



October 10, 2025

Submitted Electronically – Via Online Public Comment Form as provided by the Washington State Department of Ecology

Subject: Formal Public Comments for Draft Sand and Gravel General Permit

To Whom It May Concern,

CalPortland thanks the Washington Department of Ecology for the opportunity to provide formal comments on the Draft Sand and Gravel General Permit. Overall, the changes in the draft are too broad and lack scientific justification. CalPortland strongly urges Ecology to revert to existing permit language with minor revisions to ensure consistent permit enforcement. Below are detailed comments and proposed language.

S1.E.2a – Include ECY Codes

Comment: The new language requirement to notify the appropriate regional Ecology office to add, remove, or revise authorized NAICS Code activities listed on their coverage page does not mention ECY Code activities. If Ecology’s intention is for Permittees to notify the appropriate regional office when adding, removing, or revising any Code activities listed on their coverage page, which may include ECY Code activities, the section should be revised to state that.

Proposed Language: “Permittees must notify the appropriate regional Ecology office to: a) Add, remove, or revise authorized NAICS/ECY Code activities listed on their coverage page.”

S2 – Revert to Existing Permit Language Describing Types of Discharges for Clarity

Comment: The replacement of “process water, mine dewatering water, and stormwater” with “all discharges” is less descriptive than existing permit language and does not precisely designate the types of discharges which are required to comply with the effluent limits and monitoring requirements in S2. It is also inconsistent with other sections of the draft permit which use the former language, such as S1.E.1, “The Permittee is conditionally

authorized to discharge process water, mine dewatering water, and stormwater...” as well as the “Water Type” title in Table 3, which specifically lists effluent limits for process water, mine dewatering water, and stormwater. This section should use language consistent with the rest of the permit when describing types of discharges.

Suggested Change: Revert to the existing permit language.

Proposed Language: “Permittees must comply with the following effluent limits and monitoring requirements for process water, mine dewatering water, and stormwater discharges.”

S2.A.1.d, S2.A.2.c, S2.B.1.c, S2.B.1.f, S3.G.1, S4.F.2.c – Require Oil Sheen Monitoring at Monitoring Points

Comment: Ecology incorrectly uses “discharge point” in sections where “monitoring point” is the accurate term, creating significant, unrealistic monitoring requirements, given that, per S3.G.2 of the draft permit, Ecology may now consider water on any permeable surfaces and not conveyed to a monitoring point a discharge to groundwater. The draft permit reiterates this position by including “permeable surfaces” in the revised definition for Discharge Point in Appendix B. Sections S2.A.1.d, S2.A.2.c, S2.B.1.c, S2.B.1.f, S3.G.1, and S4.F.2.c all state that Permittees must conduct daily visual monitoring for visible oil sheen or petroleum products at all discharge points. Mining and aggregate processing sites are mostly permeable which creates endless potential for additional discharge points under the revised language. Thus, the new requirement to inspect every permeable surface at the site where water could potentially infiltrate to ground is infeasible particularly at mine sites which may cover hundreds of acres. Ecology should require monitoring at the site’s representative monitoring points.

Suggested Change: Require daily visual monitoring for visible oil sheen or petroleum products at all representative monitoring points.

Proposed Language: “All Permittees must conduct daily visual monitoring at all *monitoring points* for a visible oil sheen or petroleum products and ensure neither are present when discharge is occurring.”

Table 3 Note 1, S2.A.1.d, S2.A.2.c, S2.B.1.c, S2.B.1.f – Remove Violation Reporting Requirements for Oil Sheen that is not a Violation

Comment: Per the existing and draft permits, the presence of visible sheen at a discharge point is not a violation if it is corrected in a timely manner and does not result in a discharge

of sheen or petroleum products to waters of the state. Yet the draft permit inaccurately equivalates the compliance action to that of a violation by requiring notification and compliance with S10, Reporting Permit Violations, subsections E and F, even though no violation has occurred. S10.E specifically addresses reporting permit violations, which does not apply to the presence of sheen at a discharge point not meeting the criteria of a violation. Similarly, S10.F details required actions for spills to waters of the state and does not apply to the presence of visible sheen at a discharge point which was cleaned before reaching waters of the state. The new requirement to follow violation reporting timelines for incidents which are not classified as violations will confuse stakeholders and lead to erroneous violations in online databases such as PARIS and the WQWebDMR Portal. Currently, non-violation oil sheen is regularly flagged as a violation/trigger in WQWebDMR and PARIS and, despite acknowledging this, Ecology has failed to resolve the error and make the necessary corrections. Ecology should revert to existing permit language and compliance actions for the presence of visible sheen at a discharge point when it is not a violation. Noting the occurrence, cause, and solution as a note in the DMR remains sufficient to notify Ecology of the presence of sheen at a discharge point which did not cause a violation in effluent limits.

Suggested Change: Revert to the existing permit language.

Proposed Language: “The discharge of sheen or petroleum products to waters of the State is a violation and must be reported as a violation (see section S10.E). The presence of a visible sheen at a discharge point is not a violation if there is no discharge of sheen or petroleum products to water of the state and if the Permittee corrects the problem in a timely manner, notes the occurrence in their Discharge Monitoring Report (DMR), explains in the DMR the cause, and describes the solution.”

Table 3 Note 1, S2.A.1.d, S2.A.2.c, S2.B.1.c, S2.B.1.f, S4.F.2.e – “Timely Manner” is Subjective

Comment: The draft permit states that the presence of visible sheen at a discharge point is not a violation if there is no discharge of oil sheen or petroleum products to waters of the state and if the Permittee corrects the problem in a timely manner. However, the draft permit provides no guidance or definition for what “timely manner” means and therefore the compliance requirement is unclear. This ambiguity will create conflict between Permittees and Ecology as well as inconsistent enforcement of compliance requirements. For example, a facility could discover oil sheen at an infiltration pond, correct it same day, prevent oil sheen from discharging to waters of the state, and still receive a violation based on an individual inspector’s interpretation of the subjective language “timely manner.” To

avoid exploitation of the vague language, Ecology should explicitly define or provide specific guidance for what is considered correcting visible sheen in a “timely manner.”

