



December 6, 2023

*Protecting and
Preserving
Puget Sound*

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Mr. Eric Daiber
Washington State Department of Ecology
Vessel Deconstruction Permit Writer
eric.daiber@ecy.wa.gov
Submitted online only

Re: Vessel Deconstruction General Draft Permit Public Comments

Dear Eric Daiber:

Puget Soundkeeper submits these comments on the Washington Department of Ecology (“Ecology”) Proposed Vessel Deconstruction General Permit (VDGP).

Soundkeeper has been working for decades to enhance and protect surface waters across the state burdened by degradation, riparian habitat loss, climate change, and a host of other impacts.

Stormwater pollution is a key driver of the decline of our water quality statewide. In the Puget Sound, stormwater is the top source of toxic pollution. Stormwater on exposed portions of the vessel is the primary type of discharge anticipated for vessels deconstructed over water. Pollutants found in vessel deconstruction discharges add to the decline of our watersheds’ capacity for climate adaptation and resilience. Ecology, permittees, and public interest organizations like Soundkeeper are all stewards of and share an interest in a strong VDGP.

We appreciate all the work Ecology has done toward developing clear, consistent, and enforceable language in this permit draft. Soundkeeper asserts that complying with the Clean Water Act and Washington State’s standards is most efficient and effective when permit expectations are specific. The following comments are



intended to further this goal and ensure that no discharges cause or contribute to violations of water quality standards.

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COMMENTS

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Public Notice Requirement. Ecology added the following statement to quicken the permitting process: “public notice is not required if the permittee has previously circulated public notice under this permit for the same type of discharge to the same receiving water(s) in the same geographical area.” S2.B.2.

Without clear criteria to trigger this exemption from public notice, the provision is vague and unenforceable. First, what does “same type of discharge” mean? Is that dependent on type of pollutants? Quantity of pollutants? Concentration of pollutants? Second, how is “same receiving water” defined? Finally, what makes a location the “same geographical area”? Defining each of these elements is necessary to comply with both procedural and substantive legal standards.

Category 5 waterbodies. The definition of 303(d) in Appendix A of the draft permit was modified to mean “waterbodies listed as Category 5 on Washington State’s Water Quality Assessment, approved by EPA, *in effect at the time of permit coverage*” (emphasis added). This language may be inconsistent with water quality standards because it implies that permittees are only subject to 303(d) related conditions for waters listed at the time of obtaining permit coverage instead of, more appropriately, *at any time throughout the period of permit coverage*. If a waterbody becomes 303(d) during the permit period, permittees must comply with any associated conditions.



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Post Wastewater Discharge (fact sheet pp.14-17). The permit should include an explicit requirement for permittees to monitor/test post discharge for a specified period.

Soundkeeper argues that such due diligence is appropriate to protect water quality standards and is consistent with AKART. Furthermore, there should be an explicit requirement that a permittee facilitate clean-up and remediation if non-routine discharges go awry.

SEPA compliance. When an operation with coverage under the general permit needs to make a *material change* to a vessel deconstruction operation which results in a *substantial change* to the volume or type of discharges is anticipated...the operator must notify Ecology at least 60 days prior to the planned change (General Condition G6)". (Fact sheet p.17, emphasis added.) This provision is troubling for two reasons. First, the trigger language is vague and unenforceable. What constitutes either "material" or "substantial" changes? Second, this determination is placed at the sole discretion of the permittee, creating an impermissible self-enforcing regulatory scheme.

Other Considerations. The following comments describe additional concerns in no particular order.

1. Because drydock deconstruction allows for more control of wastewater discharges, it is imperative that the VDGP only allow deconstruction while afloat for truly necessary cases. The permittee should be required in its application to address why drydock deconstruction is not feasible and why it instead requires deconstruction while afloat.



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2. Stormwater on exposed portions of the vessel – oil and grease, sediment, pH, metals – is the primary type of discharge anticipated for vessels deconstructed over water. (Fact sheet pp.14-15.) With this knowledge, Ecology must assure that BMP/AKART standards are met.
3. We appreciate that this permit does not authorize the discharge of water used for fire suppression during metal cutting, and water used for safety and health reasons during asbestos abatement and working with lead paint. (Fact sheet p.13.)
4. What other pollutants, if any, did Ecology consider adding to the prohibited discharge list for this permit revision? (Fact sheet p.33.)
 - a. Why are chronic criteria for metals measured at four-day averages? How does this standard prevent causing or contributing to a violation of water quality standards? (Fact sheet p.26.)
5. Public participation under the Clean Water Act and other public interest regulatory schema requires meaningful access to relevant information. The VDGP must make important documents like a copy of the permit, permit coverage letter and approval, and DSMP readily available to the public as well as Ecology. (Fact sheet p.39.)
6. Ecology notes that sites that are inspected regularly typically tend to cause fewer water quality violations. There should be a minimum base line established in the VDGP and more required for those that deal with the non-routine discharges.



There appears to be a requirement to report remedial actions but not a requirement to report the underlying event. (Fact sheet p.41.)

7. Please clarify where records of problems noted during site inspections are kept.
8. Revisions to DSMP must be completed within one day following an inspection, but there is no meaningful timeline for the implementation of BMPs. (Fact sheet p.42.) Soundkeeper proposes two modifications. First, a permittee must complete revisions to the DSMP *and* report those revisions to Ecology within one day of inspection. Second, implementation of BMPs must occur within 10 days of DSMP revision *and* be reported to Ecology at that time.

CONCLUSION

Thank you for your continued work towards a stronger and up to date VDGP. Soundkeeper understands the time and expertise that goes into the NPDES drafting process and appreciates the opportunity to participate in the public process. We look forward to ongoing revisions for a clear, consistent, and enforceable permit.

Sincerely,

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