



March 31, 2022

Foroozan Labib, Permit Writer
Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

Dear Mr. Labib,

Please accept this letter as The Washington State Association of County Engineers' (WSACE) comments regarding the Department of Ecology's (DOE) draft proposal to renew the 2017 Bridge and Ferry Terminal Washing General Permit (General Permit).

The DOE's Bridge and Ferry Terminal Washing General Permit website says "To make this important work (washing bridges prior to inspection) easier for governments, we developed a general permit to set guidelines for bridge and ferry terminal washing across the state. The permit serves to protect water quality while supporting inspection and maintenance of bridges and protecting the safety of Washington commuters." As DOE is aware, this work is very important to the reliability of inspections that confirm bridges are safe for the traveling public. WSACE agrees that protecting water quality is a vital priority, however, because the regulated work at issue is directly linked to public safety, it's critical that DOE continue to evaluate whether this additional process is necessary to ensure water quality. If so, we respectfully request that the following comments be considered to help make the permit and process more efficient, clear, and cost effective so that local jurisdictions can comply.

Comment #1: Where appropriate, allow activities to be covered by existing Municipal NPDES and General HPA permits.

The listed activities covered by this general permit (spot cleaning, maintenance washing (low pressure washing), preparatory washing (high pressure washing), and painting of bridges and ferry terminal transfer spans) are closely associated with actions covered by existing Municipal Stormwater General Permits and Fish and Wildlife's (WDFW) Bridge Maintenance and Preservation General Hydraulic Project Approvals (HPAs). While we respect DOE's stated goal above, to make things "easier for governments;" applying for coverage under this permit is complicated, necessitates substantial planning, involves considerable notice, and includes a significant fee. We agree that protecting water quality is a critical priority, however, there needs to be a clear explanation why this additional permit coverage remains necessary beyond what is/could be provided by Municipal NPDES permits and HPAs. For example, the Technology-Based Effluent Limits (AKART & BMPs) in the draft general permit are currently based on WSDOT's individual NPDES Waste Discharge Permit. Also, WDFW issues general HPAs for bridge maintenance and preservation that could incorporate AKART for water quality through a simple consultation process with DOE.

Recommendation: DOE should clearly explain the additional value a general permit provides local jurisdictions and why these activities cannot be more efficiently covered by individual NPDES permits and general HPAs where appropriate.

Comment #2: Refine the permit coverage to painted steel bridges and ferry terminals.

If DOE determines that there is a continued need for a separate general permit for this type of work, we recommend DOE narrow the required permit coverage to those activities done specifically in preparation for painting steel structures. The permit attempts to illustrate a line between AKART/BMPs for spot cleaning and maintenance washing and those activities related to the preparation for painting. The use of high-pressure washers to remove paint from metal structures and prepare them for painting is the line which defines Phase 3 activities and triggers a substantial step up in what is considered AKART.

Recommendation: WSACE recommends that DOE simplify the general permit by removing spot cleaning and maintenance washing and instead allowing those limited activities to be covered under Municipal NPDES permits and plans where appropriate.

If DOE determines that these activities cannot be more efficiently covered by individual NPDES permits and general HPAs, WSACE would make the following recommendations:

Comment #3: Clarify which activities trigger a NOI for coverage.

If general permit coverage is required for regular spot cleaning and maintenance washing, WSACE recommends that the permit and supporting documents go further to outline and clarify exactly what types of structures and maintenance activities require an NOI for coverage. For instance, the permit reads that coverage is required for “Operators who generate discharges to waters of the state,” however, in response to previous comments DOE has stated: “coverage under this general permit is not required for the street and sidewalk wash water which are conditionally authorized in municipal stormwater general permits, including washing of streets and sidewalks on a bridge deck.” To provide another example, the NOI forms include a category for “Bridge Routine Maintenance,” which isn’t an activity listed in Section S1.B of the permit, nor would it necessarily involve “discharges to waters of the state.” The same form also has an option to check that “water will discharge to ground with 100% infiltration, with no potential to reach surface waters under any conditions,” thus meaning the work would not involve “discharges to waters of the state.” This language could be confusing to an applicant.