Suggested Change: Define or provide guidance for what is considered “timely manner” in regard to correcting visible sheen.

S2.A.1, S3.F – Replace “Combine” with “Commingle”

Comment: Sections S2.A.1 and S3.F describe discharges from two or more industrial activities as “combined”, whereas other sections of the draft permit (S2, S2.A.2, S2.B.1, S2.B.d) describe the same discharges as “commingled” instead of “combined”. Using different words to describe the same thing is confusing. To prevent avoidable permit uncertainty, Ecology should eliminate the use of redundant words and select one term to describe discharges from multiple industrial activities.

Suggested Change: Replace all uses of “combine” with “commingle” when describing discharges from multiple industrial activities and/or different types of discharges.

Proposed Language: S2.A.1 – “If the discharges from two or more industrial activities are *commingled*, the most stringent effluent limit will apply for each parameter.” S3.F – “If the Permittee *commingles* discharges from two or more industrial activities, the most stringent effluent limit for each parameter applies.”

S3.B, Appendix B – The New Maintenance Shop Definition and Restrictions Prohibit In-Situ Repair, Service, and Maintenance of Stationary Equipment and Proper Spill Response BMPs

Comment: The new definition of Maintenance Shop in Appendix B includes “any designated area where vehicles, equipment, or machinery are serviced, repaired, or maintained.” Combined with the new language prohibiting discharge of wastewater from a maintenance shop, the new restrictions would 1) eliminate the Permittee’s ability to perform repairs and maintenance in any outdoor areas exposed to stormwater; and 2) prohibit the use of oil/water separators serving equipment maintenance areas, a treatment method approved for discharge to ground by the Stormwater Management Manuals (SWMMs), thus requiring significant infrastructure changes to prevent water from these areas from discharging to waters of the state.

According to the updated provision, stationary equipment and machinery located outdoors, such as crushers, transfer spans, and pumps, which cannot be moved and often do not physically fit in a fully enclosed building, can no longer be regularly serviced or

maintained, nor can site personnel change a tire or tighten a single lug nut on mobile equipment outdoors because it would be classified a “maintenance shop” and no impacted stormwater from the area may discharge to waters of the state. This overly prescriptive restriction also has negative impacts on water quality. For example, when a hydraulic line failure occurs on mobile equipment in the mine pit, the standard practice is to repair or replace the hydraulic line in place to minimize the impacted area before transporting it to an enclosed maintenance shop building. The draft permit requires delaying repair and transporting actively leaking equipment across potentially several miles of unpaved ground to an enclosed maintenance shop, because any repairs done outdoors would be classified as a maintenance shop and cannot be allowed to impact stormwater which may discharge to waters of the state. It is already clear that the current permit prohibits wastewater discharges from maintenance shops and routine maintenance activities that would typically and could readily occur in a maintenance shop. CalPortland supports the existing permit language. Instead of adding broad requirements with environmentally detrimental consequences, Ecology should enforce noncompliance if it occurs.

Additionally, facilities without an available sanitary sewer connection often use outdoor low-pressure wash slabs routed to an oil/water separator and discharge treated water to ground for infiltration. This is an approved pollutant control approach under the Stormwater Management Manual for Western Washington, which allows the discharge of vehicle/equipment washwater to ground after proper treatment in accordance with *Vehicle and Equipment Washwater Discharges Best Management Practices Manual* (Ecology, 2012). However, because wash slabs are an area where equipment is maintained, these areas would now be considered maintenance shops and any discharges from an engineered oil/water separator are prohibited in the draft permit. This restriction directly contradicts section S8.E.8.a, which allows the discharge of cold low-pressure, soap-free process water from vehicle and equipment cleaning operations after being routed through an on-site sediment treatment structure. Section S3.B should revert to the existing permit language and mirror the language in S8.E.8. Otherwise, the new restrictions will require facilities to spend tens of thousands of dollars in infrastructure and permitting costs to reconfigure oil/water separator systems to be closed loop or receive approval from a local sewer jurisdiction for sanitary sewer discharge to prevent discharges to ground. These actions could take up to years to design, budget for, permit, and construct. With no compliance schedule, facilities will inevitably be forced into noncompliance.

Suggested Change: Revert to the existing permit language allowing discharges from a maintenance shop if certain criteria are met. Require maintenance shop discharges to be consistent with S8.E.8 and existing Ecology guidance as referenced in the SWMM.

Proposed Language: S3.B – “No wastewater shall be discharged to waters of the state from maintenance shop operations unless all of the following criteria apply: The maintenance shop exists at the time permit coverage begins. Adequate treatment in accordance with the Stormwater Management Manuals or standard engineering practices before discharge is provided. The discharge will not cause or contribute to a violation of the water quality standards.

S3.E – Expanded Chemical Use Plans Increase Administrative Burden on Ecology and Permittees without Increasing Water Quality Protections

Comment: The expanded Chemical Use Plan requirements increase the administrative burden on Ecology and Permittees without providing additional protections to water quality for two reasons: 1) the existing permit language already requires documentation of chemical treatment additives and soil stabilization polymers and thus the changes are purely procedural without a technology-based or water quality-based compliance requirement; and 2) the scope of chemicals needing a plan is too broad. The Chemical Use Plan is problematic for several other reasons: 3) The new documentation requirements eliminate the Permittee’s ability to dynamically treat wastewater to prevent an effluent limit exceedance; 4) Chemical Use Plan recordkeeping requirements are contradictory to those of all other permit-required records; and 5) The chemical label “cement admixture” is erroneous and excludes concrete admixtures, the correct term, from the exempted chemicals.

