



Jessica Spiegel
Regional Director

April 25, 2019

Jocelyn Jones
Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Subject: WAC 173-230 *Certification of Operators of Wastewater Treatment Plants*

Dear Ms. Jones:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Department of Ecology comments on proposed revisions of WAC 173-230 *Certification of Operators of Wastewater Treatment Plants*. WSPA is a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation and marketing in the five western states including Washington.

Three WSPA-member facilities are subject to the WAC 173-230 regulation, this because they direct site sewage into their large process wastewater treatment systems (WWTS). While the flow contribution is very small (less than 1% of the influent flow), and the domestic waste characteristics are compatible with the treatment technology provided in the process WWTS, the WAC 173-230 definition of “wastewater treatment plant” causes industrial treatment systems with comingled wastes to be subject to all WAC 173-230 requirements.¹ This is an unfortunate, but unavoidable reality. For the more sophisticated, major NPDES permittees, there will inevitably be a WWTS management “infrastructure” that directly responds and accomplishes the statutory and regulatory objectives to “protect the public health and to conserve and protect the water resources of the state...”.² While the requirements of WAC 173-230 seem best targeted to small POTWs, the WSPA experience is that the demands and prescriptiveness of this rule is out-of-proportion with the marginal returns in demonstrating operator competence this rule purports to deliver.

The few comments that follow will offer rule language adjustments to minimize the process burdens this regulation imposes.

¹ Wastewater treatment plants” are subject to WAC 173-230 requirements, with the definition of this term including those facilities treating a “combination of domestic, commercial or industrial origin...”. “Industrial wastewater treatment plant(s)” are exempt from this regulation.

² Chapter 70.95B RCW

1. While the definition of “wastewater treatment plant” encompasses any facility receiving domestic wastewater, it also explicitly excludes “industrial treatment plants” from exposure to this rule. Ecology is encouraged to use discretion in rule development to focus WAC 173-230 requirements on those facilities where the rule provisions are relevant and would provide environmental performance value.

The definition assigning rule applicability originates in the enabling statute.³ Here the 1973 legislature clearly distinguished between domestic wastewater treatment (typically publicly-owned/operated) and industrial systems, and ostensibly recognized there could be different approaches to gain and demonstrate confidence on operator competence and supervisory over-sight between these treatment systems. Ecology is encouraged to use discretion to acknowledge this distinction through amendment of the WAC 173-230-200 definition of “wastewater treatment plant” to say

“...means a publicly-owned facility used to treat any liquid or waterborne waste of domestic origin or a combination of domestic, commercial, or industrial origin, and that, by its design requires the presence of an operator. It does not include any facility used exclusively by a single-family residence, septic tank with subsoil absorption, industrial wastewater treatment plants (including any plants who receive on-site domestic wastewater comprising less than 5% of average treatment system influent), or wastewater collection systems.”

This change would better align rule applicability to its stated intent and avoid the illogical outcome where a very small domestic sewage contribution subjects the facility to the entire set of WAC 173-230 requirements

2. Ecology should acknowledge that major NPDES permittees will have comprehensive WWTS management tools and can readily demonstrate operator/team competence. An off-ramp mechanism should be built into the regulation to allow for an “equivalency” showing which, if accepted by Ecology, will substitute for some/all of the Operator Certification requirements.

WSPA facilities operate “industrial wastewater treatment plants” that are subject to comprehensive NPDES permits. The planning and performance requirements are extensive.⁴ Facilities employ a team-approach, drawing upon multiple engineering, science,

³ Ibid

⁴ Refinery wastewaters are regulated through very comprehensive NPDES permits, typically running to 75 pages +/-, and layered with WWTS plan and performance requirements. These include: an Operations and Maintenance Manual, a Treatment System Operating Plan, a plan and schedule for assessing the adequacy of treatment system capacity and treatment efficiency, internal plans to respond to “non-routine and unanticipated wastewaters” and planned/unplanned system bypasses, and more.

production, maintenance, and operator resources, to accomplish these requirements. Standard Operating Procedures are developed, documented, and training programs deployed. WWTS staffing and 24/7 professional support is provided. The small flow and pollutant load contribution of domestic wastes is compatible with the treatment system technologies provided for refinery process wastewaters.

WSPA would encourage Ecology to focus on the statutory/regulatory objective, and provide a means in the rule to allow a facility-specific demonstration of competent treatment system operation. Consider adding a new subsection in WAC 173-230-220 *Applicability* which says

(4) The department may consider an alternative to WAC 173-230-250 which seeks to demonstrate competency to operate and maintain a wastewater treatment plant to achieve the stated purposes of this regulation. If accepted by the department the submittal would substitute for the requirements in this regulation and would be incorporated into the Treatment System Operating Plan required of NPDES permittees.

WSPA is convinced that a broader system approach, recognizing the professional skills and team credentials, experience, and facility-specific personnel deployment to operate the WWTS, can be a more compelling demonstration of “competence” vs. sole focus on individual operator academic and experience measures. NPDES permittees are responsible for compliance with permit terms and conditions. This certainly includes decisions on WWTS staffing levels, provision for training, professional skills support, etc.

3. Proposed subsection WAC 173-230-250(2) offers some flexibility within the structure of the rule to consider alternative approaches to the literal prescriptive requirements. Whatever the final adopted language might be, WSPA would encourage Ecology to broadly interpret and apply rule language to accomplish a limited and meaningful outcome demonstrating operator competence.

For example, the “case-by-case” provision along with “relevant experience” and “operating experience” and “allowable substitutions” could perhaps provide a route for introducing a facility WWTS management plan as an alternative to other WAC 173-230-250 requirements. This is a less favored approach to the creation of a focused “equivalency” provision.

4. Finally, as a matter of good public policy we would encourage Ecology to look for opportunities to shorten and simplify this rule.

WSPA acknowledges this is a well-intentioned regulation that has undoubtedly advanced the overall competence of WWTS operators through the years (and especially for <1 mgd POTWs). But it is also a very detailed rule and especially bureaucratic in its structure and requirements. From a few open-ended directives in Chapter 70.95B RCW, this rule has swelled to 14 pages +/- of requirements. The implementation of the adopted rule will lead

to many opportunities for oversight or process mistakes. Ecology might consider whether there is comparable environmental protection value with this expanded rule and, if not, to trim it back.

Thank you for your consideration of WSPA's comments. We welcome any questions or comments you might have. Please contact the project manager, Tery Lizarraga at (510) 3640-7875 or by email at TLizarraga@wspa.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "J Spiegel". The signature is fluid and cursive, with the first letter "J" being particularly large and stylized.

Jessica Spiegel
Director