Attachment A: Specific Comments on Washington's Draft National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Boatyards

General Comments

A. The totality of the proposed revisions does not support a permittee's ability to use the adaptive management approach in meeting permit requirements. The goal of the permit is to protect water quality, which can be done more effectively through source control rather than primarily relying on treatment. Operational practices are a key component of the path to protecting water quality, but the permit revisions would escalate the path to treatment very quickly and not allow time for adaptive management to work.
B. Some of the revisions are unclear and confusing, especially the benchmark exceedance response structure. This could require permittees to contract consultants to help understand and implement the new requirements. This is an undue burden on a small business.

Comment 1: Clarification of the application of the Boatyard General Permit

Draft Permit Reference: S1.A Boatyard Activities Requiring Coverage under this Permit
"All areas of the boatyard where any of these activities occur are subject to this permit. For example, any area designated as a boat storage area where occasional boat work is done is subject to all permit controls and Best Management Practices (BMPs)."

Comment: Port of Seattle (Port) appreciates the clarification of where the Boatyard General Permit applies.

Suggested Revision: None.

Comment 2: Additional sampling parameters for boatyards discharging to waters of the state

Draft Permit Reference: S2.D Boatyards Discharging Stormwater Runoff to Waters of the State

Table 2 Stormwater Benchmarks and Sampling Requirements for discharges to the Surface Waters of the State

Parameter	Units	Maximum Daily Value	Analytical Method	Laboratory Quantitation Level	Minimum Sampling Frequency
Turbidity	NTU	25	EPA 180.1/ Meter	0.5	Once in each of the months of October, November, January, March, April, and May
pH	Standard Units	Between 6.0 and 9.0	Meter/Paper	±0.5	Once in each of the months of October, November, January,

Parameter	Units	Maximum Daily Value	Analytical Method	Laboratory Quantitation Level	Minimum Sampling Frequency
					March, April, and May
Oil Sheen	Yes/No	No Visible Oil Sheen	N/A	N/A	Once in each of the months of October, November, January, March, April, and May
Copper, Total	µg/L	Marine Water: 15 Western Freshwater: 15 Eastern Freshwater: 20	EPA 200.8	2.0	Once in each of the months of October, November, January, March, April, and May
Zinc, Total	µg/L	90	EPA 200.8	2.5	Once in each of the months of October, November, January, March, April, and May
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	10	NWTPH-Dx	0.25	Once in each of the months of October, November, January, March, April, and May

Comment 2a: The draft permit proposes new sampling parameters (pH, turbidity, and total petroleum hydrocarbons) that boatyards have not yet sampled for or developed specific response BMPs. Requiring immediate compliance with benchmarks for new sampling parameters will substantially increase the cost of monitoring and corrective actions for permittees. The additional sampling parameters under this revised permit should be report-only and not benchmarks. The data collected from these report-only parameters can then be used to determine if these parameters are significant constituents of concern at boatyards in Washington that require monitoring under future permits.

Comment 2b: The reduction in the copper benchmark value from the maximum daily value of 147 ug/L and seasonal average of 50 ug/L to maximum daily value of 15 ug/L (Marine Waters and Western Freshwaters) and 20 ug/L (Eastern Freshwaters) is a significant change and could be extremely challenging for permittees to meet. Ecology established the current copper benchmark in 2011 based on scientific data and a review of water quality standards and AKART. The draft permit and fact sheet do not provide new scientific data or analysis to justify this reduction in the copper benchmark.

In addition, boatyard permittees have installed treatment systems over the previous two permit cycles to meet the prior permit values, and some continue to face technical challenges in meeting the 2016 Boatyard General Permit benchmark values. Under the draft permit requirements, these facilities may be required to revise or replace expensive treatment systems that were recently installed with Ecology's approval of the design and Engineering Report and met compliance with the current boatyard permit requirements. This uncertainty caused by this shift will be a financial hardship and undue burden on permittees.

Finally, Ecology and the legislature have proposed limiting or eliminating copper in anti-fouling paints for boats since approximately 2011. We support this effort, however until this legislation is enacted, results are quantified, and alternatives to copper boat paint are approved, revisions to copper benchmarks should be put on hold to avoid forcing permittees to invest in expensive, possibly soon-to-be obsolete treatment systems for a pollutant that may be removed from their facilities by legislation.

Suggested Revision: Remove benchmarks for pH, turbidity, and total petroleum hydrocarbons and add the note that they are report-only parameters, and retain existing copper benchmark.

Parameter	Units	Maximum Daily Value	Analytical Method	Laboratory Quantitation Level	Minimum Sampling Frequency
Turbidity	NTU	~~25~~ Report Only	EPA 180.1/ Meter	0.5	Once in each of the months of October, November, January, March, April, and May
pH	Standard Units	~~Between 6.0 and 9.0~~ Report Only	Meter/Paper	±0.5	Once in each of the months of October, November, January, March, April, and May
Oil Sheen	Yes/No	No Visible Oil Sheen	N/A	N/A	Once in each of the months of October, November, January, March, April, and May
Copper, Total	µg/L	~~Marine Water: 15 Western Freshwater: 15 Eastern Freshwater: 20~~ 147	EPA 200.8	2.0	Once in each of the months of October, November, January, March, April, and May
Zinc, Total	µg/L	90	EPA 200.8	2.5	Once in each of the months of October,

Parameter	Units	Maximum Daily Value	Analytical Method	Laboratory Quantitation Level	Minimum Sampling Frequency
					November, January, March, April, and May
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	~~10~~ Report Only	NWTPH-Dx	0.25	Once in each of the months of October, November, January, March, April, and May

Comment 3: Clarifications on general sampling requirements

Draft Permit Reference: S6.A General Sampling Requirements

Comment: The Boatyard General Permit Fact Sheet indicates that stormwater samples must be collected during the first storm event of the sampling period to capture the "first flush" of contaminants from the site. Given the extensive rain patterns of Washington's wet season during required sampling months (October, November, January, March, April, May) when there are typically short periods between rain events, this does not make sense. Likewise, given the frequency of sampling, capturing the "first flush" each month does not provide value given the limited time between sampling events during the wet season. In addition, this requirement is overly restrictive by not letting permittees determine when to sample. This requirement goes well beyond any requirement in the Industrial Stormwater General Permit and should be removed from the Fact Sheet.

