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300 Desmond Drive SE
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Submitted Via Ecology.wa.gov

Re: Comments on the 2025 Draft Puget Sound Nutrient General Permit

Dear Dr. Weaver,

Thank you for the opportunity to comment on the 2025 draft reissuance of the Puget Sound Nutrient General Permit (PSNGP).[1] Communities for a Healthy Bay (CHB) is a Tacoma-based 501(c)3 working since 1990 to protect Commencement Bay, the South Sound, and the communities and wildlife that depend on them. CHB advances this mission through practical, science-driven advocacy, collaborative partnerships, and on-the-water monitoring to ensure a cleaner and healthier Puget Sound.[2]

CHB has significant concerns with the "voluntary" structure of the PSNGP. The most effective approach would be to incorporate nutrient-reduction provisions directly into individual NPDES permits, ensuring enforceable, facility-specific requirements rather than leaving critical measures to voluntary participation. However, if Ecology ultimately determines that a separate PSNGP is necessary, we strongly urge the agency to strengthen the current draft to require measurable progress, enforceable milestones, and clear accountability mechanisms.

CHB is particularly disheartened that municipalities such as the City of Tacoma chose to invest millions of dollars in litigation to halt this permit rather than directing those resources toward wastewater treatment plant (WWTP) upgrades that would have delivered cleaner water and stronger nutrient controls for Puget Sound.[3] Meanwhile, the health of the marine ecosystem

[1] Draft Puget Sound Nutrient General Permit (PSNGP) (June 18, 2025), WSR 25-12-118, available at *Washington State Register* (certified June 13, 2025).
[2] Communities for a Healthy Bay, https://www.healthybay.org/ (last visited Aug. 4, 2025).
[3] City of Tacoma v. Dep't of Ecology, No. 102479-7 (Wash. Sept. 5, 2024).

underpins critical habitat for threatened and endangered species such as orcas and Chinook salmon,[4] supports Tribal treaty rights, sustains commercial and recreational fisheries, and anchors a regional tourism economy.

Despite decades of nutrient studies, Puget Sound remains impaired, and Ecology's own fact sheet confirms that domestic WWTPs drive nutrient over-enrichment.[5] Rapid population growth and warmer, more stratified waters threaten to worsen dissolved oxygen depletion, while fixed action levels that ignore growth and climate pressures risk allowing degradation even when facilities appear in compliance. Each delay risks locking in outdated infrastructure without modern nutrient controls, raising future retrofit costs and worsening water quality impacts.[6] The 2025 PSNGP offers a critical opportunity to build on that legacy by setting clear, enforceable standards for the region's largest point source dischargers.

While the Pollution Control Hearings Board decision necessitated a voluntary framework, it raises concerns about whether the permit can be applied consistently, transparently, and effectively across all dischargers. Accordingly, CHB recommends several improvements to strengthen the permit and ensure enforceable nutrient reductions.

I. Ensure Parity Between PSNGP and Individual Permits

Facilities opting out of the PSNGP must still be subject to, at the very least, equivalent and enforceable conditions under their individual NPDES permits. Yet, the Fact Sheet (Section 3.5) merely contemplates "case-by-case" regulation and the draft itself defers AKART to planning documents rather than requiring implementation now.[7]

Both state and federal law require the application of AKART in wastewater permitting. In Washington's Water Pollution Control Act, Ecology may not issue or reissue a permit unless it

[4] 16 U.S.C. §§ 1531–1544 (2025); 50 C.F.R. §§ 17.11–.12, 17.94–.95 (2025).
[5] Wash. Dep't of Ecology, *Fact Sheet for the Puget Sound Nutrient General Permit*, 21 (2025).
[6] Ellen Kohler, *Shifting the Burden of Dirty Waters, The Regulatory Review (July 28, 2025), https://www.theregreview.org/2025/07/28/kohler-shifting-the-burden-of-dirty-waters/*.
[7] Wash. State Dep't of Ecology, *Fact Sheet for the Draft Puget Sound Nutrient General Permit Reissuance* (June 18, 2025), https://fortress.wa.gov/ecy/ezshare/wq/permits/PSNGP-2025-FactSheet.pdf; (requiring only AKART analysis rather than implementation for dominant, moderate, and small loaders) (*Draft Puget Sound Nutrient General Permit* §§ S4.E.2, S5.E.2, S6.C.1, at 12–13, 20–21, 26–27 (Wash. Dep't of Ecology, Draft 2025)).

applies AKART to control pollutants and prevents violations of state water quality standards.[8] Likewise, the Clean Water Act (CWA) prohibits discharges that fail to meet federal technology-based treatment standards.[9] Any permitting structure, general or individual, must do more than require an AKART analysis; it must ensure actual implementation of the most effective treatment methods on enforceable timelines to remain consistent with these overlapping legal mandates. This includes setting actual effluent limits for WWTPs based on widely available nutrient-removal technologies already in use across the country.[10] Washington remains outpaced by other states and should adopt proven approaches to ensure effective nutrient pollution control.

