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State of Washington

Air Operating Permit Program Report

Fiscal Year 2017

(July 1, 2016 – June 30, 2017)

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by
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Introduction

The Air Quality Program's mission is to protect, preserve, and enhance the air quality of Washington to safeguard public health and the environment, and support high quality of life for current and future citizens.

Our strategic plan ensures our employees and other stakeholders are working toward a common goal. Work performed to meet the goals of the strategic plan are supported by funds from the Air Quality Program and the air operating permit program.

This report summarizes air operating permit program financial details and program activities for Fiscal Year 2017 (July 1, 2016 through June 30, 2017).

Air operating permit program summary

The air operating permit program is an air pollution control program, based in federal law, designed to standardize air quality permits and the permitting process for major sources of air emissions.

Section 502(b) of the 1990 federal Clean Air Act amendments requires all sources subject to the permitting requirements under the air operating permit of the Clean Air Act amendments to pay an annual fee. These fees must be enough to pay for all reasonable direct and indirect costs to develop and administer the permit program.

EPA establishes an annually-adjusted minimum fee (“presumptive minimum fee”) expected to pay for air operating permit program costs. Washington is required to provide detailed accounting if its fee schedule is less than the presumptive minimum or if EPA thinks the fee schedule is insufficient to cover program costs.

To ensure financial accountability, Ecology’s air operating permit program undergoes a fiscal audit every other year. Permit program services are summarized in this report and are consistent with the state Clean Air Act (CAA), the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). These provide regulatory authority for the air operating permit program.

For more information about this report, contact Ron Stuart at ron.stuart@ecy.wa.gov or 360-407-7530.

Air operating permit program financial performance

Total program revenue and expenditure

For Fiscal Year 2017 (July 1, 2016 – June 30, 2017), Ecology Air Operating Permit Program budget and projected revenue was \$1,516,186. The budget is set using a workload analysis that

identifies the costs associated with Ecology staff performing various air operating permit tasks (WAC 173-401-900(3)). The air operating permit opening and closing balance is a working capital reserve required to maintain a positive fund balance throughout the fiscal year (July 1 – June 30). Capital reserve balances over \$700,000 are eligible for rebate as described in the "rebates and credits" section of this report.

Air operating permit account opening balance	\$571,845
Revenue (fees, development and oversight)	\$1,514,946
Expenditures	\$1,293,054
Air operating permit account ending balance	\$793,737

Fee revenue

Ecology billed and collected \$1,401,029 from 28 facilities with air operating permits. WAC 173-401-900(5)(b) directs the allocation of air operating permit fees to each source. The amount billed included:

- an emission fee of \$21.01 per ton of emissions emitted
- a complexity fee which ranged from \$923 to \$51,434
- a \$16,679 flat fee

Development and oversight (D&O) revenue

Development and oversight costs are Ecology's costs to:

- develop and administer the state operating permit program
- oversee the program administration by the delegated local clean air agencies

All sources with an air operating permit pay Ecology's development and oversight costs (WAC 173-401-900(5)(a)). The costs for Ecology sources are included in the flat fee portion of their billing. Local clean air agencies paid \$113,917 in development and oversight costs for Fiscal Year 2017 (July 1, 2016 – June 30, 2017).

Expenditures

During Fiscal Year 2017 (July 1, 2016 – June 30, 2017), Ecology spent \$1,293,054 administering the state operating permit program. These activities include:

- permit processing
- permit management
- public outreach and education
- program management
- enforcement
- technical assistance
- monitoring and oversight

WAC 173-401-940 lists activities authorized to be performed using funds supported by the air operating permit program.

Salaries	\$795,943
Benefits ¹	\$270,155
Travel	\$10,451
Goods & Services ²	\$75,800
Capital Outlays ³	\$1,292
Intra-Agency Reimbursements ⁴	\$136,188
Interagency Transfers ⁵	\$3,000
Professional Contract Services ⁶	\$225
Total	\$1,293,054

Air operating permit program presumptive minimum test

EPA establishes an annually-adjusted minimum fee called “presumptive minimum” that is expected to cover air operating permit program costs. The presumptive minimum rate for Fiscal Year 2017 (July 1, 2016 – June 30, 2017) is \$48.88 per ton of emissions. Ecology sources emitted 22,753 tons of regulated pollutants, so Ecology’s program presumptive minimum is \$1,112,167.