- 1) The draft permit states, “examples of chemical treatment products required to be reported include, but are not limited to, pH adjusters (e.g. food grade vinegar and industrial-grade vinegars, citric acid, or other acids), flocculants, coagulants, and dust suppressers.” S3.F.1 of the existing permit already requires documentation of chemical treatment additives or soil stabilization polymers used to treat water discharged to waters of the state, stabilize soils, and/or suppress dust on site, as well as notification to Ecology prior to the use of new chemicals discharging to surface waters or any significant change in application rates of chemicals discharging to surface waters. Aside from including discharges to groundwater, which CalPortland supports, the expanded Chemical Use Plan requirements increase the administrative burden on Ecology and Permittees without providing additional protections to water quality.
- 2) The draft permit requires Chemical Use Plans be submitted for Ecology review for “the use of chemicals for the treatment of material(s) with potential to discharge to waters of the state.” Although a discharge of liquid chemicals, fluids, or petroleum products is highly unlikely due to the standard practice to store them within secondary

containment often under cover to prevent exposure to stormwater, it is not impossible, thus creating “potential.” Therefore, the new requirement extends to all chemicals on site. Additionally, it is unclear what “treatment of materials” means. A Chemical Use Plan would be required for every concrete admixture on site used as an additive to concrete. Admixtures are frequently used on a per-job basis and Permittees may not have a 30-day lead time to prepare a Chemical Use Plan, and a facility could potentially use hundreds of different admixtures. Multiplied by all concrete manufacturing facilities, Ecology staff will be tasked with reviewing thousands of Chemical Use Plans without providing a benefit to water quality.

- 3) The Chemical Use Plan enables harm to the environment by eliminating the Permittee’s essential autonomy to employ dynamic water treatment BMPs to prevent effluent limit exceedances. For example, a facility which has documented the use of acid to treat process wastewater may need to significantly change, specifically decrease, the application rate to spot treat an infiltration pond experiencing concentration by evaporation, a BMP vetted by Ecology. Under the new requirement, the facility must first draft a revised Chemical Use Plan and potentially allow an avoidable noncompliance. In addition to contributing to the increased administrative burden, this shifts priority from protecting water quality to drafting a plan for agency review.
- 4) Section S3.B.4 states the Chemical Use Plan must be documented with the Site Management Plan on site. This contradicts S10.D, “Records Retention”, which requires records, including the Site Management Plan, on site or within reasonable access to the site. Ecology should revise S3.B.4 to require documentation of use of chemical treatment products to be consistent with all other records required by the permit.
- 5) “Cement admixtures” are listed as being exempt from a Chemical Use Plan. This should be corrected to “concrete admixtures.” *Cement* is the powdered material that acts as a binder when added as a component of ready-mixed concrete along with aggregates, water, and admixtures. Admixtures enhance the properties of *concrete* such as strength, workability, or setting time. The current language exempts a chemical which does not exist, and thus would include all concrete admixtures, the intended chemical, in chemicals needing a plan.

Suggested Change: Make minor revisions to the original language. Require documentation be on site or readily accessible to the site. Replace “cement admixture” with “concrete admixture.”

Proposed Language: “The Permittee, upon application for coverage under this permit must document the use of any chemical treatment additives or soil stabilization polymers used to: a. Treat water discharged to waters of the state. b. Treat materials exposed to stormwater in such a manner that they will discharge to waters of the state. c. Stabilize

soils. d. Suppress dust. Documentation must identify the chemicals used, their commercial source, the Safety Data Sheet, and the application rate. The Permittee must retain this information on site or within reasonable access to the site and make it immediately available, upon request, to Ecology. The Permittee must notify Ecology prior to use of any new chemicals discharging to waters of the state or of any significant change in application rates of chemicals discharging to waters of the state. Exemptions to chemicals requiring documentation include, but are not limited to carbon dioxide sparging, dry ice, filtration, *concrete admixtures*, and/or closed-loop systems as well as other capital BMPs. Permittees must document the use of chemical treatment additives or soil stabilization polymers on site *or within reasonable access to the site* and make it available to Ecology within 7 days of the request.”

S3.F.2, S3.G.3, S8.E.8.c, Appendix B – Soap-Impacted Waters are Authorized Process Water Discharges

Comment: The use of wash products are necessary to properly maintain operationally related vehicles. Improperly maintained vehicles will increase replacement and repair costs, waste sent to landfill, and the potential for material to be tracked out onto public roadways and reach nearby waterways. The new definition of soap in the draft permit is too broad and the absolute prohibition of discharge of soap-impacted waters, which now includes all fleet wash products, to waters of the state is infeasible. While restrictions on discharge of soaps to waters of the state is not new to the draft permit, it was formerly understood between Ecology and Permittees that soaps were foaming agents with harmful surfactants but wasn’t a blanket prohibition of all fleet wash products. Ecology agreed during the public hearing on September 9th, 2025, that the draft definition of soap was “too encompassing.” To enforce a feasible protection to water quality, Ecology should instead prohibit the use of certain chemicals that are proven through scientific evidence to cause aquatic toxicity. Per the definition of soap-impacted water in Appendix B, soap-containing washwater used to clean ready-mix trucks is considered process water, which is routed through the existing wastewater treatment system specifically designed to remove concrete solids the soaps have attached to from the waste stream. During treatment, any remaining soaps are significantly diluted prior to discharge, not as means of treatment, but due to the significant volumes of water that are managed at these facilities during operations. Ecology has not provided scientific evidence that fleet wash products used by sand and gravel Permittees mobilize pollutants in soils or otherwise adversely impact waters of the state. Ecology should require the use of soaps to be consistent with the Stormwater Management Manuals (SWMMs), which allow the use of phosphate-free, biodegradable detergents (S431).

