

Fact Sheet - Appendix E
Ecology Responses to Comments on
Draft Bridge and Ferry Terminal Washing General NPDES Permit

Ecology received comments on the draft documents during the 30-day public comment period, which ended on April 1, 2022. Below are the comments and Ecology’s responses. In this appendix (Appendix E), Ecology provides responses to comments from each organization or agency that commented on the draft permit. The comments and responses are organized in sections that are named by the commenter’s organization/agency. The original comments are available and have been posted on Ecology web site.

Table of Contents:

Washington State Association of County Engineers.....	2
Washington State Department of Transportation (WSDOT)-.....	7
Judy Pickens	9
Fauntleroy Watershed Council	9

Washington State Association of County Engineers

Ecology received the following comments from Washington State Association of County Engineers on the 2022 draft general permit. Below, they are arranged by comment number. Comments are followed by the Ecology's responses to the comments.

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."

Response to comment #1:

The Municipal NPDES permits regulate management of stormwater runoff from road and highway surfaces as a result of precipitation on those surfaces mostly in urban and urbanizing areas of the state. The Bridge and Ferry Terminal General Permit regulates the discharge of wastewater generated in the process of washing, paint removal, and re-painting of the metal structures that support bridge decks and ferry terminals throughout the state and not just within urban and urbanizing areas. In addition, unlike precipitation events, the activities authorized by this general permit occur relatively infrequently, typically, once every 5 – 15 years. Jurisdictions with bridge maintenance responsibilities can apply for coverage under this general permit and terminate the permit upon completion of the activity which usually lasts 1-3 days.

While many requirements under this general permit may be similar to those in

HPAs issued by WDFW, the limitations and requirements in this general permit are based on achieving compliance with the state water quality standards regulation. They include a requirement for the applicant to contact WDFW for restrictions related to fish habitat protection before conducting the activities authorized under this general permit.

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: ”

Response to comment #2:

The spot cleaning and maintenance washing of bridge and ferry terminal metal structures allow inspectors to look for cracks and other forms of metal degradation including paint degradation. The spot cleaning and maintenance washing generate wastewater. A wastewater discharge permit is required for discharges to waters of state.

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.”

Response to comment #3:

Ecology agrees with the commenter on the need for clarification in Section S1.B of the types of activities covered under this general permit. For clarification and consistency with activities identified in Section S4, names of the activities in S1.B have been changes accordingly.

This general permit is an NPDES and a State Waste Discharge Permit covering discharges to the state surface water and groundwater.

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.

Response to comment #4:

Coverage under this general permit can be up to 5 years. Potential permittees who want coverage for multiple bridge structures would have to annually post their planned activities for the year on their web site together with the planned schedules and keep the information on the site up-to-date. The permittees have the option to terminate coverage when their planned activities are completed and to avoid permit fees for unnecessary coverage under this 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.

Response to comment #5:

Permit coverage period for WSDOT is for the length of the permit, which is on a 5-year cycle. In addition, WSDOT permit coverage requires WSDOT to conduct monitoring of wash water from 10% of their bridge structures on which WSDOT conducts routine maintenance and preparatory washing activities each year. These monitoring involve sample collection and laboratory analysis of the samples. WSDOT is required to submit the monitoring results in an annual report to Ecology.

Comment # 6: 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.

Response to comment #5:

The requirements for public notice follow those in WAC173-226-130 which

outlines Ecology's responsibilities for setting public notice conditions in all general permits. Specifically, WAC 173-226-130(5), states that the notice must be published in a newspaper of general circulation within the county in which the discharge is proposed.

Comment # 7: 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.

Response to comment #7:

Federal regulations (40 CFR 122.64) require permittees that wish to terminate their permit to submit a Notice of Termination to their permitting authority. The notice of termination allows early release from permit obligations and permit fees. If the permit is not terminated, the permittee remains under the permit terms and conditions including permit fees for the remainder of permit cycle, which could be up to 5 years.

Comment # 8: 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.

Response to comment #8:

Edits have been made in the final permit correcting the paragraph formatting error noted.

Washington State Department of Transportation (WSDOT)-

Ecology received the following comments/questions from WSDOT. Below, are the Ecology's response to the comments/questions.