In 2017, Ecology collected \$1,514,946 in revenue. Ecology revenue is greater than the presumptive minimum for 2017, so it is presumed sufficient to cover air operating permit program costs.

Rebates and Credits

The Office of Financial Management requires Ecology to maintain a positive monthly cash balance in each dedicated account it manages. This is a challenge in the air operating permit account because expenditures are ongoing, yet revenue is received in annual payments, six months into each fiscal year (July 1 – June 30). In order to maintain a positive cash balance in the air operating permit account, Ecology is saving a \$700,000 working capital reserve over several biennia. Until the reserve is met, rebates or credits are suspended.

Program Performance

Ecology performed the following to support the air operating permit program:

- Permit processing and public outreach: application processing, public hearings, public notices, permit register

¹ Survivors insurance, disability insurance, retirement, etc.

² Materials, supplies, communications, postage, utilities, subscriptions, etc.

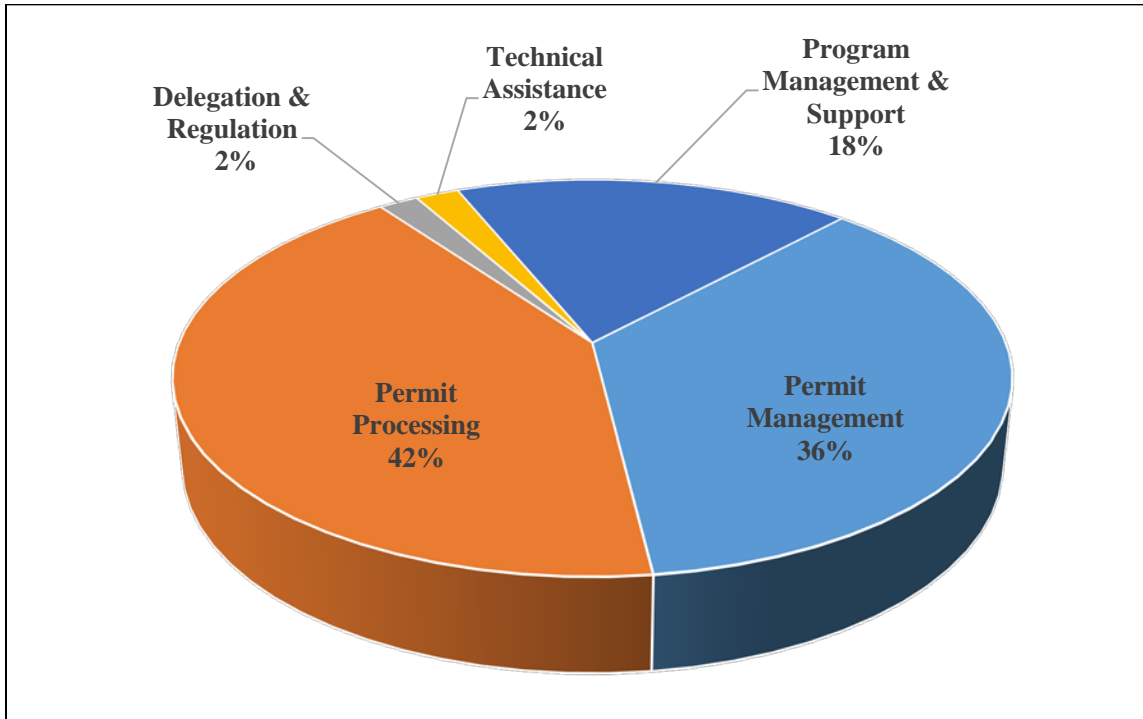
³ Furnishings, equipment and software purchases with a useful life greater than one year

⁴ The reallocation of expenditures and accruals within an agency

⁵ Moore vs Health Care Authority (HCA) Settlement

⁶ Consulting or technical expertise provided to accomplish a specific study, project, task, or other work statement

- Permit management: inspections, complaint investigations, reports review, training/meetings, data reporting to EPA
- Program management and support: management and supervision, clerical support, fee administration, emissions inventory support, public records request, audits, assessment of development and oversight fees
- Technical assistance: sharing information and expertise, instruction, training to local clean air agencies, industry, and other affected groups
- Delegation and regulation: rulemaking, program policy, and guidance



Program Support Activities

Workload analysis

Ecology is required to conduct a workload analysis each biennium. The workload analysis is a projected budget for the work to be performed in the next biennium. In June 2016, Ecology updated the analysis for Fiscal Years 2018 and 2019, and posted it on Ecology’s website. The analysis was also sent to individuals on Ecology’s distribution list who requested to receive notice related to air operating fees. To be added to this distribution list, contact Ron Stuart at ron.stuart@ecy.wa.gov or 360-407-7530.