Language in S6.A.1.b of the Boatyard General Permit states that "During a given sampling period, Permittees shall collect stormwater samples within the first 12 hours of stormwater discharge events." This language implies that permittees must sample each stormwater discharge event during each sampling period (i.e., 6 months out of the year). However, this does not appear to be intended as S6.A.1.e identifies that permittees monitoring more than once per month may average all of the monitoring results for a given parameter, indicating that sampling more than once per month is not required. The proposed revisions below are meant to clarify what we interpret as Ecology's intent for the permit.

Suggested Revision:
Boatyard General Permit Fact Sheet, Page 33: Remove language referring to the "first flush" as described below.
The proposed permit includes additional sampling requirements. Under the proposed permit, Permittees would be required to sample within 12 hours of a given ~~the first~~ stormwater discharge that occurs during a sampling period. ~~This change is intended to capture the "first flush" of contaminants from a site.~~ Permittees are required to collect and analyze stormwater samples from at least one stormwater discharge event during each sampling period, unless there is no stormwater discharge from the site. Permittees may collect stormwater samples from more than

one discharge event during a sampling period and average the monitoring results for a given parameter.

Permit: Modify language in S6.A.1.b as described below.
During ~~a given~~ each sampling period, Permittees shall collect stormwater samples within the first 12 hours of a given stormwater discharge events. If it is not possible to collect a sample within the first 12 hours of a stormwater discharge event, the Permittee must collect the sample as soon as practicable after the first 12 hours, and keep documentation with the sampling records (Condition S9.C) explaining why they could not collect samples within the first 12 hours; or if it is unknown (e.g., discharge was occurring during start of regular business hours).

Comment 4: Application of Industrial Stormwater General Permit (ISGP) approach with benchmark exceedance responses

Draft Permit Reference: S7.A Benchmark Responses
Due to the sum of proposed changes in the draft boatyard permit, which Ecology states is to make it more similar to the ISGP, the current permit approach for Level Two and Level Three Responses is now overly prescriptive and does not adequately allow permittees the time to implement adaptive management at their facilities. For example, permittees will not have enough time to both implement new source control measures and determine effectiveness prior to additional sampling results that would count toward a Level Two or Level Three Response. While this is important for all parameters, it is of particular significance for new sampling parameters (turbidity, pH, petroleum hydrocarbons) proposed in the draft Permit. Similar to Ecology's method of aligning the draft boatyard permit with the ISGP in most sections, the benchmark response structure should be revised accordingly as follows:

- Benchmark exceedances should be based on monthly monitoring periods and not on individual exceedances at each monitoring location. As proposed in the draft permit, a permittee with three or four sampling locations could have three or four benchmark exceedances in a single month. The reported benchmark value is a monthly average, but the benchmark exceedance response structure is based on individual stormwater samples. This results in the allowance to obtain multiple stormwater samples for averaging in a month unproductive. The suggested revision below is similar to the ISGP benchmark exceedance response structure, which allows permittees to use operational and structural BMPs to achieve improvements in stormwater quality.

- Benchmark exceedances for Level Two and Level Three responses should reset after each monitoring year, similar to the Washington ISGP, with Level Two and Level Three Responses based on the number of exceedances in a given monitoring year as indicated in the suggested revision, below.

- The benchmark response structure is designed for adaptive management during a permit term. Permittees who triggered a Level Two Response under the current boatyard permit should not be held to a different standard than those who are newly permitted. For instance, if a permittee triggered a Level Two Response for copper during the 2016-2021 permit cycle and

has two exceedances for copper during the first monitoring month of the 2021-2026 permit cycle, they would be obligated to install treatment for a Level Three Response. This is a probable situation since the copper benchmark has been substantially reduced in the draft permit. Not only does this prevent the permittee from installing source control BMPs to meet benchmarks (per Level One and Level Two Responses), but also negates adaptive management. As the permit states, "Benchmark exceedances are counted during the effective term of the permit" (S7.A) and that conflicts with this approach.

- The additional language in the Level Three Response that requires the permittee to loop back to a Level One Response 15 months after the sixth exceedance traps permittees in a never-ending cycle of potential non-compliance with the permit. The purpose of a Level Three Response is that the permittee has attempted all source control BMPs and is required to resort to treatment. This language promotes increasing levels of treatment over source control BMPs, which has been proven to be effective for long-term water quality improvements. If permittees are allowed the time to apply adaptive management principles and install source control BMPs for Level One and Level Two Responses, then this language in the Level Three Response section is unnecessary.

Suggested Revisions:

- Benchmark Responses:
    - Level Two Response: Required only if sampling results for three out of six monitoring months exceed the benchmark value in a given year.
    - Level Three Response: Required only if sampling results for five out of six monitoring months exceed the benchmark value in a given year.

- "Benchmark exceedances are counted during the effective term of the permit and ~~do not~~ reset annually."

- During the effective term of the permit, 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.

- "~~Starting at 15 months after the date of the sixth exceedance, the next benchmark exceedance for that parameter shall count as the first Level 1 benchmark exceedance. The Permittee shall then complete the appropriate responses for all future benchmark value exceedances as defined in S7~~."