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State of Washington

Air Operating Permit Program Report

Fiscal Year 2018

(July 1, 2017 – June 30, 2018)

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For more information, contact:

Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

360-407-6800

Washington State Department of Ecology - <https://ecology.wa.gov/>

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Yakima 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

Accommodation Requests: To request ADA accommodation, call Ecology at 360-407-6800, 711 (relay service), or (877) 833-6341 (TTY).

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by
Ron Stuart

Air Quality Program
Washington State Department of Ecology
Olympia, Washington

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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 2018 (July 1, 2017 through June 30, 2018).

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 2018 (July 1, 2017 – June 30, 2018), Ecology Air Operating Permit Program budget and projected revenue was \$1,790,480. 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	\$793,736
Revenue (fees + development and oversight)	\$1,790,480
Expenditures	\$1,502,661
Air operating permit account ending balance	\$1,081,556

Fee revenue

Ecology billed and collected \$1,697,365 from 29 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 \$31.32 per ton of emissions emitted
- a complexity fee which ranged from \$282 to \$177,726
- a \$19,510 flat fee
- a 3 percent processing fee if a credit card is used for fee payment

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 \$93,115 in development and oversight costs for Fiscal Year 2018 (July 1, 2017 – June 30, 2018).

Expenditures

During Fiscal Year 2018 (July 1, 2017 – June 30, 2018), Ecology spent \$1,502,661 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	\$916,279
Benefits ¹	\$323,607
Intra-Agency Reimbursements ²	\$132,847
Goods & Services ³	\$105,207
Travel	\$23,068
Capital Outlays ⁴	\$806
Professional Service Contracts	\$697
Grants, Benefits & Client Services ⁵	\$150
Total	\$1,502,661

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 2018 (July 1, 2017 – June 30, 2018) is \$49.85 per ton of emissions. Ecology sources emitted 18,064 tons of regulated pollutants, so Ecology’s program presumptive minimum is \$900,490.

In 2018, Ecology collected \$1,790,480 in revenue. Ecology revenue is greater than the presumptive minimum for 2018, 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 maintaining a working capital reserve. Until Ecology is assured that a monthly cash balance can be maintained, rebates or credits are suspended.

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

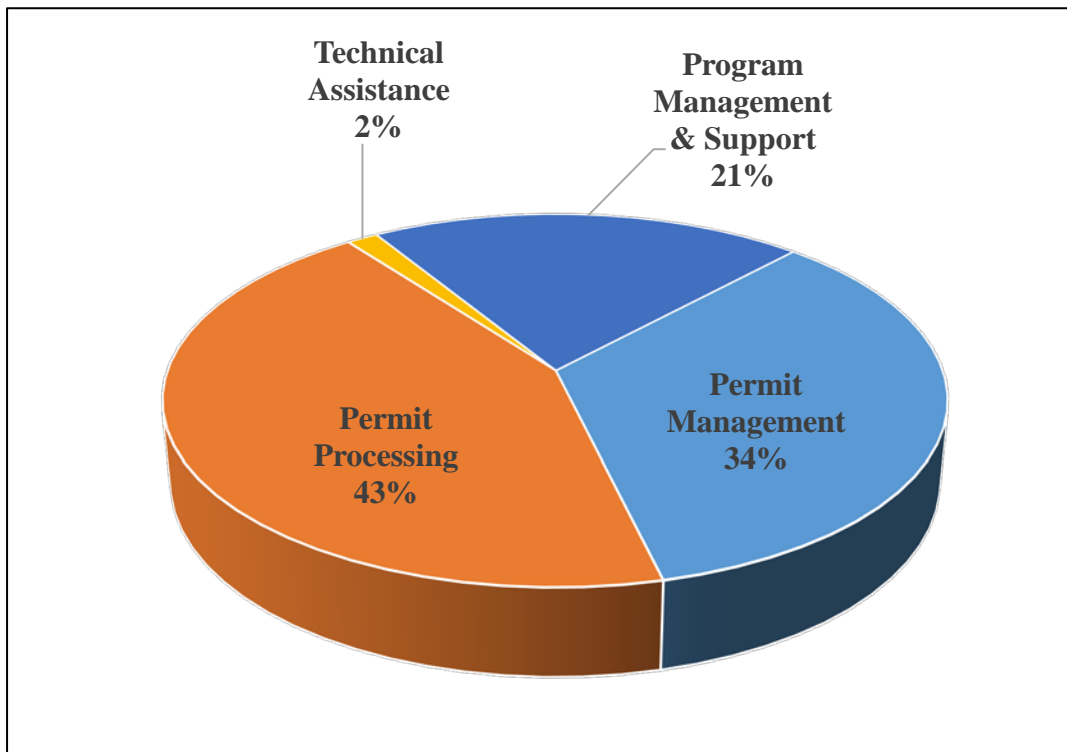
⁴ Charge to permittees using electronic payment service (E-Pay)