Suggested Change: Revise sections S3.F.2, S3.G.3, and S8.E.8.c to require the use of soaps on site to be phosphate-free and biodegradable consistent with the SWMMs. Prohibit the direct discharge of soap-impacted washwater to waters of the state and require soap-impacted washwater be routed through a lined wastewater treatment system prior to discharge.

Proposed Language: “Soap-impacted water is considered process water and must be treated in a lined impoundment prior to discharge to waters of the state. Soaps used for vehicle and equipment washing must be phosphate-free and biodegradable in accordance with the Stormwater Management Manuals (SWMMs).”

S3.G.2, S7.B – Discharge Point is Used Erroneously in Place of Monitoring Point

Comment: S3.G.2 adds language allowing Ecology to consider water on permeable surfaces and not conveyed to a monitoring point a discharge to groundwater. S7.B states "If the Permittee is unable to convey the stormwater to a monitoring point prior to discharge, additional discharge points may be required to consider the sampling as representative."

First, *discharge point* is being confused with *monitoring point* in S7.B. Monitoring points are installed for representative sampling and the point of establishing representative monitoring points is to characterize discharges from industrial activities on site, because not all water can be feasibly monitored. The new requirement would mean every puddle of water must now be added as a monitoring point, which is not only infeasible, but defeats the purpose of representative sampling. Permeable mine sites are constantly changing and equipment operation throughout the day may generate small depressions in the ground that could collect water before routine grading maintenance occurs. Under the new requirement, Permittees must modify their monitoring plan and notify Ecology up to several times per day to accommodate the continuously changing conditions, creating a compliance requirement that is impossible to achieve.

S7.B is inconsistent with the definition of Groundwater Discharges in Appendix B. The latter states, “If water with different discharge characteristics (i.e. water that is impacted by different source materials) infiltrates in an unmonitored area without ever converging at a monitoring point then additional monitoring points may be necessary for representative sampling.” The new language incorrectly assumes that all water on permeable surfaces always discharges to ground and S7.B provides no criteria backed by scientific evidence for when additional monitoring points are necessary. Additional monitoring points should not be required as long as there is a representative monitoring point for the industrial activity conducted in the area. For example, aggregate facilities route drainage from aggregate stockpiles to designated infiltration ponds, which serve as a representative monitoring

point and sufficiently represents the entire area. Additional monitoring should not be required for every permeable surface, otherwise sites would have hundreds of monitoring points capturing identical pollutants and characterizing functionally identical discharges, which would not be representative monitoring. This lack of clarity will cause conflicting interpretations between Permittees and Ecology about what is and is not representatively sampled, and lead to inconsistent permit enforcement.

Suggested Change: Revise S7.B to specify when additional monitoring points may be necessary. Replace “discharge point” with “monitoring point.”

Proposed Language: "If the Permittee is unable to convey the stormwater to a monitoring point prior to discharge and the stormwater has different discharge characteristics than the monitoring point, additional *monitoring points* may be required to consider the sampling as representative."

S3.F.1, S4.F.1 – Qualitative Surface Water Effluent Limitations Will Lead to Inconsistent Permit Enforcement

Comment: The draft permit prohibits discharges to surface water from causing discoloration, change in odor, observable film, scum, or grease in the receiving water. It is unclear what characterizes a “change in odor” or “discoloration” or how an observance of these items would be distinguished as being caused by the facility or other influences on the receiving water. Following the decision of *City and County of San Francisco v. Environmental Protection Agency*, wastewater discharge permits cannot contain end-result provisions. Ecology should provide objective criteria for determining if these parameters are present in the discharges from the facility.

Suggested Change: Provide objective criteria for determining if the above parameters are present in the discharges and how to distinguish an observance in the receiving water as caused by the facility discharge or from a different influence on the receiving water.

Table 5, S4.A – Hexavalent Chromium Monitoring Requirements Lack Scientific Justification and Include Inconsistent Parameter Names

Comment: During the public meeting to explain the proposed changes to the permit hosted by Ecology on September 9th, 2025, Ecology stated that this monitoring requirement will be used to provide information of whether hexavalent chromium is present in surface waters from concrete activities. Ecology is implementing new hexavalent chromium monitoring requirement without providing any scientific evidence that hexavalent

chromium may be present in surface water discharges from Sand and Gravel facilities. Without credible evidence, hexavalent chromium monitoring should not be required.

Ecology has failed to present any data concluding that discharges from ready mix concrete manufacturing and/or recycling (CRM) operations contain hexavalent chromium at all, let alone at concentrations exceeding applicable surface water quality standards. During the September 9th public meeting, Ecology defended the new monitoring requirements through vague reference to the incomplete Concrete Manufacturing and/or Recycling: Statewide Effluent Characterization Study (Study) conducted in 2024 which is insufficient justification for hexavalent chromium requirements in the permit. According to Ecology, only two samples in the Study represent discharges to surface water which is statistically insignificant and from which no meaningful conclusions can be drawn. Due to fundamental differences in water management and treatment protocols, groundwater and surface water discharges have distinct chemical compositions, rendering direct comparison scientifically invalid. Furthermore, the Study analyzed samples for total and dissolved chromium but did not perform chromium speciation. And while Ecology has not demonstrated evidence that hexavalent chromium is present in CRM discharges, prevailing scientific evidence shows that hexavalent chromium in water is highly influenced by pH and that for discharges within the permit's pH effluent limit, chromium would favor its trivalent form. Thus, hexavalent chromium is likely to be controlled by pH, an existing monitoring parameter. Instead of objectively applying available science, Ecology is employing guesswork at the expense of Permittees.

Beyond the scientific failings of the new requirement, according to the Ecology Laboratory Search, only two laboratories, located in Seattle and Burlington, are accredited to analyze non-potable water per EPA 218.6. This lack of accessibility, combined with the method's 24-hour holding time, disadvantages Permittees outside of the Greater Seattle Area. It is infeasible for a facility in the eastern, southern, or peninsula portions of the state to coordinate a discharge, collect a sample, and travel across the state to the laboratory within the same day.

