



P.O. Box 1350
338 West First Street
Port Angeles
Washington 98362
360.457.8527

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April 14, 2021

James Hovis, General Permit Writer (via online <http://wq.ecology.commentinput.com/?id=MYQsb>)
Washington State Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

Re: Draft Boatyard General NPDES Permit – March 3, 2021

Dear Mr. Hovis:

The purpose of this letter is to provide comments from the Port of Port Angeles on the Draft Boatyard General NPDES Stormwater Permit (the “Permit”).

The Port supports the efforts to improve the Permit and its implementation put forth in this draft. Improvements to stormwater discharges and the associated protection to water quality is an important goal for the State and our communities. However, environmental regulations have the potential to create significant economic impact to businesses if they are technically or economically unattainable.

Comment #1: Reduction in the Copper Benchmark

Reducing the copper benchmark by almost 10 times, from 147 µg/L to 15 µg/L, may result in a small water quality improvement, but will impact boatyard and marine trades business because treatment and conveyance improvements to routinely reach this level are expensive and technically difficult.

The Small Business Economic Impact Analysis (Publication 21-10-004) that accompanies this draft Permit details the annualized cost for stormwater treatment at a boat yard is \$46k-\$124k. This annualized cost estimate results from a year zero capital cost of at least \$300k+ for the installation of treatment system and conveyance improvements. This initial capital cost could be a prohibitively large cost to boatyards with limited access to credit.

Per the Draft Fact Sheet for the Permit the proposed copper benchmark is based on recent observed data inputted into a probability distribution model. Based on this data boatyards have significantly reduced the copper and other pollutants from their sites using multimedia filtration and other BMPs. The proposed benchmark mirrors the flawed technology-based benchmark originally detailed in the Draft November 2008 BYGP. The draft 2008 copper benchmark was replaced in both the 2010 and 2016 BYGPs with more achievable benchmark of a seasonal average at 50 µg/L and a daily max at 147 µg/L, based on real-world performance of multimedia filtration. This type of filtration is currently used by many boatyards and other affordable technologies do not exist to meet the proposed copper benchmark of 15 parts per billion. Creating unachievable limits for boatyards opens the door to more boat maintenance being conducted in uncontrolled environments because of the expense or lack of access to boatyards if more are driven out of business.

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Comment #1: Proposal

The copper benchmark in the Permit should be revised to between 147 µg/L – 50 ug/L based on a less conservative dilution factor and technology-based standards from actual results to meet the AKART standard. A copper benchmark in this range would be achievable with existing multimedia or biofiltration treatment that are or should be implemented by boatyards.

Comment #2: Clarification on TSS Limit, Section S2.E.3

Permit Section S2.E.3 details that permittees that discharge to a Puget Sound Sediment Cleanup Site or a waterbody that is 303(d)-listed (Category 5) for sediment quality must sample for total suspended solids (TSS). This Permit section is not clear or concise and raises the following questions.

1. Is proposed TSS limit a benchmark or an effluent limit?
2. For a permittee that discharges to an embayment that is both a cleanup site and has subsections listed as a 303(d)-listed (Category 5) for unique and distinct assessment units; if a boatyard's discharge is not directly adjacent to the distinct Category 5 assessment unit, is the TSS limit a benchmark?

Comment #2: Proposal

Make the following modification detailed in **Blue Highlighted Bold Italics** to provide answers and clarification to the questions listed above:

1. S2.E.3.a.i - *For purposes of this condition, "applicable sampling requirements and effluent limits" means the sampling and effluent limits in Table 4 that correspond to the specific parameter(s) the receiving water is 303(d)-listed for at the time of permit coverage, and/or total suspended solids (TSS) if the **waterbody assessment unit at the point of discharge** is 303(d)-listed (Category 5) for sediment quality at the time of permit coverage.*
2. S2.E.3.a.ii(1) - *Permittees shall sample the discharge for total suspended solids (TSS) in accordance with Table 4. If a discharge exceeds the TSS benchmark, the Permittee shall comply with Condition ~~S6~~ **S7**.*
3. Table 4 - Add the following note to Table 4 to provide clarification that the TSS concentration is a benchmark for facilities that discharge to a Puget Sound Sediment Cleanup Site: ***h. The TSS concentration listed in Table 4 is a benchmark for permittees that discharge to a Puget Sound Sediment Cleanup Site and if a discharge exceeds the TSS benchmark, the Permittee shall comply with Condition S7.***

Comment #3: Revise the Level Three Response Trigger Mechanism, S7.A.3

The proposed benchmark response actions under a Level Three Response do not allow time for additional operational and source control BMPs implemented under previous Level One or Two Responses, to be effective.

Comment #3: Proposal

Make the following modification detailed in **Blue Highlighted Bold Italics** to allow the Level 1, Level 2 and Level 3 Responses to be effective:

1. S7.A - *The following responses are required when any monitoring result exceeds a benchmark value in a sampling period. Benchmark exceedances are counted during the effective term **calendar year** of the permit and do not reset annually.*
2. S7.A.2 - *During ~~the effective term of the permit~~ **a calendar year**, when four monitoring results have accumulated for any one parameter at any stormwater monitoring location and exceed the benchmark for that parameter (e.g., three copper values from one monitoring location and one copper value from another monitoring location), the Permittee must perform the following actions.*
3. S7.A.3 - *During ~~the effective term of the permit~~ **a calendar year**, when any six monitoring results have accumulated for any one parameter at any stormwater monitoring location and exceed the benchmark for that parameter (e.g., four zinc values from one monitoring location and two zinc values from another monitoring location); ~~or when the monitoring results for any two samples exceed a parameter benchmark value during the coverage under this permit if a Level Two Response requirement had been triggered for that same parameter under the previous Boatyard General Permit (issued July 6, 2016),~~ the Permittee must install treatment as described in Subsection (a) below, unless the Permittee can demonstrate that treatment is either not feasible or not necessary as described in Subsection (b) below.*

Thank you for this opportunity to comment on the Boatyard Permit. If you have questions concerning the contents of this letter, please contact Jesse Waknitz, Port of Port Angeles (360) 417-3452

Sincerely,
PORT OF PORT ANGELES



Jesse Waknitz, Environmental Manager