⁵ Reallocation of expenditures and accruals within an agency

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
- 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 2017, Ecology updated the analysis for Fiscal Years 2020 and 2021, 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 FTE projected by the workload model due to shifting of staff resources when workload increased or during staffing vacancies.

Section	Office	WLM Projected Direct FTEs	Actual Direct FTEs
Program Management, HQ	Ecology, Lacey	0.42	0.51
Science/Engineering Section, HQ	Ecology, Lacey	1.33	1.25
Policy and Planning Section, HQ	Ecology, Lacey	0.09	0.00
Technical Services Section, HQ	Ecology, Lacey	0.41	0.18
Industrial Section, HQ	Ecology, Lacey	3.76	5.25
Central Regional Office	Ecology, Union Gap	1.17	1.11
Eastern Regional Office	Ecology, Spokane	3.73	0.89
Nuclear Waste Program (Hanford)	Ecology, Richland	1.32	2.60
Dept. of Health (Hanford, WSU)	Richland	0.36	0.56
Total		12.59	12.35

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 2018, sources with an air operating permit in Ecology's jurisdiction emitted 18,064 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.⁶ This proposal was an extension of EPA's 2015 startup, shutdown, and malfunction State Implementation Plan (SIP) action, known as a SIP call.⁷ 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.⁸ 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 revised Chapter 173-400 WAC, General Regulations for Air Pollution Sources. The purpose was 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 required 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 (Chapter 173-401-705(2)).⁹ Five permits were renewed, modified, or issued in Fiscal Year 2018 (July 1, 2017 – June 30, 2018).

⁶ 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=>

⁷ 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>

⁸ Walter Coke, Inc., et al v. EPA, No. 15-1166 (D.C. Cir.), document #1671681. April 18, 2017.

⁹ Air operating permit application shield: <http://app.leg.wa.gov/WAC/default.aspx?cite=173-401-705>

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
27	13 (48 percent)	0	1	1 (100 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
- 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 issued 27 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 45 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 8 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

Penalties

In Fiscal Year 2018 (July 1, 2017 – June 30, 2018), Ecology issued 11 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 \$15,000 of the \$31,125 in penalties issued in Fiscal Year 2018 (July 1, 2017 – June 30, 2018). 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, training, and advice about air operating permits to local clean air agencies, industry, and other affected groups. For the purposes of this report, technical assistance includes coordination among air operating permit writers.

Emissions Inventory Training

On January 25, 2018, the emissions inventory group provided training on Washington Emissions Inventory Reporting System (WEIRS). Ecology provided training to 23 attendees representing air operating permit holders, contractors, and federal and state agencies.

Permit Writers Training

The Electronic Reporting Tool (ERT) is used to electronically create and submit stationary source sampling test plans to regulatory agencies, and to calculate and submit the test results as an electronic report to the regulatory agency. EPA provided training on the ERT and related environmental reporting and recordkeeping system to over 25 state and federal agency staff at the June 2018 permit writers meeting.

Another federal electronic tool used by permit writers and air operating permit support personnel is “Integrated Compliance Information System” (ICIS Air). EPA offers an online training course containing six integrated modules. In Fiscal Year 2018, at least three Ecology staff accessed the

training modules to learn about ICIS and ensure minimum data requirements were addressed when entering data into ICIS. Staff also attended an Environmental Compliance History Online (ECHO) Data Verification training webinar to assure proper verification of data entered in ICIS Air.