Table 5 states "hexavalent chromium" must be monitored and contradicts with S.4.A.4 which states that "dissolved hexavalent chromium" must be monitored. Hexavalent chromium and dissolved hexavalent chromium are two different parameters. This inconsistency will cause Permittees to incur violations if they failed to analyze for the intended parameter during the monitoring period. Ecology should remove any use of "dissolved hexavalent chromium" to prevent easily avoidable noncompliance.

Suggested Change: Remove hexavalent chromium monitoring parameters until Ecology can complete and publish a peer-reviewed study which concludes concrete manufacturing

and/or recycling activities cause or contribute to hexavalent chromium concentrations in surface water above background concentrations.

S4.A.3 – Remove Undefined Requirement to Sample Surface Water Discharges at Full Capacity

Comment: It is unclear what “operating at full capacity” means. If the intention was when equipment is operating at the maximum rated capacity, this would be infeasible for nearly all facilities at any point, as equipment rarely operates at maximum rated capacity. When it does occur, facilities may only operate at maximum rated capacity during a very limited period to accommodate job order schedules, and these time periods will not always align with a discharge to waters of the state, therefore collecting a sample at this time would be frequently impossible. Arbitrarily requiring only surface water samples to be collected while operating at maximum rated capacity is not representative of discharges to waters of the state. Samples to be collected during normal operating conditions to ensure samples accurately represent effluent being discharged from the facility during the given monitoring period.

Suggested Change: Require both groundwater and surface water samples to be collected during normal operating conditions.

Proposed Language: “Discharge sampling of process water, mine dewatering water, Type 2 stormwater, and type 3 stormwater should be timed to occur during normal operating conditions at the facility.”

S4.B.1 – Sampling Groundwater Discharges Nearest the Source is not an Inherently Representative Sample Location and Disregards Facility Specific Information

Comment: S4 requires Permittees to provide representative sampling of the discharges from the facility. It is unclear what “source” means in this context, and regardless, the permit does not require monitoring of sources. In some instances, this would require sampling upstream of treatment BMPs at locations that are not representative of discharge from the facility. For example, a batch plant discharging treated process water to a vegetated swale that provides additional filtration as it ultimately conveys water to a large pond where the majority of water infiltrates. The compliant sample location according to the draft is at the outlet to the swale because it is geographically closest to the batch plant, even though it is upstream of approved treatment BMPs and distant the location where water collects and ultimately discharges to groundwater. Sampling location requirements

for groundwater discharges should be equivalent to surface water discharges and should be as close to the point where the discharge readily infiltrates to groundwater.

Suggested Change: Require groundwater discharge sampling locations to be as close as reasonably achievable to the point where the discharge first contacts groundwater.

Proposed Language: “The Permittee must representatively sample discharges to ground as near to the point where the discharge infiltrates to groundwater as technically, hydrogeologically, and geographically feasible.”

S4.B.4 – Different Discharge Characteristics is Subjective

Comment: It is unclear what are considered “different” discharge characteristics and if, for instance, a 1% variance or a 50% variance is considered to be “different” within the draft permit. The definition of groundwater discharges in Appendix B states that different discharge characteristics means water impacted by different source materials. However, it is also unclear what “source materials” means. A possible interpretation within the framework of the draft permit is that an aggregate stockpile of ½-inch gravel is a different source material than an aggregate stockpile of 1-inch gravel and require an additional monitoring point despite having no differing effect on the effluent from the two areas.

Furthermore, the definition of discharge characteristics in Appendix B includes any physical, chemical, and/or biological properties of the effluent of wastewater that determine its impact on the environment. A possible interpretation of this requirement is that stormwater on permeable surface not conveyed to a monitoring point with a pH of 7.0 has different discharge characteristics from the representative monitoring point with a pH of 7.5 and therefore requires an additional monitoring point although there is no meaningful difference regarding permit effluent limits. Different interpretation will create conflict between Permittees and Ecology, neither of whom will understand how many monitoring requirements are needed to comply with the draft permit.

Suggested Change: Ecology should provide objective criteria to evaluate differing discharge characteristics triggering additional monitoring points.

Table 5, S4.B.4 – Ecology Fails to Justify Additional TDS Monitoring with Scientific Evidence

Comment: Ecology has failed to provide any scientific evidence that aggregate processing changes the chemical character of the water used for washing or otherwise causes or contributes to elevated total dissolved solids in groundwater discharges beyond background concentrations. During the public meeting hosted by Ecology on September

9th, 2025, Ecology stated that the new TDS monitoring requirements are a direct result of conclusions drawn from the incomplete Concrete Manufacturing and/or Recycling: Statewide Effluent Characterization Study (Study) conducted in 2024. However, the Study did not establish aggregate processing as a known contributor to TDS concentrations, nor did it sample exclusively aggregate processing waters – it focused specifically on stormwater and/or process waters from concrete manufacturing and recycling activities. Ecology expressed concern over aggregate process waters commingled with concrete process waters during the public meeting, however, the existing permit requires discharges from multiple industrial activities to be monitored for the most stringent effluent limits which already includes TDS. Therefore, any aggregate process waters commingled with concrete process water are already adequately monitored for TDS. The new monitoring requirement applies exclusively to aggregate process waters and not aggregate waters commingled with discharges from concrete manufacturing and/or recycling activities. TDS is not a pollutant of concern for aggregate processing and washing operations, thus the new requirement increases costs to Permittees in the form of laboratory fees and labor hours required for collecting and delivering samples without explaining how this monitoring protects water quality.

Suggested Change: Remove the TDS monitoring requirement for 212321 process waters.