Management and support

Staffing levels

Ecology staff are calculated as Full Time Equivalents (FTE). One FTE is a unit that indicates the workload of one full-time employee working 40 hours per week. In some instances, the actual

FTE exceeded the budgeted FTE due to shifting of staff resources when workload increased or during staffing vacancies.

Section	Office	Budgeted Direct FTEs	Actual Direct FTEs
Program Management, HQ	Ecology, Lacey	0.17	0.29
Science/Engineering Section, HQ	Ecology, Lacey	0.41	0.80
Program Development Section, HQ	Ecology, Lacey	0.75	0.00
Technical Services Section, HQ	Ecology, Lacey	0.63	0.07
Industrial Section, HQ	Ecology, Lacey	3.63	3.73
Central Regional Office	Ecology, Union Gap	1.43	0.88
Eastern Regional Office	Ecology, Spokane	2.37	1.08
Nuclear Waste Program (Hanford)	Richland	1.03	1.64
Dept. of Health (Hanford, WSU)	Richland	0.30	0.23
Total		10.72	8.72

Emissions Inventory

An emissions inventory is a list of pollutants discharged into the air during a specific time period. Ecology collects emissions data according to federal regulations. The inventory is used to determine significant sources of air pollution, provide the public with air emissions data, and establish trends.

The emissions inventory group, part of the Air Quality Program, tracks emissions inventories from major stationary sources of air pollution. In 2015, sources with an air operating permit in Ecology's jurisdiction emitted 22,227 tons of emissions, including particulate matter (PM₁₀), volatile organic compounds (VOC), nitrogen oxides (NO_x), and sulfur dioxide (SO₂).

Air pollution sources submit their emissions data using the Washington Emissions Inventory Reporting System (WEIRS). WEIRS is an electronic data collection system that allows sources with an air operating permit and local clean air agencies to report their emissions data.

The information in WEIRS is submitted to EPA so they can develop the National Emissions Inventory (NEI). The National Emissions Inventory is released every three years based on data submitted by state, local, and tribal clean air agencies. The inventory consists of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The data allows EPA to identify trends and establish air quality standards.

Delegation and Regulation

Rulemaking

Changes to federal rule

In 2016, EPA proposed a rule amendment to 40 C.F.R. Parts 70 and 72 to remove the affirmative defense provisions from the federal Title V permitting regulations.⁷ This proposal was an extension of EPA's 2015 startup, shutdown, and malfunction State Implementation Plan (SIP) action, known as a SIP call.⁸ EPA has not finalized this rulemaking because they are reviewing their decision for possible change or repeal as part of a lawsuit against the 2015 decision.⁹ Ecology will evaluate the provision in WAC 173-401-645 that mirrors the federal rule for possible deletion at a later date.

Changes to comply with 2018 rule changes

In 2018, Ecology will revise Chapter 173-400 WAC, General Regulations for Air Pollution Sources. The purpose will be to align the rule with federal court decisions and EPA's SIP call that emission standards apply at all times, even during periods of startup, shutdown, and malfunction, and without automatic or discretionary exemptions. These decisions require us to fix broad enforcement discretion and other provisions that would bar enforcement by EPA or other parties in federal court. The existing rule exempts exceedances of an emission standard during startup, shutdown, or malfunction or allows avoiding enforcement action against a company for these emissions. Existing air operating permits must be revised to reflect these changes.

Permit Processing

Renewals

An air operating permit expires five years after it is issued. Ecology completes the renewal process in an average of 18 months. If a source has submitted a completed application to Ecology, the source may continue operating under their current (expired) permit

⁷ Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program, 81 FR 38645 (June 14, 2016). Federal Register: The Daily Journal of the United States. Web. September 2016. <https://www.gpo.gov/fdsys/search/pagedetails.action?st=81+FR+38645&granuleId=2016-14104&packageId=FR-2016-06-14&fromState=>

⁸ State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 FR 33839 (June 12, 2015). Federal Register: The Daily Journal of the United States. Web. September 2016. <https://www.gpo.gov/fdsys/granule/FR-2015-06-12/2015-12905>

⁹ Walter Coke, Inc., et al v. EPA, No. 15-1166 (D.C. Cir.), document #1671681. April 18, 2017.