Ecology periodically hosts a variety of environmental training courses provided by third party providers or other regulatory agencies. These courses are designed to improve the permit writer's and inspector's general skills and knowledge. In Fiscal Year 2018, these courses included:

- Fundamentals of Air Dispersion Modeling provided by Western States Air Resources Council (WESTAR)
- Negotiation Skills for Scientists and Resource Managers provided by Nelson Facilitation
- Basic Inspection training provided by EPA
- EPA's online Emissions Reporting Tool (ERT) provided by EPA

Permit Writers Meetings

Permit writers have a large amount of authority and responsibility. They are required to stay informed about regulatory changes, so that 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, 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 21, 2017 – Ecology's Northwest Regional Office, Bellevue
- December 21, 2017 – Ecology Headquarters, Lacey (via video conference)
- March 22, 2018 – Ecology Headquarters, Lacey (via video conference)
- June 14, 2018 – Ecology's Northwest Regional Office, Bellevue

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:

- Kaiser Aluminum: August 10, 2017 – September 8, 2017
- Phillips 66 Ferndale Refinery: September 29, 2017 – November 10, 2017
- Boise White Paper: October 27, 2017 – November 30, 2017

- Melcher Manufacturing: November 10, 2017 – December 11, 2017
- Georgia-Pacific: January 3, 2018 – January 18, 2018
- Hanford Nuclear Reservation: January 14, 2018 – April 6, 2018
- Puget Sound Energy – Mint Farm Generating Station: February 22, 2018 – April 1, 2018
- Hampton Lumber Mills, Randle: February 28, 2018 – March 30, 2018
- Sierra Pacific Industries, Shelton: April 24, 2018 – May 25, 2018
- PUD No. 1 of Klickitat County: April 24, 2018 – May 25, 2018
- Sierra Pacific Industries, Centralia: May 9, 2018 – June 8, 2018
- Cowlitz County Headquarters Landfill: June 13, 2018 – July 25, 2018
- Guy Bennett Lumber: June 25, 2018 – July 25, 2018
- Naval Air Station Whidbey Island: June 27, 2018 – July 27, 2018
- Simpson Door Company: May 27, 2018 – June 29, 2018

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

- Revision of Chapters 173-400 and 173-401 WAC: February 5, 2018 – March 20, 2018
- Air Operating Permit Workload Analysis & Budget for Fiscal Years 2020 – 2021 (2019-21 Biennium): February 28, 2018 – April 30, 2018
- Air Operating Program Audit Committee meeting: October 17, 2017; November 6, 2018; December 4, 2018

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 audit occurred in Fiscal Year 2016 and found that account funds were being used as authorized. The auditors noted that the fund had a negative balance for three months, indicating insufficient capital reserves to cover expenses between annual fee payments. The next fiscal audit will be completed in Fiscal Year 2019.

Every three years, Ecology and 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 was completed and a report was issued in December 2017. Audit findings included the following recommended improvements:

- issuing permit renewals
- timeliness and accuracy of data entered into federal compliance information systems
- permit uniformity between agencies
- content and quality of permit language

- statement of basis
 - compliance assurance monitoring (CAM)
 - New Source Performance Standards (NSPS)/Maximum Achievable Control Technology (MACT)
 - potential to emit
 - permit shields

Other activities

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 November 1 – 3, 2017 in Boise, Idaho. The 2017 PNWIS conference provided a technical program discussing environmental issues relating to air and waste management in the Pacific Northwest. Topics included permitting, air modeling, emissions monitoring, regulatory updates, climate change, and greenhouse gases.

Included with the PNWIS conference was a permitting workshop hosted by EPA and Idaho Department of Environmental Quality.

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 Fiscal Year 2019, Ecology will complete rulemaking to allow electronic notification. This revision will save permitted sources the cost of a newspaper ad. Electronic notification will likely reach a wider audience since more people use electronic media.