Comment #1:

Draft permit

- **S4. B12 Bridge Spot Cleaning pg. 12** - The routine bridge washing conditions (S4.C12) does not require thorough dry cleaning if the bridge was washed the year before. This should also apply to bridge spot cleaning section. We suggest revising S4.B12 to: "For bridges that have been cleaned within the past twelve months and the discharge is to surface waters with flows greater than thresholds identified in Section S4.B.5, dry methods of cleaning prior to washing are only required if the bridge has nesting colonies of birds or visually loose paint. The Permittee must use dry methods and equipment (scraping, sweeping, vacuuming) prior to flushing that will prevent debris and substances from entering waters of the state."
- **S4.C. Bridge Routine Maintenance Cleaning and Washing description; 1st paragraph line 3. Pg.12** - The Bridge Spot Cleaning description includes a reference that bridges are flushed to prepare for inspection. The Bridge Routine Maintenance Cleaning and Washing section is also used to prepare the bridge for inspection to detect potential structural issues. We suggest revising this sentence within the description to read, "Routine maintenance cleaning and washing involves washing structures, typically on a 1-5 year cycle, to remove dirt and other material, to extend the life of the paint, and prepare for bridge inspection to detect potential issues which can protect the structure."

Response to comment #1:

S4. B12 Bridge Spot Cleaning - Paragraph S4.B.13 was added to Section S4.B to address Comment #1 and edits were made to S4.B.12 to make language in permit Section S4.B.13 consistent with S4.C.11.

S4.C. Bridge Routine Maintenance Cleaning and Washing description - Appended the following: "and prepare for bridge inspection to detect potential issues" to the first sentence of Paragraph S4.C

Comment #2:

Fact Sheet

- **Pg. 3; 1st paragraph; line 4.** - The summary includes a line with a misspelled word for bridge preparatory washing. Please change filter "trap" to filter "tarp".
- **Pg. 8; 1st paragraph; third bullet.** - Containment systems and drip tarps, and sieves are not required in the draft permit for spot cleaning. We suggest revising this sentence to read "Construct plywood or other work platforms".

- **Pg. 19; B10. Short-term mixing zones.** - The start date for flushing bridges in eastern Washington listed in the fact sheet is different than in the draft permit. We suggest changing "December 31st to December 1st" so the fact sheet matches the date in the draft permit.

Response to comment #2:

In general, edits to the Fact Sheet will include minor typos with no consequence to the permit requirements.

Pg. 3; 1st paragraph; line 4. – *Typo was corrected.*

Pg. 8; 1st paragraph; third bullet – *This is a clarification on the potential components of containment system and will not affect the permit requirements associated with this activity. Depending on the paint condition on the structure, where there is potential for paint chipping off, drip tarps/#100 sieve filter fabric may be needed. No change is made to the language in the permit or fact sheet.*

Judy Pickens

Ecology received the following comment from Judy Pickens. Below, is the Ecology's response to comment.

Comment: "My concern is potential pollution of nearshore habitat associated with Fautleroy Creek, which discharges under the Fautleroy Ferry Terminal. Since I cannot distinguish current language from proposed language in the permit, I can only trust that DOE restrictions provide sufficient protection for this situation. We are fortunate to have little pre-spawn mortality here, and chemicals from vehicles on the transfer span should not create conditions that could make it commonplace for our coho spawners"

Fautleroy Watershed Council

Ecology received the following comment from Fautleroy Watershed Council. Below, is the Ecology's response to comment.

Comment: "We are concerned about potential pollution of nearshore habitat in Fautleroy Cove, where Fautleroy Creek discharges under the Fautleroy Ferry Terminal. We must trust that DOE restrictions provide sufficient protection for this situation. We have little to no pre-spawn mortality here, and chemicals from vehicles on the transfer span cannot be allowed to create conditions that could make it commonplace for our coho spawners"

Response to comments:

Thank you for your comments. The activities covered by this general permit are intended to allow for inspection and maintenance of the metal structures that support bridge decks and ferry terminals. Washington State Department of Transportation (WSDOT) has been operating under this general permit for the past 5 years. Before coverage under this general permit, WSDOT conducted bridge and ferry terminal washing activities under individual waste discharge permit for 10 years. These permits allowed WSDOT to conduct inspection of these metal structures and to perform maintenance activities needed to prolong their integrity and safety while providing for the protection of waters of state.