



Focus on

Water Quality Permit Fees

Background

Wastewater and stormwater discharge permit fees cover the Washington State Department of Ecology's (Ecology's) cost of administering the Water Quality Discharge Permit Program under the federal Clean Water Act and state Water Pollution Control Act. These laws protect Washington's surface and ground waters by regulating the amount of pollution allowed in lakes, streams, bays, and ground water. State law (RCW 90.48.465 - Water Pollution Control) directs the use of fees to:

"..collect expenses for issuing and administering each class of permits...[and] shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants"

Permit fees are important because they are the base funding of the state's point source wastewater pollution control program. Thousands of tons of pollutants are prevented or regulated by the permit program.

Between 1955 and 1988, a combination of sales taxes and federal grants funded the water quality discharge permit program. In 1988, Washington citizens passed Initiative 97, the Model Toxics Control Act. The act shifted the cost of the program from all citizens to those businesses and municipalities with wastewater and stormwater discharge permits. The initiative contained the "polluter pays principle," which means the financial responsibility for paying for the water pollution control permit program belongs with those contributing to the pollution.

Beginning in late 1993, the water quality permit program became fully self-sustaining through wastewater and stormwater permit fees.

Current Situation

Permit fees cover all aspects of the permit program except for formal enforcement actions. Fees cover the costs of permit issuance and management, inspections, technical assistance, permit program rule making, laboratory costs, supervision and clerical support to permit managers, and agency administration. During Fiscal Year 2003, fees will fund approximately 135 Ecology staff.

Municipal permit fees are calculated based on the number of residential households in the municipality. By law, Ecology cannot charge more than 15 cents per household each month.

For industries, fee setting is more complicated. Originally in 1988, there were approximately 20 categories of permit fees for industries. However, individual fee payers and associations requested that Ecology develop additional fee categories and subcategories to better customize fees based on parameters including size, production, seasonal work, and other differences. Currently, there are 248 permit fee categories and subcategories.

Limits are imposed on Ecology's collection and expenditure of permit fee revenue. There are two critical controls governing money collected by permit fees:

1. The specific legislative appropriation of permit fee expenditures limits the amount of fee funds that can be spent in a given year; and
2. Initiative 601 (I-601) limits permit fee increases to the state's fiscal growth factor. Currently, the growth factor is about three percent per year. The Washington State Office of Financial Management has the responsibility for determining the fiscal growth factor for all state agencies with fee programs.

The Legislature determines the appropriation every two years. Ecology adopts a permit fee schedule by rule to collect the revenue based on the appropriation. Under I-601, permit fees may not be increased for individual fee payers in excess of the fiscal growth factor. Ecology last amended the fee regulation on May 31, 2002. Fees were increased for both Fiscal Year 2003 and Fiscal Year 2004 to the fiscal growth factor determined by the Office of Financial Management. The fiscal growth factor was determined to be 2.79 percent for FY2003 and 3.29 percent for FY2004.

Ecology also established first-time fees for aquatic pest control permit holders, most of whom had never been permitted for NPDES coverage before. The fee for this new permit coverage is \$300 per permit in FY2003.

Oversight of expenditures and performance of the permit program is conducted by both the executive and legislative branches of state government. Permit fee payers also provide advice and guidance on the administration of the permit program. In 1994, Ecology convened a standing policy advisory committee, the Permit Program Partnership, to provide input into permit policy issues, including permit fees. The partnership is comprised of large and small businesses, large and small cities, environmental groups, state agencies, and tribal representatives.

The partnership examined the permit fee structure contained within Chapter 173-224 WAC - Wastewater Discharge Permit Fees. During the 1995-97 biennium, the partnership evaluated numerous fee-setting alternatives. After considerable study, the partnership concluded that changing the existing system would result in "winners and losers" and would require legislative action. The partnership recommended that the existing system should remain and that the group's future efforts be directed toward other policy issues. The advisory committee is now known as the Water Quality Partnership and focuses on all aspects of water quality protection and improvement.

The 2001 Legislature authorized Ecology to collect \$24.3 million in permit fees from wastewater discharge and stormwater permit holders for the 2001-2003 biennium. Many internal and external reviews of Ecology's water quality permit fee program have concluded that the program is underfunded. The number of permits the agency manages increases by at least ten percent every year.

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