



**Antonio Machado**

Senior Manager, Northwest Technical

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Electronic Submittal to: Ligeia.Heagy@ecy.wa.gov

Ms. Ligeia Heagy  
Washington State Department of Ecology  
Water Quality Program  
PO Box 47600  
Olympia, WA 98504-7600

Subject: *Water Quality Permit Fee* Regulation (Chapter 173-224 WAC)

Dear Ms. Heagy,

Western States Petroleum Association (WSPA) appreciates the opportunity to comment on proposed revisions to the Water Quality Permit Fee regulation. WSPA is a trade association that represents companies which provide diverse sources of transportation energy throughout the West, including Washington. This includes the transport and market petroleum, petroleum products, natural gas, and other energy supplies.

During 2007 – 2008, the Water Quality Program undertook a comprehensive analysis of the wastewater permit fee program. Ecology's interests were to assess trends and needs in revenue generation, and to examine the permit fee structure and rates against RCW 90.48.465 criteria. This assessment was referred to as the "Permit Fee Task Force" and under the auspices of the Water Quality Partnership group.

A prominent finding from this assessment was that the ever-escalating fees for several source categories characterized as "large facility, individual NPDES permit," including for Petroleum Refining, were much larger than could be supported by Ecology's work-load evaluation.<sup>1</sup> In short, the permit fee derivation did not match the RCW 90.48.465(1) criterion that fees "not exceed the expenses incurred by the department in...(all aspects of administering the NPDES permit)." Further, that there was a growing inequity gap between source categories with permits having similar workload, complexity, etc. The fee disparity was significant and growing.<sup>2</sup> Ecology describes these as "over-paying" categories.

While acknowledging these facts, Ecology also recognized that measures to mitigate this structural inequity must necessarily be tied to significant step-change revenue increases. In particular, the agency identified the "Municipal and Domestic Wastewater Facilities" source category as under-paying and pointed to the fee cap in statute as the impediment for generating the needed revenue to support the permit fee program. A more equitable fee formula applied to municipal permits would ostensibly generate sufficient revenue to both sustain the wastewater permitting program and provide some relief to the "over-paying" source categories.

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<sup>1</sup> The Department of Ecology conducted this study through the "Permit Fee Task Force." The study results are referenced in the 2008 WAC 173-224 regulation adoption package presented in WDOE Publication 08-10-065, July 31, 2008. A Public Disclosure Act request to Ecology to obtain the actual task force report yielded a "Page Not Found" response.

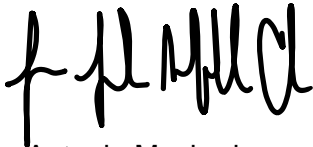
<sup>2</sup> The "Petroleum Refinery" category fee was about \$125,000+/- in 2008. The Permit Fee Task Force derived a work-load fee of \$50,000+/- per year. In comparison, the agency assessment found there are many source categories for individual industrial NPDES permits requiring a comparable agency management workload and with assigned fees in the \$4,000 to \$35,000 range.

The 2022 Washington legislature took the needed action to lift the annual cap on permit fees charged to municipalities. With the assistance of an advisory committee, Ecology is now proposing in this current rule-making a healthy increase in the fee assigned to the municipal facilities source categories.

In anticipation of the coming municipal fee increases, and consistent with the CR-101 scoping description, the Western States Petroleum Association submitted a request in mid-2022 to address the structural inequities in the permit fee program. WSPA received notification that consideration of this request was beyond the scope of the immediate rule revision effort.

The next WAC 173-224 fee adjustment will be for fiscal years 2026-2027, with some public involvement process likely in 2025. WSPA requests consideration of the earlier agency findings in support of the next rule revision process.

Sincerely,



Antonio Machado  
Sr. Manager, Northwest Technical

