



Jessica Spiegel
Director, Northwest Region

November 30, 2018

Jocelyn W. Jones
Water Quality Program
Washington Department of Ecology

Sent to: Jocelyn.Jones@ecy.wa.gov

Subject: Concerns related to WAC 173-230 rule for *Wastewater Certified Operator Program*

Dear Ms. Jones:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide comments on the preliminary proposed revisions of WAC 173-230 *Wastewater Operator Certification Program*. 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.

Background:

There are five petroleum refineries in Washington who are members of WSPA. Wastewater discharges from each of these refineries have been regulated for decades through a succession of ever-more stringent NPDES permits. These permits obviously include all essential regulatory elements: appropriate effluent limits, monitoring, recordkeeping/reporting, etc., and a requirement to ensure personnel operating the wastewater treatment system attain the operational competencies specified in WAC 173-230. These requirements are familiar to the refineries, and company-specific staffing decisions and then training procedures have documented achievement with the Certified Operator requirements. Most important, there is a long and consistent record demonstrating exemplary wastewater treatment performance and permit compliance by this industry.

Initial Impression of the Preliminary Proposed WAC 173-230

1. The existing regulation has been effective in achieving the stated purpose for the rule.¹ Permittees (and jurisdictional agencies) have benefited from stable regulatory requirements for these last 20-years. Throughout this period, facilities have determined the necessary staffing levels, training, supervision, maintenance practices, etc., that have proven efficient and effective in achieving proper operation of wastewater treatment systems. This staffing includes process engineers, environmental engineers, and the refinery operations teams that include production specialists and hourly treatment system operators, maintenance personnel, and technicians. The engineers primarily design and develop the plant operating work process with inputs from the specialists. The operators execute the operating

¹ WAC 173-230-210 defines the purpose of the rule being to protect public health and the environment, including waters of the state and the scope of the rule establishes requirements towards operator certification based on operator role/designation and plant classification.

procedures and methods set by the engineers. The experienced and skilled hourly treatment system operators, the primary work group targeted by the Certified Operators Program, are fully knowledgeable on treatment system equipment, operating practices/procedures, and have ready access to the multi-disciplinary support team. The success of this staffing and training model is demonstrated by the extraordinarily high NPDES permit compliance rate produced by this industry over several decades.

The requirement for specified levels of training and a formal certification procedure create challenges with a unionized workforce. Some of the logistical problems with having all operators trained is that many refinery job roles rotate based on union allowances. There are concerns that regulatory requirements for academic training, written exams/test, etc., will dissuade highly experienced and competent operators from pursuing advanced certification levels. This would be unfortunate. Again, these facilities maintain that the competence and experience of the entire team; i.e., hourly treatment system operators; backed by process engineers, environmental engineers, production specialists; along with written operating procedures; internal training; etc., demonstrate a functional competence which achieves the WAC 173-230 regulatory objective.

WSPA would request Ecology consider recognizing this perspective. We would appreciate an opportunity to share ideas with the agency to include this concept in regulation language. More specifically, the WSPA suggestion is for the agency to consider crafting an exemption provision in rule that will excuse operators from strict operator certification requirements if a system-wide wastewater treatment competency can be demonstrated to Ecology's satisfaction. We note that an Appeal process exists in the current WAC 173-230, but this seems too limited a mechanism to address the interest articulated.

2. Additional support for this functional equivalency concept would consider the relative simplicity of treating refinery wastewaters. The majority of the wastewater flow is oily water (measured as Chemical Oxygen Demand), and ammonia/amines. Treated refinery wastewater quantity and quality is generally consistent. Many refinery wastewater treatment plants discharge in batch mode. This allows for treated wastewater testing before discharge to ensure permit compliance. These treatment systems include extensive on-line monitoring, with process control alarm functions for out-of-specification performance, written SOP and corrective action instructions, etc. The engineers and production/maintenance specialists are available in real-time, 24-hours per day, should system operation issues arise.

The operation of refinery wastewater plants is distinctly different from a POTW or most other primary industrial source category NPDES permittees. These facilities likely include primary, biological secondary and, increasingly, tertiary treatment functions, with variable flows and multiple conventional and toxic regulated pollutants. These facilities may not have comparable engineering/technical/maintenance support professionals as is present at refineries. The entire WAC 173-230 set of academic/experience/certification requirements is important for these large and complex treatment system operations. Great NPDES permit compliance performance is important for refineries; mandatory achievement of all WAC 173-230 requirements for all refinery treatment system operators seems superfluous.

3. There are many tens of new administrative requirements sprinkled through the preliminary rule, with existing requirements placed in different sections and re-numbering of substantive

requirements. While the "Summary of Proposed Changes" document is helpful, there is some concern that a final rule will include easy-to-overlook, low-value administrative demands, that represent NPDES permit non-compliance opportunities. With the entire content of the rule being identified as "New Section" it will be a challenge to pick out substantive and amended requirements (absent the traditional underline/strikethrough format). Any formatting techniques that can delineate the substantive changes to be proposed would be appreciated.

Thank you for your willingness to consider these first-impression comments. We welcome any questions or comments you might have. Please contact Ken Johnson (253) 279.4073 or me at (360) 918.2178 or by email.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Spiegel', written in a cursive style.

Jessica Spiegel
Northwest Regional Director

cc:
Ken Johnson, WSPA Consultant
Tom Umenohfer, WSPA
Tery Lizzarga, WSPA Consultant