of industrial activity, including delivery vendors who spend limited time at the facility, is infeasible. This language ignores access issues, labor union considerations, and other factors outside a facilities control. Furthermore, it includes persons such as delivery drivers who aren't involved in activities subject to the permit.
- **Suggested Change:** In alignment with standard regulatory training requirements, further define vendors who perform duties in industrial areas and exclude vendors, clerks, and other personnel who aren't directly involved in industrial activities with the potential to impact stormwater quality.
- **Proposed Language:** The SWPPP shall include BMPs to provide SWPPP training for all employees and contractors/vendors who perform duties that have the potential to impact stormwater quality in industrial areas subject to this permit.

### **S3.B.4. Page 28. Recordkeeping Requirements for Training Logs (Employee Training)**

- **Comment:** Training documents filed digitally or in a central location such as a corporate office should be acceptable as long as they are made readily available upon request.