DEPARTMENT OF ECOLOGY
State of Washington

Wastewater and Stormwater Discharge Permit Fee Program

Report to the Legislature
State Fiscal Years 2018-2019

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Water Quality Program
Washington State Department of Ecology
Olympia, Washington

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Executive Summary

Wastewater and stormwater discharge permits are the state's primary tool to prevent water pollution. The Washington State Department of Ecology (Ecology) uses the permit system, authorized under the Federal Clean Water Act National Pollutant Elimination Discharge System (NPDES) and the state waste discharge programs, to protect water quality. The permits set conditions to prevent discharges from harming our lakes, rivers, streams, and marine waters. Ecology recovers most of its permit program costs by charging fees to all permit holders.

The state's Water Pollution Control Act and the Federal Clean Water Act require entities that discharge water-based pollutants to surface, groundwater, or municipal sewage systems to obtain permits. The dischargers are required to pay fees to support the State's program to administer these permits. This report shows the revenues collected and spent by Ecology.

There are three divisions of water discharge permits administered:

- Approximately 270 **municipal wastewater** public entities that treat and discharge sanitary sewage.
- Over 1,900 **industrial wastewater** discharges from businesses that discharge wastewater from production. (Permitted industries cover all sorts of activities, from pulp and paper mills to fish hatcheries, food processors to boatyards.)
- Over 4,200 **stormwater** discharges of contaminated rain runoff from commercial and industrial facilities, land development, and public infrastructure.

Ecology collects permit fees according to the fee categories listed in Chapter 173-224 of the Washington Administrative Code (WAC). The more than 65 fee categories and subcategories containing the different types of discharges are built to reflect the complexity of permits. Ecology also considers the affordability of permit fees for small businesses, small public entities, and hardship cases.

The table below summaries total revenues and expenditures per biennium, as reported to the Agency Financial Reporting System (AFRS), the accounting system used by Washington State agencies:

Biennium	Permit Fee Account Total Revenue (AFRS)	Permit Fee-Supported Expenditures (AFRS, all agencies)
2017-19	$46,640,674 (actual)	$43,878,995 (actual)
2019-21	$47,780,000 (projected)	$48,480,000 (appropriated)

Introduction

The Washington State Department of Ecology (Ecology) operates the Water Quality Permit program under authority of the Federal Clean Water Act and the state Water Pollution Control Act. The Revised Code of Washington (RCW) 90.48.465 (Water Pollution Control Act of 1991), gives Ecology authority to establish fees that fully fund the administration of wastewater discharge permits. Ecology issues permits to ensure wastewater discharges meet water quality standards and comply with state and federal requirements. The law requires that fees charged be based on factors related to the complexity of permit issuance and compliance, may also be based on pollutant loading and toxicity, and are designed to encourage reducing the quantity of pollutants.

This report satisfies the requirements of RCW 90.48.465(8) that Ecology present a report to the Legislature on the use of funds from the Water Quality Permit Account (Fund 176). The Water Quality Permit Account collects and spends funds from wastewater and stormwater discharge permit fees. These types of permits authorize discharges of pollutants into Washington's surface and underground waters.

Fees paid by holders of wastewater and stormwater discharge permits are deposited into this dedicated account. Each biennium, the state Legislature authorizes Ecology, in the operating budget, to spend funds from the permit fee account for fee-eligible activities.

This report contains information about fees collected and expenses paid for during the 2017-19 Biennium (July 1, 2017, through June 30, 2019) from the permit fee account. Projections are provided for the 2019-21 Biennium. This report also lists fee-eligible activities and gives a brief description of Ecology and Department of Agriculture (WSDA) programs using money from the dedicated permit fee account for the biennium.

RCW 90.48.465(8): The department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

Water Quality Permit Program Summary

The National Pollutant Discharge Elimination System (NPDES), and state waste discharge permits are issued and administered by the Water Quality Permit program of Ecology. Permits are required by statute in order to discharge wastewater and certain types of stormwater to waters of the state and waters of the United States (U.S.). The federal government has delegated authority to Ecology to administer NPDES permits, partially contingent on the force of state law in controlling pollutant discharges to waters of the U.S.

The Water Pollution Control Act (WPCA), Chapter 90.48 RCW, provides the statutory authority for the permit program. The WPCA forbids activities that cause pollution of Washington State's waters, except as authorized by Ecology. The WPCA requires any person who conducts a commercial or industrial operation that results in disposal of wastes to waters of the state, or to sewerage systems operated by public entities, to obtain a permit from Ecology. It further requires local governments and other public corporations to obtain permits for discharge of wastes to waters of the state. The WPCA requires Ecology to place conditions in the permits that retain high quality for all waters of the state. Permit conditions require self-monitoring and reporting, as well as discharge limits, and practices that ensure retention of high quality waters of the state.