Recommendation: DOE should clarify Section S1. B regarding what activities, on which structures, and over what waterbodies trigger an NOI requirement under the general permit. DOE should also remove “Bridge Routine Maintenance” from the NOI forms and PNOA section of the permit.



Comment #4: Allow local jurisdictions to submit one Notice of Intent for multiple projects and for the duration of the general permit.

We appreciate that the draft permit allows local jurisdictions to submit one Notice of Intent (NOI) for multiple projects, however, each NOI is only good for one year of the general permit. As mentioned above, coverage under this permit is complicated, necessitates substantial planning, involves considerable notice, and comes with a significant fee. DOE should accommodate local jurisdictions performing this critical work by allowing them to obtain one permit covering all bridge and ferry terminal washing projects for the duration of the general permit. This will avoid substantial time and cost associated with submitting new NOIs, PNOAs, NOTs, and fees each year. This process could easily be achieved with an annual NOI modification if necessary and by requiring that local jurisdictions coordinate the Public Notice of Application (PNOA) for each project ahead of the estimated start date established in the NOI.

Recommendation: DOE should allow local jurisdictions to submit one NOI covering all anticipated bridge and ferry terminal washing projects in their jurisdiction for the duration of the general permit.

Comment #5: Eliminate regulatory inconsistencies between local jurisdictions and WSDOT.

WSACE appreciates that the draft permit contemplates allowing local jurisdictions to submit one NOI for multiple projects, a practice the Washington State Department of Transportation (WSDOT) has utilized since 2017. Unfortunately, at the Workshop and Hearing it was made clear that this cannot happen until 2023 when WAC 173-224-040 regarding fees can be updated. It's our understanding that WSDOT applies for coverage each year for around 100 projects and pays an Annual Fee of \$13,450, or roughly \$134.50 per project. In contrast, local jurisdictions are paying \$4,047.00 per project. WSACE has received feedback that this fee is cost prohibitive enough to limit the number of projects some counties can submit each year.

Recommendation: DOE should provide local governments with information regarding the process for updating the fee schedule in WAC 173-224-040. DOE should also explain if there is currently a significant difference between the NOI review for WSDOT projects and those submitted by local jurisdictions to merit such an inconsistency in fees.

Comment #5: Streamline and improve public notice requirements.

We respectfully request that Section S2(B) Public Notice of Application be simplified and improved. This Section requires local jurisdictions to comply with a complicated and expensive notice requirement for each project. The Section references WAC 173-226-130, which seems to outline DOE's responsibilities for public notice regarding the General Permit. WSACE is uncertain if this notice procedure is a requirement for each sub-applicant, or if it's just being delegated by DOE. Either way, we feel the per project fee paid by local jurisdictions should be more than sufficient to cover the cost for DOE to provide



the PNOA for each NOI. Additionally, each PNOA requires “a certification that the application is correct and accurate, signed by either a principal executive officer or ranking elected official of the municipality.” Depending on the structure of the governing body and adopted delegations of authority, this requirement could require a substantial amount of public process for notice of a single spot cleaning or maintenance washing project.

Recommendation: DOE should re-write the public notice requirements for these projects to eliminate the complexity, reduce costs, and allow for more accessible and current information to be shared with the public on county websites. Publication of NOI information on a jurisdiction’s website should comply with notice requirements. WSACE suggests DOE utilize similar language to Section 2(B)(3)(f): “A Permittee public website showing planned projects and their schedules and kept up-to-date if the schedules change,” to not just be an element of notice, but instead, describe compliance.

Comment #6: Eliminate the requirement to provide a Notice of Termination.

WSACE appreciates that the draft permit contemplates allowing local jurisdictions to submit one NOI for multiple projects each year. In line with our earlier comments, we also respectfully request that the requirement to submit a Notice of Termination for each project be eliminated from the permit.

Comment #7: The Draft Permit has a formatting error in Section S2. APPLICATION FOR COVERAGE.

The Draft Permit seems to have a formatting error in Section S2. Application for Coverage. Although referenced throughout the Section, there’s no subsection A or B.

Thank you for giving us the opportunity to provide our comments.

Sincerely,

Josh Thomson, PE

President, WSACE

Axel Swanson,

Managing Director, WSACE