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SUBMITTED VIA ONLINE COMMENT PORTAL

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Re: Heidelberg Materials Comments on the 2026 Draft Sand & Gravel General Permit

Dear Mr. Daiber,

Heidelberg Materials appreciates the opportunity to provide comments on the Washington State Department of Ecology’s 2026 Draft Sand & Gravel General Permit (“Draft SGGP”). As a major operator in Washington’s construction materials sector, we are directly affected by the proposed revisions and are committed to supporting regulatory frameworks that are both environmentally protective and operationally feasible.

We respectfully submit the following comments to express our concerns regarding the clarity, practicality, and scientific justification of several proposed changes in the Draft SGGP.

I. Introduction

The proposed revisions to the Draft SGGP represent a significant departure from the current permit structure. While we support Ecology’s goals of improving water quality and regulatory oversight, the scope and nature of the changes raise serious concerns about feasibility, cost, and unintended consequences. The revisions, as currently drafted, introduce uncertainty and impose substantial burdens on regulated entities, including those engaged in essential construction activities such as housing and transportation infrastructure.

II. Lack of Supporting Data and Scientific Justification

Several proposed changes lack adequate technical documentation or scientific rationale. For example, new monitoring requirements and expanded reporting obligations are not accompanied by data demonstrating their necessity or effectiveness. Without clear

evidence of environmental benefit, these changes risk imposing costs without corresponding improvements in water quality outcomes.

III. Disproportionate Economic Impact

The SBEIA prepared by Ecology fails to accurately capture the economic impact of the proposed permit revisions. The methodology used to estimate compliance costs is flawed, relying on generalized assumptions and outdated data sources. As a result, the analysis significantly understates the burden on small businesses and overlooks the broader economic implications for large operators like Heidelberg Materials.

We are particularly concerned that:

- The SBEIA lacks the transparency and analytical rigor necessary to support a credible cost analysis.
- Key data sources—particularly those related to labor and sampling costs—are either outdated or not cited, making it impossible to verify their accuracy or relevance.
- The report also inconsistently applies the definitions of “small business” and “small site,” overlooking the fact that a single small business may operate multiple facilities and therefore face significantly higher cumulative compliance costs.
- Labor rates appear to be underestimated, and sampling costs are based on outdated 2018 pricing, despite the availability of more current data. Most notably, while effluent monitoring costs are included in Appendix A, they are excluded from the overall cost estimates and cost-per-employee calculations without explanation. This omission significantly understates actual compliance costs.
- Additionally, the assumptions in Appendix A are not clearly tied to specific permit requirements, making it difficult to determine which elements of the draft general permit were considered in the analysis. This lack of clarity prevents stakeholders from verifying the completeness or accuracy of the cost estimates, especially for new or revised permit obligations.

IV. Increased Administrative Burden

The Draft SGGP introduces new layers of administrative complexity, including expanded documentation, reporting, and compliance tracking. These requirements will demand additional staffing and resources, diverting attention from core stormwater management activities. For operators managing multiple facilities, the burden is compounded and may lead to inefficiencies and compliance risks.

V. Scope of Proposed Changes Necessitates Infrastructure Upgrades and Realistic Compliance Timelines

The breadth of changes introduced in the Draft SGGP will require substantial infrastructure improvements, site modifications, and capital investments across affected facilities. Should these provisions be finalized as currently written—though we strongly urge reconsideration for the reasons outlined herein—implementation will demand a phased

and feasible compliance schedule. The current draft, however, presumes immediate compliance upon permit issuance, which is unrealistic and operationally unworkable.

Major site improvements require careful coordination across multiple disciplines: budgeting, permitting, engineering, design, and construction. These processes cannot be compressed without compromising feasibility, safety, or compliance with other regulatory frameworks. Without a realistic implementation timeline, the regulated community is being set up for failure.

Despite repeated efforts by industry stakeholders to communicate these concerns, it remains evident that Ecology has not fully grasped the scale of operational changes required.

VI. Ambiguity in Language Revisions

The draft introduces numerous changes that lack clarity regarding their intent—whether editorial or substantive. In particular:

- Revised definitions are inconsistent, confusing, and in some cases, detrimental to clear understanding and implementation.
- Ecology should clarify the purpose of each change and provide a rationale, especially where changes do not appear to enhance water quality protections.
- If current permit compliance rates are high and violations are rare, the need for increased restrictions is unclear. The proposed changes risk penalizing compliant facilities while failing to address outliers.
- We recommend Ecology prioritize targeted enforcement and inspections over broad permit revisions that burden compliant operators.