Water Pollution Control Act
RCW 90.48.010
Policy enunciated

It is declared to be the public policy of the State of Washington to maintain the highest possible standards to ensure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wildlife, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the State of Washington. Consistent with this policy, the State of Washington will exercise its powers, as fully and as effectively as possible, to retain and secure high quality for all waters of the state.

Wastewater and stormwater discharge permits are some of the state's primary tools to prevent water pollution. Ecology uses the permit system, authorized under the federal Clean Water Act's NPDES program, to protect water quality. Permit holders include large and small industries. Domestic wastewater-treatment plants, which collectively treat sewage from the majority of homes and businesses in Washington, also must have permits to discharge into waters of the state. Industries and activities that can create pollution such as aquatic pesticide applications, shipyards, boatyards, and construction sites, require permits. The permits set conditions to prevent discharges from harming our lakes, rivers, streams, and marine waters.

Ecology revises each permit every five years, increasing environmental protections if necessary. Ecology generally recoups its costs by charging fees to all permit holders. Fee categories and fee amounts are listed in Chapter 173- 224 WAC. The legislative budget process sets the biennial expenditure levels from the Water Quality Permit Account.

Two separate programs within Ecology issue the permits, the Water Quality Program (WQ) and the Solid Waste Management Program (SWM). The WQ Program issues most permits to industrial dischargers and all permits to communities operating sanitary and stormwater systems. The SWM Program issues permits for air, water, and waste activities for most of Washington's largest industrial facilities, where multiple industrial processes occur. These include refineries, smelters, pulp and paper mills, and chemical manufacturing plants.

Ecology also issues permits for direct wastewater discharges to surface waters and wastewater discharges to land or ground (because those wastes may affect groundwater), and for discharges of industrial wastewater to some municipally-owned sanitary systems.

The Washington State Department of Agriculture (WSDA) administers, implements, and enforces all sections of the Dairy Nutrient Management Act, Chapter 90.64 RCW, except for the duties of enforcement and issuance of NPDES permits, which are managed by Ecology. WSDA also administers, implements, and enforces Chapter 90.48 RCW regarding violations by dairies. Revenue from dairies is appropriated to WSDA to fund some of these activities.

2017-19 Biennium

Appropriations

In the 2017-19 Biennium, the final appropriation level to Ecology from the Water Quality Permit Account was $44,476,000. The final appropriation level to the Department of Agriculture (WSDA) from the Water Quality Permit Account was $73,000 for inspection of facilities permitted for dairy wastewater.

Revenue

The total revenue received from holders of water quality permits for the 2017-19 Biennium, as recorded in AFRS, was $46,561,587.[1] Table A shows the amount of revenue Ecology received for State Fiscal Years 2018 and 2019 fee invoices for routine direct billing from wastewater and stormwater discharge permit holders. It also indicates the average number of permit holders and average annual fees paid by category. The revenue data in this table demonstrates the wide variability in permit fee rates, due to the large variation in permitting complexity and risk of pollution.

Table A: 2018 and 2019 Water Quality Permit Fee Revenues by Fee Category (Source: Aquarius Permit Fee Tracking System)

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Total Sum	**$ 46,561,587**	**6,897**	**$ 3,375**
Aluminum & Magnesium Reduction Mills	621,988	4	77,748
Aluminum Alloys	40,514	1	20,257
Aluminum Forming	121,540	1	60,770
Aquaculture	816,421	97	4,208
Aquatic Pest Control	234,694	229	512
Boatyards - General Permit	74,141	64	579
Coal Mining And Preparation	121,796	2	30,449
Combined Food Processing Waste Treatment	110,355	3	18,393
Combined Industrial Waste Treatment	135,153	3	22,526
Combined Sewer Overflow System	30,732	1	15,366

[1] AFRS and Aquarius revenue totals differ slightly due to late payments, refunds, and interest on past due account balances, and other adjustments to revenue receipts in AFRS. Aquarius data represents invoices paid for Fiscal Years 2018 and 2019.

