



**Washington Association
of Sewer & Water Districts**

EDUCATE ■ ADVOCATE ■ COLLABORATE

July 24, 2024

Marla Koberstein
Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

RE: Comments on Natural Conditions Rulemaking

Dear Ms. Koberstein:

Thank you for the opportunity to comment on the Natural Conditions Rulemaking. We recognize that this rulemaking is essential to allow Ecology to continue their important work regarding water quality and TMDLs. The Rule and its supporting documentation is complex and very detailed. We are providing comments at a high level, expecting that wastewater treatment plant operators will provide more detailed comments.

The Washington Association of Sewer and Water Districts represents more than 180 public sewer and water districts in the state that serve nearly 25% of our state's population, of which more than half are WASWD members. These districts provide cost-effective sewer and water services—ranging from the state's largest population centers, to the smallest rural communities. Protecting local environments with effective wastewater treatment are primary drivers for our members and the Washington state residents they serve.

A performance-based approach to developing site specific natural conditions criteria for aquatic life protection will allow Ecology to move ahead with this work without the need to take each site back to rulemaking, thus saving valuable time in administering TMDLs where natural conditions do not match current standards. However, the unknowns relating to how modeling will be accomplished in light of varying environmental situations seem overwhelming at this stage in the development of this approach. For instance, how will the models evaluate items like loss of refugia in-stream? Loss of tree cover over time may be available from historic photos and surveys, but instream areas that act as protection from higher temperatures and lower dissolved oxygen would probably not have historic data. We fear that there would still be an emphasis mainly on NPDES permittees' discharges because this is easy to quantify, thus potentially negating any proposed benefit of the analysis of the natural conditions criteria. Watershed modeling has never been easy. When this approach runs up against human caused limits that are within the limits of instrument accuracy, and already being overwhelmed by climate change, this approach seems like it will take a lot of time, money and resources for little, if any, benefit in the end.

With this effort done entirely within Ecology, it lacks important outside peer review. It should have had a robust public process as is typically done with other standards-related rulemaking, particularly those dependent on modeling. Ecology has made great effort to vet the Salish Sea Model, and should expend similar effort to show how this watershed modeling will work before this rule is adopted.

We are perplexed by the lack of allowance for temperature due to climate change. We agree with Ecology's premise that climate change is man-made, but it is world-wide, and not going away anytime soon. We commented on this on the Columbia River TMDL, where the limits are already conflicting with what climate change is inflicting. Ecology identifies a selection of methods to cool effluent discharges. One of those suggestions is ponds. Ecology should be well aware that many Wastewater Treatment Plants (WWTPs) are site-constrained, and this will not be a viable option. Since planting trees for shade will not work everywhere, will the ultimate tool be to put chillers on discharges to reduce temperatures, which only exacerbates climate change with its increased use of energy? Although not mentioned in this document, is Ecology considering longer term TMDL compliance schedules related to waterbodies that will be largely dependent on reestablishment of riparian vegetation to cool instream temperatures? It seems that this would be a necessity to make this approach work. Either way, this doesn't seem well thought out or provide realistic solutions.

The cost-benefit analysis provided with this proposed rule is inadequate. It shows a lack of interaction with local permittees who could provide information relevant to this analysis. On page 44 of the *Preliminary Regulatory Analyses*, you calculate a cost for removal of a tiny amount of nitrogen from a WWTP in order to just barely meet a standard as calculated by natural conditions. It is not an appropriate measure of cost, since most dischargers would scale it up to full nutrient removal based on what they expect standards to become in the future. Attempting to low-ball costs with no input from actual dischargers is misleading.

We would suggest that further input from stakeholders on data and modeling is warranted before this rule is finalized in order to understand the complexities of the modeling, and to get a real cost-benefit analysis that complies with state law. We appreciate the challenges that this effort entails and thank you again for the opportunity to provide comments.

Sincerely,



Judi Gladstone
Executive Director