



REGION 10

SEATTLE, WA 98101

November 9, 2023

Ms. Abbey Stockwell
Washington State Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

Re: U.S. Environmental Protection Agency (EPA) Comments on Washington Department of Ecology (Ecology) Proposed Renewal of National Pollutant Discharge Elimination System (NPDES) General Permits for Regulated Municipal Stormwater Discharges in Western Washington and Eastern Washington

Dear Ms. Stockwell:

This letter transmits the EPA's comments on the proposed renewal of the Ecology Phase I Municipal Stormwater Permit, Eastern Washington Phase II Municipal Stormwater Permit, and Western Washington Phase II Municipal Stormwater Permit, which Ecology made available for public comment from August 16, 2023, through November 10, 2023. The EPA conducted this review in accordance with the procedures outlined in the *NPDES Memorandum of Agreement between the State of Washington and the United States Environmental Protection Agency Region 10*, dated July 2018.

The EPA would first like to acknowledge the significant investment of time and thought your staff has put in over the past several years developing these draft permits. As you know, and as we indicated in the past, Ecology's municipal stormwater permits are critically important to protect and restore Puget Sound and to aid in recovery of Endangered Species Act (ESA) listed salmon and orca. The EPA further recognizes the importance of healthy and abundant salmon populations to Tribes, Tribal resources, and Tribal treaty rights. To this end, the EPA acknowledges and supports important revisions to the permits to reduce the impacts from stormwater discharges, which include updated requirements for Stormwater Management for Existing Development (SMED), lower threshold triggers for new and redevelopment projects, and required minimal level of street sweeping. These revisions address emerging needs and new science. The EPA's comments and recommendations below primarily focus on the SMED requirements to help ensure the success of this stormwater program element.

6PPD-quinone

The impacts of urban stormwater runoff have been well established for many years; ongoing research continues to increase awareness of the multifaceted challenges associated with attempting to reduce pollutants in urban runoff. The identification of 6PPD-quinone (6PPD-q) in tires as a primary pollutant responsible for urban runoff mortality syndrome observed in Puget Sound coho salmon, and the

discovery of similar impacts to steelhead and chinook salmon, is an example of the extensive work needed to sufficiently protect water quality. It is crucial that regulatory agencies continue to investigate, use, and improve upon practices available to achieve greater water quality protection.

Given the current research and available stormwater mitigation tools, the combination of low impact development (LID) requirements for new development/redevelopment and the stormwater retrofit requirements for discharges from existing developed areas are the most effective means of addressing 6PPD-q and other pollutants in discharges from regulated municipal separate storm sewer systems (MS4s).

As described more specifically below, the EPA recommends that Ecology set a higher level of retrofit investment for the Permittees and focus a portion of that investment in facilities that treat stormwater to remove 6PPD-q consistent with Ecology's 2022 *Stormwater Treatment of Tire Contaminants Best Management Practices (BMP) Effectiveness Report*.¹

Phase I Permit

Proposed Changes to Program Points System. The EPA recommends that the Program Point system be adjusted to result in MS4 infrastructure improvements to reduce stormwater impacts with greater certainty. For example, to achieve this, the EPA suggests Ecology increase the Phase I Permittee's required level of effort (defined as the sum of SMED Program Points) from 750 to at least 1,000 total Program Points, and increase the minimum required Program Points for completed projects from 300 to at least 500 Program Points. In addition, the EPA suggests that Ecology increase the minimum number of Program Points achieved for project types listed in Permit Part S5.C.7.a.i (a)-(d), excluding project type (e), from 200 to 500, of which 250 Program Points are tied to completed projects since these project types most directly address impacts from MS4 discharges with quantifiable benefit.

Identify Biofiltration Treatment for 6PPD-q in Appendix 12. The EPA recommends that facilities that provide treatment for 6PPD-q be explicitly mentioned under New Runoff Treatment Facilities in Appendix 12, which currently identifies facilities that provide oil control, phosphorus treatment, metals treatment, and basic treatment as qualifying treatment projects for SMED points. The EPA recommends that facilities that provide treatment for 6PPD-q, in particular biofiltration facilities, be explicitly mentioned under New Runoff Treatment Facilities. Biofiltration retrofit projects, for example, can serve a very important role treating runoff from high volume traffic areas and reducing impacts associated with roadway pollutants, such as 6PPD-q, metals, and polyaromatic hydrocarbons. Therefore, the EPA recommends that all Permittees construct these facilities. In addition, Appendix 12 for New Runoff Treatment Facilities should provide a clear method for the calculation of SMED points for these facilities. In particular, the method to calculate SMED points for biofiltration facilities with minimal infiltration should be defined since many of these projects in the urban environment will have infiltration constraints.

Western Washington Phase II Permit

Increase Total Calculated Equivalent Acres (Appendix 12, Table 1). The EPA recommends that Ecology increase the target equivalent acre total for each Phase II Permittee, for example from five (5)

¹ Washington Department of Ecology, *Stormwater Treatment of Tire Contaminants Best Management Practices Effectiveness*, 2022.

https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMWW/Content/Resources/DocsForDownload/2022_SWTreatmentOfTireContaminants-BMPEffectiveness.pdf?utm_medium=email&utm_source=govdelivery

equivalent acres assigned per 50,000 population to at least seven and a half (7.5) equivalent acres (or more) per 50,000 population. This increase in total acres mitigated per Permittee would expand stormwater runoff treatment and other management practices across urbanized Western Washington.

Emphasize Road Retrofits as Qualifying Projects. The EPA recommends that Ecology expand the list of qualifying stormwater facility retrofit project types and eligible “opportunistic” stormwater investments specified in Permit Appendix 12 to emphasize roadway projects that reduce adverse water quality impacts to existing road runoff. Ecology should also consider utilizing your proposed system of credits to incentivize roadway retrofit projects.

Federal Opportunities for Stormwater Retrofit Funding

Capital improvement projects relating to stormwater management and nonpoint source pollution control are eligible for water infrastructure funding such as through the Clean Water State Revolving Loan Fund administered by Ecology.² The Bipartisan Infrastructure Law has dedicated funding through the Clean Water State Revolving Loan Fund to address emerging contaminants. Stormwater retrofit projects that address emerging contaminants, like 6PPD-q, are eligible for these funds. The EPA encourages Ecology to educate the Permittees regarding expanded infrastructure funding opportunities made possible by the Bipartisan Infrastructure Law.

Thank you for the opportunity to provide comments on these draft permits during the public notice period. For questions or concerns with the EPA’s comments on Ecology’s draft permits, feel free to contact Misha Vakoc at (206) 553-6650 or vakoc.misha@epa.gov.

Sincerely,

Mathew J. Martinson
CAPT, USPHS
Branch Chief
Permitting, Drinking Water, and Infrastructure

² <https://ecology.wa.gov/about-us/payments-contracts-grants/grants-loans/find-a-grant-or-loan/water-quality-grants-and-loans>