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Concentrated Animal Feeding Operation	85,224	18	2,367
Dairies	10,629	5	1,063
FAC NOC - Individual Permit	1,512,707	68	11,123
Flavor Extraction	1,185	3	198
Food Processing	3,403,659	76	22,392
Fruit Packers - General Permit	1,912,422	126	7,589
Fruit Packers - Individual Permit	35,075	1	17,538
Fuel And Chemical Storage	161,303	9	8,961
Hazardous Waste Clean Up Sites	205,941	9	11,441
Ink Formulation And Printing	31,526	2	7,882
Inorganic Chemicals Manufacturing	459,385	12	19,141
Iron And Steel	243,220	4	30,403
Metal Finishing	274,026	24	5,709
Municipalities	9,358,231	267	17,525
Noncontact Cooling Water w/o Additives - GP	60,681	24	1,264
Noncontact Cooling Water w/o Additives - Indiv.	277,377	14	9,906
Noncontact Cooling Water/Additives - GP	63,898	29	1,102
Noncontact Cooling Water/Additives - Indiv.	113,070	6	9,423
Nonferrous Metals Forming	81,028	2	20,257
Ore Mining	46,623	6	3,885
Organic Chemicals Manuf/RCRA Sites	169,272	1	84,636
Petroleum Refining	1,381,897	5	138,190
Photofinishers	7,685	1	3,843
Power And/Or Steam Plants	392,047	9	21,780
Private & State Owned Domestic Wastewater Facilities	295,649	33	4,480
Pulp, Paper And Paperboard	2,862,633	14	102,237
Radioactive Effluents & Discharges	74,336	1	37,168
Sand and Gravel – General Permit	2,626,787	888	1,479
Sand and Gravel – Individual Permit	1,413	2	353
Seafood Processing	699,561	31	11,283
Shipyards	396,653	21	9,444
Solid Waste Sites	353,901	17	10,409
Textile Mill	153,684	1	76,842
Timber Products	959,084	19	25,239
Vegetable/Bulb Washing Facilities	17,728	7	1,266

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Vehicle Maintenance & Freight	46,102	5	4,610
Vessel Deconstruction	35,654	2	8,914
Water Plants - General Permit	219,252	31	3,536
Water Plants - Individual Perm	38,534	4	4,817
Winery - Individual Permit	153,742	17	4,522
Stormwater Construction	6,198,663	3,403	911
Individual Stormwater	252,766	14	9,027
Industrial Stormwater	4,189,403	1,104	1,897
Municipal Stormwater General Permit	4,390,600	157	13,983

Table B: Fiscal Years 2018 and 2019 Highest Fee Revenue Categories

Fee Category	Total Revenue	% Total
Municipalities	9,358,231	20%
Stormwater Construction	6,198,663	13%
Municipal Stormwater General Permit	4,390,600	9%
Industrial Stormwater	4,189,403	9%
Food Processing	3,403,659	7%
Pulp, Paper And Paperboard	2,862,633	6%
Sand and Gravel – General Permit	2,626,787	6%

Small Business Fee Reductions

RCW 90.48.465 requires Ecology to consider the economic impact of fees on small businesses, and to make appropriate adjustments. Ecology complies with this requirement by granting fee reductions for eligible small businesses, reducing their annual permit fee by half. To be eligible for small business reductions, businesses must:

- Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit.
- Be independently owned and operated from all other businesses.
- Have annual sales of $1 million or less of the goods and services produced, using the processes regulated by the waste discharge permit.
- Pay an annual discharge permit fee greater than $500.

In addition to the small business fee reduction, Ecology also allows for extreme hardship fee reductions. The extreme hardship fee is $128.00 for qualifying businesses. The eligibility requirements consist of the following:

- Meet the criteria for a small business reduction and have annual sales totaling $100,000 or less of the goods and services produced using the processes regulated by the water quality permit.

Holders of wastewater discharge permits, stormwater construction permits, and industrial stormwater individual permits, are eligible to apply for fee reductions.

The total savings to wastewater and state waste discharge small businesses that qualified for the small business and/or extreme hardship fee reduction is as follows:

- FY2018: Ecology reduced permit fees for 44 businesses, resulting in a savings for small business totaling $266,000.
- FY2019: Ecology reduced permit fees for 35 businesses, resulting in a savings for small business totaling $271,000.

Expenditures

Table C lists the total 2017-19 Water Quality Permit Account expenditures and FTEs by agency, and by program for Ecology. Table D provides expenditures by object of expense. Following the tables are descriptions of the activities and program-specific work funded by Water Quality Permit fees.