To remedy this, CHB strongly recommends that Ecology include permit language ensuring facilities outside the PSNGP remain subject to, at the very least, equivalent nutrient requirements in their individual NPDES permits, including comparable timelines, monitoring, action levels, AKART implementation, and public reporting.

II. Strengthen PSNGP Scope and Support Facility Upgrades

To close potential loopholes, CHB recommends clarifying that all wastewater treatment plants whose discharges ultimately reach Puget Sound, whether directly or through tributaries, rivers, or other connected waterbodies, remain subject to PSNGP requirements. The Puget Sound Characterization framework, developed by the Washington State Department of Ecology, underscores that aquatic systems and watershed processes operate as an integrated network, where upstream water quality affects downstream water quality.[11] Without this explicit clarification, WWTPs—including those already listed among the 58 covered facilities—might argue they are exempt because of their location, despite the unavoidable downstream consequences of their discharges.

To ensure compliance is both enforceable and feasible, Ecology should also make clear that PSNGP participation enables priority access to state technical assistance, including the Puget

[8] Washington Water Pollution Control Act, WASH. REV. CODE § 90.48.010 (2024); § 90.48.520 (2024).
[9] Clean Water Act § 301(b)(1)(A)-(B), 33 U.S.C. § 1311(b)(1)(A)-(B) (2024).
[10] U.S. Environmental Protection Agency (EPA), *National Study of Nutrient Removal and Secondary Technologies*, https://www.epa.gov/eg/national-study-nutrient-removal-and-secondary-technologies (last updated Jan. 15, 2025).
[11] Stanley, Stephen et al., *Puget Sound Characterization: Volume 1: The Water Resources Assessments (Water Flow and Water Quality)*, Wash. State Dep't of Ecology, Pub. No. 11-06-016 (Oct. 2016 Update), available at apps.ecology.wa.gov/publications/documents/1106016.pdf.

Sound Nutrient Reduction Grant Program, which provides funding to municipalities for nutrient control upgrades.[12] The Washington State Legislature has already allocated $10 million to support this program, reflecting the state's commitment to nutrient reduction efforts in Puget Sound.[13] Linking funding to compliance not only accelerates timely infrastructure improvements but also ensures that facilities serving overburdened or marginalized communities can meet permit requirements without disproportionate financial strain. Linking funding to compliance not only supports timely upgrades but also ensures that facilities serving overburdened or marginalized communities can meet permit requirements without disproportionate financial strain.

III. Set Stronger and More Protective Action Levels

Current action levels, as established in Section S4 of the 2025 Draft Puget Sound Nutrient General Permit, rely on the 99th percentile of historic annual average loads from 2018-2022 data.[14] This baseline is far too permissive, allowing nitrogen loads to rise over time, especially given rapid population growth and ongoing facility expansions. Ecology should instead use the data from the 2022-2023 reporting data to set more realistic and protective baselines.

CHB supports recalculating action levels using a much lower percentile that reflects the most recent monitoring data from each facility's discharge record rather than relying on the current 99th percentile that allows discharges near peak historic levels before triggering corrective actions. A lower, data-driven percentile would set a more protective baseline, ensure action levels reflect typical rather than extreme loads, and prevent outlier events from masking ongoing high nutrient discharges. We also support phasing in declining caps tied to population projections so nitrogen loads cannot increase under fixed numeric thresholds. Without these changes, facilities could meet planning triggers while continuing to discharge nitrogen at harmful levels.

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[12] *Puget Sound Nutrient Reduction Grant Program*, Wash. State Dep't of Ecology, https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Puget-Sound-Nutrient-Reduction (last visited Aug. 27, 2025).

[13] Wash. State Dep't of Ecology, *Puget Sound Nutrient Reduction Plan* 54 (June 2025) ("The legislature has since appropriated $10 million supporting this program from state fiscal years 2025-2027.").

[14] Puget Sound Nutrient General Permit, Draft § S4 (Wash. Dep't of Ecology 2025).