S4.F.2 – Requiring Inspections when Vehicles Operate On-site is Infeasible

Comment: The new requirement to complete oil/water separator, operationally related equipment, oil sheen, and stormwater inspections anytime a vehicle operates on site is unnecessary. This expands inspection requirements to include non-operational days, including weekends, when personnel are on-site for non-processing related activities such as housekeeping or making deliveries. Under the new requirement, even minimal or incidental vehicle activity – such as a parcel delivery at an unmanned site or a wrong turn into a dormant facility – triggers full inspection obligations. This includes oil sheen monitoring following stormwater discharges and routine daily, weekly, and monthly inspections, regardless of actual operational status. The new language is over-encompassing and does not add protections to water quality.

Suggested Change: Require inspections only when operationally related equipment and machinery operates on site.

Proposed Language: “When operationally related equipment and machinery operate on-site:”

S4.F.3.a – Settled Solids are Not Included in Other Permit Sections

Comment: The draft permit requires observance for settled solids in the wet season inspection. Settled solids are not included in either the effluent limits (S2) or additional effluent limitations (S3) sections of the permit and therefore should not be included in the wet season inspection. Stormwater may infiltrate within unlined settling ponds which are approved treatment BMPs prior to discharge to ground. These ponds are expected to accumulate sediment, and the presence of settled solids alone is not a good indicator of condition or performance. Also, it is completely unclear how settled solids should be observed at a surface water discharge point.

Suggested Change: Remove settled solids from the wet season inspection.

Proposed Language: “The wet season inspection must be conducted by the Permittee and must include observations for the presence of floating materials, suspended solids, scum, oil (sheen) or grease, discoloration, turbidity, odor, observable film, an observable foam, or substances that produce an observable change in color or odor in the stormwater discharge(s).”

S8.E.1.c – New Secondary Containment Restrictions are Overly Prescriptive and Lack Justification

Comment: Engineered lined impoundments, such as oil/water separators, sumps, or ponds, meet the definition of secondary containment in S8.E.1 as “impervious surface surrounded with a containment berm or dike.” These structures are in active work areas heavily frequented by site personnel and contain shutoff mechanisms and adequate freeboard to effectively contain a spill prior to discharge to waters of the state. Impervious sumps and collection systems are documented as approved containment structure under Spill Prevention, Control, and Countermeasure (SPCC) guidance regulated by the EPA (40 CFR Part 112.7.c.1.iii). Ecology should not arbitrarily prohibit the common industrial practice of using lined impoundments designed to collect and treat wastewater as secondary containment when it easily meets the performance needs and intent of the requirement.

Suggested Change: Remove the prohibition of using engineered lined impoundments for treatment of wastewater to be used as part of the secondary containment. Instead, require engineered lined impoundments used as secondary containment to contain adequate freeboard.

Proposed Language: “If engineered lined impoundments for treatment of wastewater are used as part of the secondary containment, they must be provided with adequate freeboard to prevent the discharge of pollutants to waters of the state.”

S8.E.13.c –Sediment Track Out Disposal Restrictions are Unjustified

Comment: Wastewater or sludge collected from sediment track out sweeping is indifferentiable from process wastewaters generated at the facility and approved for discharge to surface waters of the state following treatment. Sweepers act as a collection mechanism to direct sediment generated from a facility into the treatment system rather than being tracked offsite. Sweepers do not remove and re-introduce pollutants to the waste stream but provide critical function to the overall treatment system by preventing offsite migration of sediments. Once concentrated in lined impoundments by sweepers, solids are routinely removed from the waste stream and disposed of in accordance with S11, therefore AKART is applied. Ecology should remove language prohibiting the discharge of sediment track out wastewater to surface waters. However, CalPortland supports prohibiting direct discharge of sediment track-out wastewater or sludge to state waters and requiring a designated monitoring point where such wastewater ultimately discharges following treatment.

For sites without an available groundwater discharge point, these new requirements will require significant capital investments associated with obtaining sanitary sewer discharge approval, hauling wastewater to a permitted decant facility, or constructing closed-loop systems. Increased costs will need impact the broader construction sector, with consumers absorbing the impact and small businesses bearing the brunt.

The new provisions also have environmental impacts as hauling material offsite to decant facilities will increase fuel usage and greenhouse gas emissions, as well as stormwater pollutants from increased brake and tire wear and tear. There are also no known “permitted decant facilities”. The only result returned from online searches is the Renton Decant Facility, which exclusively accepts stormwater from local government and WSDOT accounts – thereby excluding private Permittees as eligible users. Ecology has significantly restricted sediment track out wastewater and sludge disposal locations without providing any guidance on where it is intended to be accepted. Further, S8.E.13.c.iv requires Permittees which cannot meet the requirements to request approval from Ecology 30 days prior to discharge. Not only is it infeasible for Permittees to foresee that a discharge will be needed 30 days out, but it is unclear if Permittees are expected to await a response from Ecology and, if so, when that response will occur.

Suggested Change: Require sediment track out wastewater and sludge to be routed through treatment prior to discharge to water of the state. Require a monitoring point at the point this wastewater ultimately discharges.

Proposed Language: “No direct discharge to waters of the state or a public storm drain. Sediment track out wastewater and sludge must be routed through a treatment system prior to discharge. A monitoring point is required at the disposal location and discharges are subject to the effluent limits in Special Condition S2.”

S8.F.2-3 – New Concrete Recycling BMPs are Not Justified

Comment: The new language restricts concrete recycling stockpiles for Permittees who receive ECY002 activity coverage for their site for the first time on or after April 1, 2016. However, the ECY002 was not created until the 2016 permit issuance, therefore this will apply to all Permittees covered for concrete recycling activities. Some facilities that were previously exempt from the S8.F.2 restrictions and are geographically incapable of avoiding placing stockpiles within 100 feet of the OWHM, surface water bodies, or Wellhead Protection Areas will close as a direct result of the new requirement. Ecology has tried to implement additional restrictive BMPs for concrete recycling in previous permit cycles and has failed each time to provide scientific justification. Concrete recycling activities which are monitored in accordance with the permit and meet effluent limits should not be subject to overly prescriptive BMPs. The alternatives, increasing impervious surface coverage through paving or covering, may require permitting and will be costly, while increasing runoff and negatively impacting groundwater recharge. The quantity and type of recycled concrete aggregates (RCA) produced at a facility may consistently change based on product demand, thus Permittees will be required to provide impervious surface coverage at any area that may potentially house RCA stockpiles at any given time. S8.F.3.b also contradicts S8.E.9, which states recycled concrete is excluded from needing to be stored on bermed impervious surface.