Table C: 2017-19 Permit Fee Expenditure Summary by Agency and Program (Source: AFRS data as of October 10, 2019)

Ecology Program	**FTE**	**Dollars**
Water Quality	127.4	$ 30,741,464
Environmental Assessment	20.2	$ 5,813,859
Administration	21.9	$ 3,968,619
Solid Waste Management	8.1	$ 1,977,669
Toxics Cleanup	5.2	$ 1,273,317
Nuclear Waste	0.4	$ 54,565
Total Ecology Expenditures	**183.3**	**$ 43,829,493**
Dept. of Agriculture Expenditures	**0.2**	**$ 49,502**
Grand Total	**183.5**	**$ 43,878,995**

Table D: 2017-19 Permit Fee Expenditure Summary by Object (Source: AFRS data as of October 10, 2019)

Object of Expense	Agriculture	Ecology
Salaries	$ 5,872	$ 25,712,184
Benefits	$ 9,679	$ 9,286,843
Personal Services Contracts		$ 695,570
Goods and Services	$ 7,265	$ 2,575,693
Travel	$ 1,286	$ 753,006
Capital Outlays		$ 109,197
Grants, Benefits & Client Services		$ 5,887
Intra-Agency Reimbursements	$ 5,400	$ 4,691,113
Agency Total	**$ 49,502**	**$ 43,829,493**

Workload Explained for 2017-19 Biennium

This section summarizes the fee-eligible components of the Water Quality Permit program. These activities are the core work in permitting, which varies from one permit category to another, and include activities needed to administer the permit program that are shared across all permit categories.

A detailed description of the permit process is available in Chapter 2, section 3 of the Water Quality Program Permit Writers' Manual (https://fortress.wa.gov/ecy/publications/SummaryPages/92109.html)

Permit Issuance, Modification, and Renewal

Permit processing involves:

- Drafting new permits or updating for reissuance
- Conducting a public process on draft and final permits
- Preparing fact sheets to communicate how permit decisions are made
- Issuing individual and general permits
- Evaluating and making decisions based on application information and data

Permit processing also includes a quality assurance and quality control process before it is issued by Ecology to ensure permits are consistent with both federal and state law.

Issuance of a permit includes consideration of many factors:

- Technology available to reduce pollutants
- Local water quality status
- Other applicable state and federal rules and policies

Ecology's permit program also oversees and provides technical assistance to municipalities that have received authority from Ecology to write and issue their own wastewater discharge permits.

Permit Application, Review and Approval

The permit application process involves soliciting and processing permit applications. Applications for general permits are processed differently than applications for individual permits. An individual permit is developed from the application, or from the existing permit, if it is a renewal. General permits are available for a prospective permittee to apply for coverage under the general permit.

Inspections

Inspections include:

- Facility and site inspections
- Compliance monitoring
- Complaint response

Specialized environmental investigations might be needed to ensure permit compliance. Investigations also determine if additional conditions should be required within a given section of a water body that does not meet state water quality standards.

Inspections involve preparation, observations at the location of the inspection, recording, and documentation of the inspection.

Report Review

This includes reviewing discharge monitoring reports from the permittee and other permit-required submittals. It also includes a review of documents submitted to satisfy water quality law, and regulations that may not be directly required in the permit. Examples include the review of engineering studies for treatment, process changes, and sewage system planning reviews.

Appeals

This involves responding to permit appeals by permit holders or third parties. Appeals involve case preparation and participation by Ecology staff at the Pollution Control Hearings Board sessions. Time spent preparing for settlement agreements may be included.

Data Management and Entry

Data management involves data entry and the operation and maintenance of the permit program's central database through the Permit and Reporting Information System (PARIS). PARIS is the central data management system that stores permit-specific information for permitted facilities and has enhanced reporting capabilities for external viewers.

Technical Assistance

In addition to providing technical assistance during the permitting process, Ecology provides technical assistance to permit holders on the application of rules, policies, guidelines, and manuals related to implementing their permit. Much of this activity is conducted through various communication methods, including site visits to many general permit holders.

Compliance Non-Formal Enforcement

Compliance activities are actions aimed at getting and keeping permit holders in compliance. Permit fees do not fund activities related to formal enforcement. Activities to avoid escalation of formal enforcement include:

- Phone calls
- Warning letter
- Technical assistance
- Other actions

Operator Certification

Ecology manages the operator certification program for municipal wastewater treatment plant operators. This service provides for continuing education and skill testing for individuals who operate the Publicly Owned Treatment Works (POTW) in the state. Legislation passed in 2017 created the new Wastewater Treatment Plant Operator Certification Account (Fund 21H). Revenue collected from application and certification renewal fees started going into this account on July 1, 2017. Ecology currently plans to request appropriation authority from this account starting in the 2021-23 Biennium.