VII. Permit Structure- General vs. Individual Permit Approach

The draft resembles an individual permit rather than a general one:

- It broadly applies specific requirements that are infeasible or irrelevant to many facilities.
- Overly prescriptive Best Management Practices (BMPs) reduce site-specific flexibility and may hinder effective stormwater management.

VIII. Lack of Clarity and Guidance

Several provisions in the Draft SGGP are vague or open to interpretation. This lack of clarity may lead to inconsistent enforcement and confusion among permit holders. We recommend that Ecology revise the language to improve precision and provide detailed implementation guidance to ensure uniform understanding and compliance.

IX. Specific Conditions of Concern

The following list highlights specific concerns but is not comprehensive or representative of all issues due to the limited time available for review and comment. We encourage Ecology

to consider extending comment periods for major permit revisions in the future to ensure that regulated entities have adequate opportunity to review, consult and respond. Doing so would support the development of practical, effective and science-based regulations that effectively protect water quality while remaining operationally feasible.

- **S1.C.1b & c** were revised but it is unclear if it was Ecology's intention to exclude all discharges to 303(d) listed waterbodies, even if the listed pollutant is not being discharged. If this was not Ecology's intent, clarification is needed to avoid confusion and overly broad application. In section c, the revised language applies to waterbodies with or without an established TMDL and seems to exclude discharges to any part of a waterbody if any segment is 303(d)-listed. It is unclear whether this is a drafting error or a deliberate expansion of coverage. HM requests that Ecology clarify the scope and intent of these provisions to ensure they are applied appropriately and consistently.
- **S3.E** proposed changes in are overly burdensome and unnecessary. Standard water treatment methods and chemicals have remained consistent since the SGGP began, and Ecology is already familiar with them. The current permit already includes requirements for documentation, limitations, and notifications—making this new language redundant. Industrial water treatment must adapt to changing conditions like temperature, rainfall, and water chemistry. Operators need flexibility to adjust treatment methods quickly to meet discharge limits. Requiring Ecology review for every change slows down this process and undermines permittees' expertise.
- **S3.F.2 and S3.G.3** prohibits all discharges of soap-impacted water to surface and groundwater, broadly defining it to include any water affected by soaps, detergents, or surfactants. To comply, operators must either stop using soap, install costly closed-loop systems, or obtain sanitary discharge approval—none of which are feasible for many sites. Eliminating soap use compromises equipment maintenance and increases environmental risk. Closed-loop systems can cost over \$100,000 and require major site upgrades. Sanitary discharge is often unavailable due to municipal restrictions and infrastructure needs. This provision reflects a broader issue with the draft permit: it overlooks operational realities and imposes requirements that are difficult or impossible to implement without significant cost or disruption.
- **S3.G.2** appears to suggest that any water on a permeable surface not routed to a monitoring point may be considered a discharge to groundwater. This interpretation is vague and inconsistent with existing guidance, including the Stormwater Management Manual, which allows limited infiltration of pH-affected stormwater provided it does not pond. Standing water alone should not be presumed to indicate a discharge. Additionally, HM is concerned that this language could revive the impractical and previously discouraged practice of puddle monitoring. This approach is burdensome, lacks clarity, and does not meaningfully enhance water

quality protection. We recommend removing or revising this provision to reduce regulatory ambiguity and align with established, basin-based monitoring practices.

- **S4.A.4** imposes a new monitoring requirement for Hexavalent Chromium that is not scientifically justified. No data suggested that Hexavalent Chromium is present in significant concentrations – or at all. Additionally, Cr(VI) analysis is highly specialized and operationally burdensome. The method's 24-hour sample holding time requires immediate shipment to certificated laboratories, few of which are available in Washington. HM strongly opposes the addition of Cr(VI) monitoring, and we recommend removing this requirement.
- **S4.B.4** introduces a Total Dissolved Solids (TDS) benchmark for NAICS 212321 facilities located in Critical Aquifer Recharge Areas (CARAs) but provides no supporting data or justification. Ecology has not demonstrated that discharges from these facilities contribute to aquifer degradation or that aggregate operations are significant sources of TDS. Without Washington-specific data linking these discharges to aquifer impairment, the benchmark appears arbitrary. Imposing this requirement would increase monitoring costs and staff workload without a clear environmental benefit. Heidelberg Materials recommends removing or revising this provision to reflect a data-driven, risk-based approach.
- **S5.D.3** proposes new map requirements including infiltration areas, unlined impoundments, and infiltration ponds which are often temporary and in constant flux at aggregate facilities as mining progresses. While we agree that it is reasonable to map permanent water management features and monitoring points, extending this requirement to transient features creates an unreasonable compliance burden.
- **S8.E.1.c.** prohibits impervious surfaces and impoundments from qualifying as secondary containment. There is no justification to prohibit lined impoundments from dually acting to provide secondary containment for onsite chemicals and there is abundant regulatory precedent for this including federal SPCC regulations. We recommend removal or revision.
- **Section S8.E.9** is overly prescriptive and unnecessary. The new requirement to store unhardened concrete and asphalt materials on a bermed impervious surface is too rigid and doesn't account for site-specific conditions. It also ignores other effective BMPs like covering, grading, or trench drains that can provide equal protection. Instead of mandating one method, the permit should set performance standards and allow flexibility in how those standards are met. The current language—requiring discharge to meet water quality standards under S2—is more practical and protective without being overly restrictive.
- **Section S8.F** revisions are unclear and could harm concrete recyclers. The draft permit changes the exemption established on April 1, 2016, by requiring facilities to have had the ECY002 NAICS code before that date. This is problematic because the