(Chapter 173-401-705(2))¹⁰ No permits were renewed, modified, or issued in Fiscal Year 2017 (July 1, 2016 – June 30, 2017).

Active Ecology air operating Permits	Sources Operating Under an Expired Permit (Under Renewal)	Initial Applications Submitted	Total Initial Applications in Process	Initial Applications older than 18 months
25	13 (52 percent)	1	3	2 (67 percent)

Permit Management

Compliance and enforcement activities

Ecology’s goal is to ensure compliance by offering technical assistance and education. Formal and informal enforcement actions include (in increasing severity) notice of correction (NOC), notice of violation (NOV), administrative order, and notice of penalty (NOP). Penalties are issued for serious violations or when non-compliance continues after Ecology has provided technical assistance or warnings. During this reporting period, the agency undertook the following air quality-related compliance and enforcement actions:

Ecology investigated/responded to over 265 complaints related to air quality, most of which involved odors. Ecology staff inspected the involved facility.

Ecology issued 60 notices of violation. Most of the violations were due to a facility exceeding their permitted emission limits for hazardous air pollutants or opacity. Before being issued a notice of violation, a facility is given a verbal warning and offered technical assistance.

Ecology completed 54 partial compliance evaluations (PCE). A partial compliance evaluation is an on-site evaluation conducted to make a compliance determination focused on regulated pollutants, processes, regulatory requirements, or emission units. Examples of specific activities include, but are not limited, to:

- visible emission observations
- consent decree follow-up
- reports and semi-annual deviation reports
- facility records review

Ecology completed 15 full compliance evaluations (FCE). A full compliance evaluation is a comprehensive on-site evaluation to assess compliance of a facility. It addresses:

- all regulated pollutants at all regulated emission units
- the current compliance of each emission unit
- the facility’s continuing to maintain compliance at each emission unit

¹⁰ Air operating permit application shield:
<http://app.leg.wa.gov/WAC/default.aspx?cite=173-401-705>

Ecology oversaw the performance of thirty two stack tests at various facilities to determine emission limits and demonstrate compliance.

Penalties

In Fiscal Year 2017 (July 1, 2016 – June 30, 2017), Ecology issued 12 penalties for violation of air quality standards. Since Ecology sets up payment plans for penalties, not all of the money is received during the year the penalty was issued.

Ecology received \$74,000 of the \$176,176,275 in penalties issued in Fiscal Year 2017 (July 1, 2016 – June 30, 2017). The remaining balance is under appeal. Money received from penalties does not become part of the air operating permit budget. Instead, the money is deposited into the Air Pollution Control Account to fund:

- environmental restoration and enhancement projects
- research and development
- permitting and regulatory programs
- education and assistance

When deciding the appropriate amount of the penalty, Ecology considers the following:

- the nature of the violation
- prior behavior of the facility
- actions taken by the violator to correct the problem

Ecology works with businesses to help them comply with state laws. Penalties are issued in cases where non-compliance continues after Ecology has provided technical assistance or warnings, or for particularly serious violations.

Technical Assistance

Ecology provides technical assistance and advice about air operating permits to local clean air agencies, industry, and other affected groups.

Compliance Assurance Monitoring

Compliance assurance monitoring (CAM) applies to large emission units that rely on pollution control devices to achieve compliance. Ecology is writing guidance for a compliance assurance monitoring plan, including calculations for potential to emit, to help sources comply with applicable requirements of 40 CFR Part 64.

Emissions Inventory

On January 25 – 26, 2017, the emissions inventory group provided training on Washington Emissions Inventory Reporting System (WEIRS). Ecology provided training to 21 air operating permit holders under the jurisdiction of Northwest Clean Air Agency (NWCAA).

Outreach and Education

Public Involvement

A public participation event includes a public comment period, public meeting, public hearing, or webinar where the public is invited to provide comments about air quality developments. Ecology provides the public an opportunity to comment or attend a public meeting/hearing when a permit is being renewed or revised, and during stages of rulemaking.