Rule Development

This includes developing rules to implement statutory requirements and/or updating existing water quality rules.

Policy, Guidance, and Procedures

Policies and procedures are essential in many general permit conditions. Activities include those that support or guide permit development, updates, and revisions. This work also includes development of policies, procedures, guidance, and standard operating procedures to administer the permit program efficiently and effectively.

Permit Coordination

This activity includes internal tracking and guiding of permit applications through the process of review, preparation, the public review process, and responding to public and applicant queries on the status of the permit.

Other Activities

The following actions are not direct components of the permitting program, but are fee-eligible activities with costs shared proportionally based on the core work costs, by all permittees:

- Supervision of permit program staff including guidance and oversight on controversial situations, and overall administration of the program.
- Budget and information technology support including database application development and management of the budget, time records, and program planning.
- Clerical support including permit manager support, word processing, and assistance with the permit development process.

- Permit fee assessments including entering permit holder and financial data, generating and processing invoices, and maintaining the financial systems used to track and account for fee revenue.
- Responding to public disclosure requests with documents and other applicable records.
- Outreach and information provided to the public and/or permitted entities, including preparing and using educational materials and conducting outreach to permit holders on the proper use of technical manuals and guidelines.
- Miscellaneous activities including complaint response, executive assistance and reporting, legislative assistance and reporting, and general coordination with water quality assessments.

2019-21 Biennium

Ecology adopted fee increases through rulemaking amendments to Chapter 173-224 WAC for the 2019-21 Biennium for underpaying fee categories not capped in statute. Fee categories that are not fully supporting the cost of implementing permits within their category were increased by 4.62% in Fiscal Year 2020 and 5.43% in Fiscal Year 2021. These fee increases resulted in an overall revenue increase estimated to be about 2.0 percent in Fiscal Year 2020 and 2.4 percent in Fiscal Year 2021. This revenue increase estimate assumes the permit base is stable. Most municipal wastewater treatment plants did not receive fee increases due to the limitations of the municipal fee cap.

Next biennium Ecology expects expenditures to increase due to annual increases in inflationary costs. The 2019-21 appropriation level for Fund 176 – Water Quality Permit Account is approximately $4 million higher than the final funding level appropriated in the 2017-19 Biennial Operating Budget.

- $3 million of the increases are tied to cost of living adjustments that were collectively bargained and higher state covered benefit costs (medical, life, insurance, etc.)
- $718,000 of the increases are due to the rising costs of facility and technology infrastructure
- The remaining $282,000 is the result of rising costs across statewide central services

Expenditures related to the permit program have increased, on average, $2.5 million per biennium (last three biennia) due to these types of inflationary costs. Ecology expects this trend to continue. Subsequently, Ecology anticipates fee increases in future biennia to ensure that sufficient revenue is collected to recover the costs of the permit program.

For budget allocations from the Water Quality Permit Account to Ecology programs, see the “Budget by Program” section of the Budget and Program Overview for 2017-19 (https://fortress.wa.gov/ecy/publications/SummaryPages/1801004.html)

Conclusion

Managing wastewater and stormwater is important to protect the health of surface and groundwater. Roughly 7,000 water quality permits are the state's primary tool for preventing point source water pollution, and a key tool for addressing nonpoint water pollution such as municipal stormwater. Permits are required in order to discharge wastewater and certain types of stormwater to waters of the state and waters of the U.S. Using a system of water quality permits, we manage when, where, and how treated wastewater and stormwater enters the environment.

Ecology's authority to establish and assess permit fees under RCW 90.48.465 is critical to the success of the permitting program. Without a dedicated funding source and revenue stream to support the permitting program, Ecology would not have the financial resources needed to protect our waters from point source pollution discharges.

Every two years, Ecology reviews permit fees to ensure they reflect the costs of administering water quality permits. Ecology will continue to work with fee payers to improve the fee structure each biennium in pursuit of an equitable system.

Funding for this work sustains the base level of effort, but current revenue and spending authority limit water quality outcomes in several important ways. For example, permittees desire faster turn-around in their permitting process and higher levels of technical assistance. Ecology does not have the resources to consistently perform frequent inspections across all permit types, creating greater risk on non-compliance going undetected or uncorrected. While Ecology has implemented efficiencies through streamlining processes and using improved technology in the field, the number of permittees and workload has increased at such a pace that there continue to be gaps in service.