



King County

Department of
Natural Resources and Parks

Director's Office

King Street Center

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Seattle, WA 98104-3855

September 14, 2018

Becca Conklin
Water Quality Program
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Online submittal form: <http://ws.ecology.commentinput.com/?id=sx2WK>

Dear Ms. Conklin:

King County would like to thank the Washington State Department of Ecology (Ecology) for their efforts to update the recreation use water quality indicator bacteria standards over the past year. We appreciate Ecology's efforts to facilitate multiple public meetings and webinars to obtain input regarding use of indicator bacteria to determine if waterbodies meet designated uses for recreation and shell fishing. King County invested staff time in this process because we recognize the importance water quality standards play in maintaining and restoring water quality and watershed health. King County also recognizes that updating bacterial pollution indicators in Washington State is long overdue.

King County provides wastewater treatment for 1.5 million people and businesses in the region, and also manages stormwater from over 250,000 people and business in unincorporated King County. We support Ecology's National Pollutant Discharge Elimination System (NPDES) permitting and Total Maximum Daily Load (TMDL) programs that address wastewater and watershed health, but know that treatment technologies, compliance monitoring, and developing and implementing TMDLs for bacteria can be a time consuming and expensive process. To better ensure the effectiveness of these efforts, the current rulemaking changes are welcome. Bacterial indicators are particularly important to King County and our residents. Our comments on the current rulemaking are minimal due to Ecology's extensive listening efforts. They focus on clarification of the rule language to avoid confusion or misunderstanding regarding permitting or as part of the Water Quality Assessment.

To address some general concerns and improve clarity and certainty in program planning and implementation, we offer the attached detailed comments that relate to bacteria standards. This includes the definition of stormwater in the rule language, which may be interpreted as excluding

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runoff that discharges directly to a local water body. We do not believe this is the intent and recommend the definition be updated.

In addition, we continue to be concerned that water quality assessment listings may not be adequately representative of current water quality conditions. We would like to invite Ecology to meet with King County to discuss this issue.

King County appreciates the opportunity to provide comments on the draft rule, and to engage with Ecology in a proactive manner to incorporate the best available science into the state's water quality standards and designated uses to protect and enhance our quality of life. If you have any questions on our comments, or would like arrange a meeting, please contact Dave White at 206-477-4847.

Sincerely,



Christie True
Director

Attachment (2 pages)

cc: Josh Baldi, Division Director, Water and Land Resources Division, (WLR), Department of Natural Resources and Parks (DNRP)
Mark Isaacson, Division Director, Wastewater Treatment Division (WTD), DNRP
Julie Horowitz, Assistant Division Director, Environmental Health, Public Health
Dave White, Environmental Programs Section Manager, WLR, DNRP

ATTACHMENT: Detailed comments

1. The implementation guidance (Ecology publication 18-10-029) discusses a stakeholder process that includes Ecology, the Environmental Protection Agency (EPA), and local stakeholders that will determine which of the current 500+ statewide fecal coliform TMDLs should be shifted to an *E. coli* indicator. However, the timeline and requirements to implement these changes, especially the need to monitor for both indicators, are vague. King County requests that Ecology more clearly define this process and work with the stakeholder group to determine which indicator applies to a location in a timely manner. This will avoid the cost and confusion associated with monitoring both indicators. We propose that Ecology either: 1) convert existing fecal coliform based TMDLs to *E. coli* based TMDLs, or 2) retain fecal coliform as the indicator organism for these TMDLs.
2. King County encourages Ecology to update the February 2018 public review draft of Water Quality Policy 1-11 to ensure that analysis of bacteria data in the Water Quality Assessment is consistent with the revised rule, including sample sizes and averaging periods.
3. The EPA's 2012 recommended averaging period of 30 days for the criteria are absent under the proposed rule (WAC 173-201A, Table 200(2)(b) and Table 210(3)(b)). The minimum duration of the averaging period is a key component of the EPA recommended standards. The footnote at the bottom of Table 1 in Ecology's regulatory analysis (Publication 18-10-027) accurately describes the EPA-recommended averaging period for the criteria, and EPA's provision for accommodating a 90-day averaging period for ambient monitoring purposes is described on page 5.

The proposed revisions to WAC 173-201A-200 Section (2)(b)(i)(A) and (B) for freshwaters (page 14/15) and WAC 173-201A-210 Section 3(b)(i)(A) and (B) for marine waters (page 21), both state the averaging of sample values for compliance: "*A minimum of three samples is required to calculate a geometric mean for comparison to the geometric mean criterion. Sample collection dates shall be well distributed throughout the averaging period so as not to mask noncompliance periods.*" The text later specifies that for effluent bacteria samples the averaging period "*...shall be thirty days or less...*" and for ambient water quality samples "*...ninety days or less ...*". The phrase "*...or less...*" is unnecessary given the previous statement outlining the distribution of samples, and the phrase could lead to compliance decisions that are based on a duration shorter than the minimum recommended period. Thus, the phrase "*or less*" as a monitoring provision could cause confusion and be interpreted to effectively shorten the criteria to be inconsistent with EPA's and Ecology's recommendations.

Therefore, we recommend that the phrase "or less" be deleted here, and anywhere else in the accompanying rule, regulatory analysis, or Implementation Plan documents where referring to the duration basis of the criteria or monitoring period for compliance purposes. We also recommend that the term "effluent limitations" in WAC 173-201A-200 Section (2)(b)(i)(A) and (3)(b)(i)(A) be deleted here when referring to the criteria, since this section of the rule defines the ambient water quality standard was and the standard is not applicable to an

effluent discharge. References to effluent limitations should be clearly identified as applying to monitoring provisions.

4. On page 20 of the rule, King County recommends the following language for 173-201A-210(2)(b)(v): “*Where fecal coliform is used as an indicator, and results suggest that sources other than warm-blooded animals may be a source (e.g., Klebsiella from wood waste), alternative criteria may be established on a site-specific basis by the department.*”
5. The first full paragraph of the Implementation Plan, 2nd sentence states “*For those permittees that discharge directly to marine waters or to rivers that are upstream of marine shellfish harvesting uses, both fecal coliform and enterococci monitoring will need to be considered.*” For situations where discharges are to marine locations with designated shellfish protection uses, King County recommends that the Implementation Plan specify that the permit writer may limit the monitoring requirements to the more restrictive indicator organism (i.e., either fecal coliform or enterococci, but not both). This will avoid monitoring and laboratory analysis for both indicator bacteria when only one parameter is necessary.
6. On page 6 of the Implementation Plan, under section “*Implementing the new criteria in the Water Quality Assessment*”, it is unclear how Ecology will address existing freshwater Category 5 listed water body segments that do not discharge to marine shellfish harvesting areas when the fecal coliform indicator is phased out. We recommend that Ecology clarify this. Two possible pathways include:
 - Pathway 1:
 1. All listings for Fecal Coliform are converted to *E. coli* listings and water body segments are re-evaluated in the next WQA
 2. If *E. coli* levels exceed WQS during the next WQA the segment is listed for *E. coli*. If not, the segment is moved to Category 2 “Segment is a Water of Concern”.
 - Pathway 2:
 1. All listings for Fecal Coliform are retained, but are moved to Category 3 “Segment Lacks Sufficient Data” and the water body segment is re-evaluated in the next WQA.
 2. If *E. coli* exceeds THE WQS, the segment is listed for *E. coli*. If not, the segment IS moved to Category 2 “Segment is a Water of Concern” or Category 1.