These BMPs remove the Permittee’s ability to efficiently recycle concrete. Recycled concrete aggregate stockpiles must be accessible throughout the day as material is added or withdrawn from stockpiles frequently. In most scenarios, dedicated personnel would be needed for cover to be a viable BMP. The new requirement will also increase fuel emissions and wear and tear on equipment that is used to constantly maintain cover of these stockpiles. Ecology should remove these BMPs and first put in the effort to formally execute and publish a peer-reviewed study investigating if there is an actual harm to water quality before requiring structural changes of such magnitude.

Suggested Change: Revert to the existing permit language.

S9.B.5, S9.C.4 – Spill Log Requirements are Infeasible

Comment: The draft permit mandates spill logging but fails to define objective criteria for what qualifies as a spill, creating ambiguity and potential inconsistency in compliance. In addition, there is no definition of “spill” in the permit. As written, any drip of oil or chemicals on site, including those fully contained on impervious surfaces may be spills. This will create regulatory uncertainty among Permittees who will experience inconsistent permit enforcement and conflict with Ecology over interpretations of what needs to be logged as a spill. CalPortland supports requiring documentation of spills to ground or water that pose a threat to human health and/or the environment and the subsequent corrective actions.

This new requirement shifts the priority from cleaning a spill and protecting water quality to administrative documentation. It is standard practice during spill response to immediately take action to contain and clean the spill, and operators should not delay cleanup to take photos. Under the new restrictions, Permittees must choose between noncompliance from allowing an illicit discharge because photos were prioritized, or from failing to collect all required documentation by prioritizing cleanup. The permit must be possible to comply with. It is infeasible to require Permittees to include before and after photos in the spill log. Not all facility personnel carry mobile devices readily available to capture and send photos, and companies cannot expect hourly employees to use their personal phones to do so. Facilities would need to provide every employee, up to hundreds of people, with work phones.

Finally, requiring the spill log to be maintained on site is inconsistent with S10.D, “Records Retention, which requires records, including the Spill Control Plan, on site or within reasonable access to the site. Ecology should revise S9.C.4 to require the spill log to be on site or within reasonable access to the site, like all other records.

Suggested Change: Require Permittees to document spills to ground or water that pose a harm to human health and/or the environment. Require the spill log be stored on site or within reasonable access to the site.

Proposed Language: “Document spills to ground or water that pose a threat to human health or the environment. Documentation should include at minimum the following information for each spill: date and time of the spill, what material was spilled, estimated amount in the spill, location of the spill, cause or reason for spill, date cleanup actions were initiated and completed, notifications made, if necessary (Special Condition S10F), and staff involved in the cleanup response. See Special Condition S10.F for spill reporting requirements.”

S9.C.5 – Monthly Equipment Inspections are Redundant

Comment: S4.F.2.b requires Permittees to inspect operationally related equipment and vehicles weekly for leaking fluids, therefore the additional monthly inspection requirement is redundant.

Suggested Change: Remove S9.C.5 or reference S4.F.2.b.

S10.A.1.b.ii – DMRs for Inactive Sites

Comment: Discharge Monitoring Reports (DMRs) are intended for reporting monitoring data and therefore are inapplicable to sites exempt from monitoring requirements.

Suggested Change: Remove S10.A.1.b.ii.

S10.F.2 – Reporting Requirements for Spills to Ground are Unclear

Comment: S.10.F.2.a.i states that a spill to ground does not need to be reported if prompt cleanup action was taken such that human health and/or the environment is not threatened. However, by excluding mention of harm to human health and/or the environment in S10.F.2.a.ii, this requirement assumes that if prompt cleanup action was not taken, then human health and/or the environment is threatened, which is not always true. It is also unclear what “prompt cleanup action” means. This ambiguity enables individual permit inspectors to interpret any uncleaned drop of oil on the ground as a reportable spill, subjecting facilities to violations regardless of actual environmental impact. Under the new requirements, a drop of oil from a loader to bare ground during afterhours could be considered not promptly addressed and unreported to Ecology. Similarly, a mechanical breakdown occurring at the facility property line resulting in a de minimus quantity of oil to exit the property must be reported even when immediately addressed.

S10.F.2.a.ii also requires Permittees to follow “Report a Spill of Oil or Hazardous Materials” for reporting timelines. This web page specifies spills to ground must be reported within 90 days, contradicting S10.F.2.a.ii requiring spills to ground to be reported to the regional Ecology contact immediately. Ecology has failed to address inconsistencies between reporting timelines and the new language will continue to cause misunderstanding of when spills to ground must be reported.

Suggested Change: Require Permittees to report spills to ground to Ecology if prompt cleanup action was not taken or if the spill leaves the facility’s property such that human

health and/or the environment is threatened. Remove reference to the Reporting Spills webpage if not intended to be used for permit-specific reporting timelines.

Proposed Language: “If prompt cleanup action was not taken or if the spill leaves the facility’s property *such that human health and/or the environment is threatened*, the Permittee must notify their regional Ecology contact immediately and record the spill in the spill log, as required by Special Condition 9C.”

S10.G – Annual Report Requests Information Already Available to Ecology

Comment: The annual report requires Permittees to certify information which already either has been provided to Ecology or is made readily available to Ecology during site inspections or upon request.