Ecology invited the public to comment on the following air operating permits:

- Boise Cascade Kettle Falls Plywood: May 25, 2017 – June 9, 2017
- Weyerhaeuser Lumber Mill, North Pacific Paper Corporation (NORPAC), Longview Nippon Dynawave: May 25, 2017 – June 27, 2017
- Vaagen Brothers Lumber Company: April 12, 2017 – May 12, 2017
- Puget Sound Energy's Goldendale Generating Station: March 2, 2017 – May 17, 2017
- Ponderay Newsprint: January 4, 2017 – February 3, 2017
- Boise Wallula Pulp and Paper Mill and Box Plant: December 9, 2016 – January 9, 2017
- Weyerhaeuser Lumber Mill, North Pacific Paper Corporation (NORPAC), Longview Nippon Dynawave: September 9, 2016 – October 13, 2016; October 12, 2016 public meeting/hearing in Longview

Ambient monitoring and oversight

Audits/reviews

The air operating permit program must be audited every two years. The purpose of a fiscal audit is to verify that the air operating permit account funds are being used as authorized by the law. The most recent fiscal audit occurred in May 2016 and the next fiscal audit will occur in 2018.

Every three years, Ecology and one of the local clean air agencies conduct a performance audit. In 2016, Chapter 173-401 WAC was revised, updating performance audit requirements. The revised rule introduced requirements for a performance audit advisory committee, framework for an overview performance audit, and options for an intensive performance audit.

The performance audit advisory committee was formed in late 2016 and overview audit planning began shortly after. The overview performance audit will be completed by June 2018.

Other activities

Permit writers meetings

Permit writers have a large amount of authority and responsibility. They are required to stay informed about regulatory changes, so they issue effective permits that meet state air quality standards. The permitting process should be consistent and all permits should be federally-enforceable.

Permit writers from Ecology, the local clean air agencies, Energy Facility Site Evaluation Council (EFSEC), EPA, and the Washington Department of Health meet quarterly.

The purpose of the meetings is to exchange information and knowledge, network about technical issues, develop implementation plans for new federal requirements, and interpret new policies.

Meeting dates and locations:

- September 17, 2016 – Ecology’s Northwest Regional Office, Bellevue
- December 7, 2016 – Ecology Headquarters, Lacey (via video conference)
- March 16, 2017 – Ecology Headquarters, Lacey (via video conference)
- June 22, 2017 – Ecology’s Northwest Regional Office, Bellevue

Permit writers training

The Air Pollution Training Institute (APTI) provides technical air pollution training to state, tribal, and local clean air agency professionals. In October 2016, APTI offered a training course, *Effective Permit Writing*. The course is useful to staff who are new to Clean Air Act permitting programs, and for inspectors who must interpret permit conditions. The course provided an overview of the methods and procedures used to prepare air permits. Two Ecology staff attended the training held in Santa Fe, NM.

In the first two quarters of 2017, APTI held several training courses at Ecology. Some of the training included:

- specific requirements of Maximum Achievable Control Technology (MACT) regulations
- Section 112 of the Clean Air Act
- permit conditions for regulating industrial boilers and air pollution control devices
- emissions control from stationary sources

Participants toured a facility to view equipment used to control odors and VOC emissions.

Pacific Northwest International Section (PNWIS) annual conference

The Pacific Northwest International Section (PNWIS) which is a branch of the Air and Waste Management Association held their annual conference October 5 – 7, 2016 in Juneau, Alaska. The conference included panels about greenhouse gases, climate change action, applying Lean practices to government processes, source testing, air toxics, and refinery fence line monitoring.

PNWIS also includes a professional development track for students and young professionals that want to work in the environmental sector. The track includes a networking event to connect them with PNWIS members in various environmental sectors.

Operational efficiency and cost reduction

WAC 173-401-800 states that permit agencies must notify the public when a source has submitted an application for an air operating permit or to make changes to an existing permit. In 2018, Ecology will be revising the rule, which required notifying the public via a newspaper ad (legal notice), to allow the use of electronic notification. This revision will save permitted sources the cost of a newspaper ad and electronic notification will likely reach a wider audience since more people use electronic media.

In January 2017, Ecology began accepting electronic payments for annual emissions fees, and development and oversight fees. Payments can be made using a debit/credit card or with a bank account. Ecology will continue to accept checks.