Informal Comments on the PRELIMINARY DRAFT Municipal Stormwater Permits (Phase I, Eastern and Western Phase II) and Stormwater Management Manuals (Eastern and Western) October 17 - December 2, 2022

PRELIMINARY DRAFT TOPIC (select from drop down)	Comment	Comment Made By
MS4 Permit: PCBs	The proposed language establishes the building washdown as "conditionally allowable" when following pollution prevention plan guidance, but does not cite a specific pollution prevention plan or guidance that the permittee must follow or reference. The pollution prevention plan condition needs to be more clear and better defined for permittees to understand the compliance expectation.	City of Spokane
MS4 Permit: PCBs	The proposed language establishes building washdown as a conditionally allowable discharge that is defined by a window in time. Criteria based on a window in time adds a significant layer of complexity that is going to be a management and enforcement challenge for municipalities. It is unlikely that municipalities have this data readily available in their files, and will add another dataset of information that will need to be gathered when following up on field observations or illicit discharge notifications. Illicit discharge determinations performed in response to the illicit disharge hotline for building washdowns will be significantly hindered as it will require obtaining building information from private property owners. The ability to determine if a discharge was conditionally allowable or an illicit discharge wll be completely reliant on the willingness of private property owners to provide building information that they may not have available. If the intent is for municipalities to maintain a database of this information for all buildings in their jurisdiction, it needs to be clearly stated in the permit language. It is a heavy lift for municipalities to develop a database with this information and will require significant amount of time, which needs to be taken into account for the program implementation compliance deadline.	City of Spokane
MS4 Permit: PCBs	The proposed language for building washdown does not take into account any building maintenance or retrofits that may have occurred outside of the building construction date that may have used the materials of concern.	City of Spokane
MS4 Permit: PCBs	The proposed language will require the amount of washwater to be "minimized" to be an allowable discharge. The term minimized is subjective, and in order for the permittees to provide guidance to the public, or respond to observations of illicit discharges with enforcement, the term should be prescriptively defined. Likewise, in order for a permittee to demonstrate compliance to Ecology, a prescribed amount of washwater that is allowable for discharge is necessary to subvert disagreements on the interpretation of what minimize looks like volumetrically. Subjective conditions foster regulation by will in lieu of rule, and allow for unaligned expectations that result in unequal treatment. Compliance demonstrations based on subjective information will not be consistent across all permittees, regional Ecology offices, or the public.	
MS4 Permit: PCBs	The proposed language regarding Municipal O&M for washing municipal buildings built between 1950-1980 and buildings with PCB-containing materials includes "proper management of washdown water". The phrase proper management of washdown water is not defined. If the intent is to adhere to the proposed requirements for Section S5.B.3.b.iii(e), see comments for proposed Section S5.B.3.b.iii(e). Also, stating that proper management of washdown water is necessary for buildings inside the timeframe criterion implies that improper management of washdown water for buildings outside the timeframe criterion is acceptable. The proposed permit language increases the level of effort necessary for permittees to comply with the conditions of the permit in order to achieve an unclear objective for an undefined issue, and it is based on controls that are nebulous and subjective that will create confusion and unrealistic expectations.	City of Spokane

MS4 Permit: Tree Retention	The proposed language will require documenting existing landscape canopy and riparian tree canopy, and document change over time. It is agreed that this is valuable information that will result in a net benefit for communities, however this does not belong in the stormwater permit. Counting trees relying on knowledge of tree species is outside the expertise of most stormwater professionals and municipal stormwater staff. Before the expectation to inventory tree canopy is included in the stormwater permit, there should be an established program that accounts for the use of trees to manage stormwater that municipalities have implemented. The placement of a standalone requirement to inventory tree canopy without a nexus to existing stormwater permit requirements or infrastructure likens the permit to potpourri, or a junk-drawer of requirements. Prior to requiring a canopy inventory in the stormwater permit, Ecology should consider developing guidance that establishes the quantified hydrologic and/or treatment benefits of trees that uses standardized engineering principles, and then incorporate the use of trees to manage stormwater into site design requirements, with infrastructure substitution allowances. A framework should be established with the measurable benefits of the use of trees that aligns with the approved BMPs and incorporated into O&M permit requirements as an additional stormwater tool before management of a tree canopy is included in the permit. Without existing complementary stormwater programs that incorporate trees, a canopy inventory requirement does not fit with the existing conditions of the stormwater permit, and would be misplaced.	City of Spokane
MS4 Permit: Sweeping	The proposed language does not address the use of water application to the streets to minimize fugitive dust, which is common practice, and is required in some districts. Street sweeping condition in the permit should clearly address what is acceptable and what Ecology's expectations are regarding street wash water specific to street sweeping. Street wash water is currently addressed in the permit in the illicit discharge section, which requires the amount of washwater to be "minimized". The term minimized is subjective, and in order for the permittees to provide guidance to the public, or respond to observations of illicit discharges with enforcement, the term needs to be prescriptively defined. Additionally, in order for a permittee to demonstrate compliance to Ecology, a prescribed amount of washwater that is allowable for discharge is necessary. Response and enforcement is not possible without a metric to measure against. Subjective conditions foster regulation by will in lieu of rule, and allow for unaligned expectations that result in unequal treatment, and compliance based on subjective information will not be consistent across all permittees, regional Ecology offices, or the public.	City of Spokane