- S10.D.1.c and S10.D.1.e require Permittees to retain records of the Site Management Plan (SMP) and wet and dry season inspections, respectively, and S10.D.3 requires Permittees to make all plans, documents, and records required by the permit immediately available, upon request, to Ecology.
- S5.B.2 requires Permittees to review the SMP at least once a year, and S5.C.3 requires Permittees to update the SMP to respond to changes in the facility and site conditions.
- S12.A.1 requires facilities planning a substantial change or possibly a significant process change to submit a complete and accurate NOI to Ecology, therefore providing notification.

Therefore, all of the information required by the annual report is redundant. It is the duty of Permittees to comply with the conditions of the permit, but it is Ecology’s duty to evaluate compliance and enforce the permit. Permittees should not be expected to duplicate labor completing forms which are easily verified and/or obtained through regular permit enforcement by Ecology. The only information not already required by existing permit language is verification if the Permittee qualifies as a small business. This should be added as a question to the Fiscal Year Sand & Gravel Production Report to reduce the number of submitted forms, since it is also due January 30 of each year.

Suggested Change: Eliminate the Annual Report form. Add a question to the Fiscal Year Sand & Gravel Production Report asking if the Permittee qualifies as a small business.

Table 8, Appendix B – Concrete Recycling Definition Should be Exclusive to Recycled Concrete Aggregates

Comment: Table 8 states that sites only storing or stockpiling hardened structural concrete, and otherwise not crushing or processing the material are not subject to

coverage under this permit unless they conduct additional activities requiring coverage under this permit. However, the definition of the ECY002 Concrete Recycling Code implies that sites which *are* subject to the ECY002 coverage must consider all hardened structural concrete which has not yet been crushed or processed as “recycled concrete” subject to Concrete Recycling BMPs. Hardened concrete rubble piles are not expected to generate high pH leachate. The definition of Concrete Recycling and the associated BMPs in S8.F should exclude hardened structural concrete which has not been crushed or processed to generate a reusable product. To ensure consistent permit implementation, Ecology should provide training to all permit inspectors that restrictions for recycled concrete stockpiles should only apply to recycled concrete aggregates which have been processed.

Suggested Change: Clarify that concrete recycling does not include storing or stockpiling hardened structural concrete, and otherwise not crushing or processing the material is not subject to concrete recycling BMPs for Permittees conducting concrete recycling activities.

Proposed Language: “For sites subject to concrete recycling coverage under this permit, storing or stockpiling hardened structural concrete, and otherwise not crushing or processing the material are not subject to the concrete recycling BMPs in Special Condition S8.F.”

Appendix B – Cured and Hardened Concrete Definitions are Confusing

Comment: It is unclear why Ecology has added definitions for both cured and hardened concrete when they are used interchangeably throughout the draft permit. For instance, S8.E.9 includes “unhardened concrete” and “cured concrete” in the same sentence. This creates unnecessary confusion over why two terms are used. Because the new definition of hardened concrete includes what has gone through the curing process, Ecology should use only “hardened” and “unhardened” concrete.”

Suggested Change: Remove use of “cured” and “uncured” concrete from the permit.

Appendix B – Changes Triggering Major Modification of Coverage are Unjustified

Comment: It is unclear what constitutes a “substantial” facility expansion. A facility expansion may not necessarily increase the volume or changes to the nature of pollutants in wastewater or effluent and therefore does not meet the definition of a major modification. Ecology should clarify when a facility expansion constitutes a major modification of permit coverage by establishing specific, objective criteria – such as numeric or percentage-based thresholds – to ensure consistent interpretation and compliance.

An addition or change in surface water discharge location may not increase the volume or change the nature of pollutants in wastewater or effluent from that which was previously authorized, so it is unclear why it is now considered a major modification. Under the new requirement, moving the surface water discharge outfall five feet to the left for safety access requires a formal public notice and SEPA requirements with no impact to effluent from the facility. An addition or change to a surface water monitoring point already requires notification to Ecology through the Monitoring Point Update Form and therefore requiring a major modification is redundant.

Suggested Change: Provide a definition for a substantial facility expansion. Remove the addition or change in surface water monitoring points from the major modification definition.

Appendix B – Permeable Surface Should be Replaced with Pervious Surface

Comment: The existing permit uses “impervious” and “pervious” to describe surfaces allowing water to infiltrate. It is unclear why the draft permit has added “permeable” and “impermeable” definitions and uses these terms interchangeably. The Stormwater Management Manuals (SWMMs) use impervious/pervious to describe surfaces and only uses permeable/impermeable to describe types of liners, which are included as an approved impervious surface. Similarly, other regulatory permits such as the Industrial Stormwater General Permit (ISGP) use exclusively impervious/pervious. The permit should remove redundant definitions to avoid inconsistent permit interpretations.

Suggested Change: Remove permeable/impermeable definitions from the permit or use exclusively to describe types of liners.

Appendix B – The Significant Process Change Definition is too Broad

Comment: Adding new equipment/processing equipment to an existing batch plant (baghouse, enclosed silo, etc.) does not necessarily alter discharge characteristics of a pollutant nor alter effluent being discharged. Arbitrarily including the addition of equipment to an existing batch plant as a potential major modification of permit coverage will delay necessary facility improvements without adding protections to water quality. Adding a magnehelic gauge to an existing dust collector on an existing baghouse would now potentially require a major modification of coverage, or at minimum Ecology review. A magnehelic gauge does not impact pollutant emissions and only allows a facility to measure the resistance to air flow and inform a maintenance schedule. Ecology should remove this provision.

Suggested Change: Remove adding new equipment and new processing equipment to an existing batch plant from the significant process change definition.

Proposed Language: “Significant Process Change means an operational change at the facility that alters the discharge characteristics, including an increase in volume and/or a change in the type or concentration of pollutants in the effluent or wastewater, impacting applicability of permit conditions. Significant process changes require notification to Ecology and may trigger a major modification.”