code didn't exist until the 2016 permit was issued, making it impossible for facilities to meet the new condition. Even if the intent is to limit the exemption to pre-2016 concrete recyclers, facilities that added recycling later—even while fully complying with past permits—could now be out of compliance. This creates confusion and unfairly penalizes long-standing operations. We recommend restoring the original exemption language from the 2016 permit, which was clear, fair, and workable for facilities operating in good faith.

- **S8.F.3** Ecology has previously proposed source control and treatment BMPs but failed to provide adequate technical justification during the 2021 cycle. No new evidence or information has been provided to support their inclusion in the current draft. Reintroducing unsupported requirements undermines the credibility of the permitting process. Therefore, we strongly recommend that this section be removed unless Ecology can provide a clear, evidence-based rationale.
- **S9.C.4** significantly expands the existing documentation requirements for spills to include before and after photographs, the exact timing of clean-up actions, and staff involved in the clean-up process. Oil sheen at a discharge point is not a violation if there is no discharge of sheen or petroleum products to waters of the State. Imposing a notification to the regional permit manager that mirrors the notification requirement for reporting violations is an unnecessary burden to permittees. As there is no immediate threat to human health or the environment, nor a permit violation, documentation of sheen including cause, solution, and preventative measures should continue to occur on the daily inspection form.
- **S10.B** requires submission of the Fiscal Year Sand and Gravel Production Reporting Form which appears duplicative of the Production Reporting Form and the Production and Operating Verification Form. HM recommends combining reporting forms to reduce the administrative burden.
- **S10.C** requires permittees to document pre- and post-treatment water conditions in their DMRs. However, the permit governs discharges to waters of the state and does not authorize Ecology to require monitoring of detained, non-discharging waters. Additionally, this requirement is impractical for continuous-flow systems—such as carbon dioxide sparging—where treatment and discharge occur simultaneously, making discrete pre- and post-treatment measurements infeasible. We recommend removing this provision due to its lack of legal basis and technical applicability.
- **S10.G** The Annual Report appears to certify compliance with existing requirements and provides no substantive new information. This approach imposes administrative burdens on permittees without advancing environmental outcomes. If the intent is to confirm continued compliance, alternative mechanisms, such as periodic inspections are far more effective.
- Ecology's interpretation of permeable in the **Definitions** is unnecessarily restrictive and inconsistent with other jurisdictions which widely consider surfaces to be those

non vegetated surfaces that substantially reduce, retard, or prevent the infiltration of stormwater. Notably, other jurisdictions define the performance requirements of impermeable surfaces and allow operators to select appropriate materials.

VIII. Washington Aggregate and Concrete Association (WACA) Comments

Heidelberg Materials is an active member of the Washington Aggregates & Concrete Association (WACA) and contributed to the development of the association's formal comments on the 2026 Draft Sand & Gravel General Permit. We fully endorse and support the positions and recommendations outlined in WACA's submission.

X. Recommendations

To address these concerns, Heidelberg Materials respectfully requests that Ecology:

1. Reevaluate the technical basis for proposed changes and provide supporting data.
2. Revise the SBEIA using current, representative industry data and transparent methodology.
3. Streamline administrative requirements to reduce unnecessary burden.
4. Clarify ambiguous provisions and offer detailed guidance for implementation.
5. Engage further with industry stakeholders to ensure the final permit reflects operational realities and supports sustainable compliance.

XI. Conclusion

Heidelberg Materials remains committed to environmental stewardship and regulatory compliance. We believe that a balanced approach—grounded in science, practicality, and stakeholder engagement—is essential to achieving the goals of the Sand & Gravel General Permit. We appreciate the opportunity to provide input and look forward to continued collaboration with the Department of Ecology.

Sincerely,



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