IV. Hold the Largest Dischargers to Individual Permit Limits

CHB is particularly concerned that the City of Tacoma and King County contribute over 70% of the nitrogen load from sewage treatment plants to the Sound are currently treated the same as other dominant dischargers under the PSNGP despite being clear outliers in both load and impact.[15]

Under Sections S4–S7 of the draft permit, dominant load dischargers are subject to enhanced monitoring, adaptive BMPs, and Nutrient Reduction Evaluations (NREs) guided by AKART standards.[16] While these provisions are important, they remain generic and lack enforceable, facility-specific requirements for the largest polluters. Given their outsized contributions, Tacoma and King County should either be required to complete initial nutrient treatment upgrades now or be placed under individual permits or tailored special conditions that impose binding load caps, enforceable implementation timelines, and adoption of the most effective available treatment technologies.

By comparison, the Spokane River's 303(d) listing for dissolved oxygen and phosphorus triggered Ecology's requirement for advanced phosphorus treatment at the Riverside Park Water Reclamation Facility, leading to major upgrades that dramatically reduced nutrient discharges.[17] Puget Sound communities deserve the same level of commitment to nutrient reduction and a clear, enforceable path toward modern treatment for its largest polluters.

V. Prevent Backsliding Amid Growth, Climate Pressures, and Delayed Action

Puget Sound's population is growing rapidly, increasing wastewater flows at the same time many receiving waters remain 303(d)-listed for dissolved oxygen impairments. Yet, under the current draft, corrective actions only occur if facilities exceed highly permissive action levels, and flow expansions can proceed without guaranteed nutrient reductions. This combination risks locking in higher nutrient loads for decades, especially as treatment plant upgrades typically follow long capital planning cycles. WWTPs must now also account for sea level rise impacts on

[15] Puget Sound Nutrient General Permit, Draft § S4 (Wash. Dep't of Ecology 2025).
[16] Puget Sound Nutrient General Permit, Draft §§ S4–S7 (Wash. Dep't of Ecology 2025).
[17] Washington Dep't of Ecology, Spokane River – Directory of Improvement Projects, *Total Maximum Daily Load Process*, available at *ecology.wa.gov* (last visited Aug. 22, 2025).

treatment infrastructure and discharge capacity. Rising seas threaten to exacerbate flooding, infiltration, and hydraulic constraints at aging plants, further reducing system resilience and increasing pollution risks.[18] Together, sea level rise, rapid population growth, aging and outdated facilities, and increasing hydraulic and treatment demands place unprecedented pressure on wastewater treatment capacity across Puget Sound.[19]

CHB recommends that Ecology should prohibit any flow expansion unless accompanied by equal or greater reductions in nitrogen concentrations, require all facilities to complete optimization planning as well as a reduction strategy before the permit's expiration rather than waiting for exceedances to occur, and tie these requirements to population projections so that growth-driven load increases and climate-driven vulnerabilities cannot undermine water quality standards. Linking corrective planning directly to growth management and climate adaptation will prevent the status quo where nutrient loads rise while enforceable limits lag behind.

VI. Public Participation and Compliance Transparency

Ecology should maintain a public, facility-level registry integrated with existing databases (e.g., PARIS) covering both PSNGP and individual permits. At a minimum, this registry should include participation status, required submittals and due dates, action-level exceedances with corresponding corrective actions, and major milestones such as optimization upgrades or verified load reductions. Public transparency will enable Tribal and community oversight, support peer learning, and reward early action by recognizing facilities that move quickly toward compliance.

VII. Align the Permit with the Broader Nutrient Reduction Strategy

The PSNGP must operate in coordination with the Puget Sound Nutrient Reduction Plan.[20] Ecology should publish a roadmap connecting permit milestones with regional nutrient targets

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[18] Michelle A. Hummel, Matthew S. Berry & Mark T. Stacey, *Sea Level Rise Impacts on Wastewater Treatment Systems Along the U.S. Coasts*, 6 *Earth's Future* 622 (2018), https://doi.org/10.1002/2017EF000805.
[19] Glen T. Daigger, *Wastewater Management in the 21st Century*, 133 J. Envtl. Eng'g 671 (2007), https://doi.org/10.1061/(ASCE)0733-9372(2007)133:7(671).
[20] Wash. State Dep't of Ecology, *Puget Sound Nutrient Reduction Project—Phase 2: Recommendations for Addressing Nutrients in Puget Sound* (Pub. No. 11-06-016, 2011), https://ecology.wa.gov/ecologys-work-near-you/river-basins-groundwater/puget-sound/helping-puget-sound/reducing-puget-sound-nutrients.

and demonstrating how both permitting pathways contribute to overall dissolved oxygen recovery.

Conclusion

CHB urges Ecology to adopt the strongest possible version of this permit, emphasizing that voluntary participation must not equate to voluntary progress. We thank Ecology for the opportunity to comment and remain committed to supporting the effective implementation and enforcement of this critical permit.

Sincerely,

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