

Wastewater and Stormwater Discharge Permit Fee Program

Report to the Legislature State Fiscal Years 2020-2021

June 2022 Publication 21-10-060

Publication and Contact Information

This document is available on the Department of Ecology's website at: https://apps.ecology.wa.gov/summarypages/2110060.html

For more information contact:

Water Quality Program P.O. Box 47600 Olympia, WA 98504-7600 Phone: 360-407-6600

Washington State Department of Ecology - www.ecology.wa.gov

•	Headquarters, Olympia	360-407-6000
•	Northwest Regional Office, Shoreline	206-594-0000
•	Southwest Regional Office, Olympia	360-407-6300
•	Central Regional Office, Union Gap	509-575-2490
•	Eastern Regional Office, Spokane	509-329-3400

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6600 or email at David.Giglio@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.

Wastewater and Stormwater Discharge Permit Fee Program

Report to the Legislature State Fiscal Years 2020-2021

Water Quality Program Washington State Department of Ecology Olympia, Washington This page intentionally blank

Table of Contents

Wastewater and Stormwater Discharge Permit Fee Program	1
Publication and Contact Information	2
Executive Summary	
Introduction	
Water Quality Permit Program Summary	
2019-21 Biennium	
Appropriations	11
Revenue	
Small Business Fee Reductions	
Expenditures	14
Workload Explained for 2019-21 Biennium	15
Programs Funded with Permit Fees	20
2021-23 Biennium	23
Addressing Fee Inequity	
	23
Revenue	
Appropriation	24
Conclusion	25

Tables

Table A: 2020 and 2021 Water Quality Permit Fee Revenues by Fee Category	. 11
Table B: Fiscal Years 2020 and 2021 Highest Fee Revenue Categories	. 13
Table C: 2019-21 Permit Fee Expenditure Summary by Agency and Program	. 15
Table D: 2019-21 Permit Fee Expenditure Summary by Object	. 15

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 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 the state from Fund 176 – Water Quality Permit Account.

There are three divisions of water discharge permits administered:

- Approximately 267 municipal wastewater public entities that treat and discharge sanitary sewage.
- Over 2,000 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, from food processors to boatyards.)
- About 4,850 stormwater discharges of contaminated rain runoff from commercial and industrial facilities, land development, and public infrastructure.

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

The total cash revenue and expenditures per biennium are summarized here, 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)
2019-21	\$ 49,813,514 (actual)	\$42,769,170 (actual)
2021-23	\$50,000,000 (projected)	\$47,947,000 (appropriated)

While the table above shows revenue that, on the whole, covers Ecology's costs of administering the permits, the 2019-21 gap is misleading. During the COVID pandemic, hiring freeze measures were in place that resulted in vacancies. The

cost savings from those unsustainable vacancies provided temporary revenue in the 2019-2021 biennium that were used to make minimal changes to the water quality permit fees during the 2021 fee rule update.

What is masked in the above table is how some specific permit types are dramatically underfunded. A general principle of the water quality permit fee structure is equity. Ecology aims to have permit fees align with the overall costs of administering each type of permit. However, RCW 90.48.465 has limited the fees for two categories, domestic wastewater facilities and dairies, which prevents Ecology from setting permit fees that align with the administrative costs for these categories. One result of this constraint is inadequate staffing to administer these permits in a timely manner, resulting in a 62% backlog (expiration) rate for wastewater permits.

Ecology requested SB 5585 in the 2022 legislative session, which was signed into law by the Governor on March 30, 2022. This new law removes the cap on wastewater discharge fees and directs Ecology to create an advisory committee to assess the workload and create a fee structure that will reduce the permit backlog. We anticipate that this work will result in a more equitable fee structure that allows us to make progress at reducing the backlog.

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 are 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 2019-21 Biennium (July 1, 2019 through June 30, 2021) from the permit fee account. Projections are provided for the 2021-23 Biennium. This report also lists feeeligible activities and gives a brief description of Ecology and Washington State 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 monevs 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 state's 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 provided under authorization 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.

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

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.

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, updating permit conditions based on newly identified contaminants, needs for increasing environmental protections, and changes in available technology. 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.

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.

2019-21 Biennium

Appropriations

In the 2019-21 Biennium, the final appropriation level to Ecology from the Water Quality Permit Account was \$47,491,000. The final appropriation level to WSDA from the Water Quality Permit Account was \$73,000 for inspection of facilities permitted for dairy wastewater.

Revenue

The total cash revenue received from holders of water quality permits for the 2019-21 Biennium, as recorded in AFRS, was \$49,813,514.¹ Table A shows the amount of revenue Ecology received for State Fiscal Years 2020 and 2021 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: 2020 and 2021 Water Quality Permit Fee Revenues by Fee

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Total Sum	\$ 49,907,232	7,109	\$ 3,514
Aluminum & Magnesium Reduction Mills	521,033	3	86,839
Aluminum Alloys	44,718	1	22,359
Aluminum Forming	134,154	1	67,077
Aquaculture	833,129	98	4,251
Aquatic Pest Control	291,778	248	588
Boatyards - General Permit	83,918	66	636
Boatyards- Individual Permit	587	1	587
Bridge Washing	113,620	17	3,342

Category (Source: Aquarius Permit Fee Tracking System as of July 26, 2021)

¹ AFRS cash and Aquarius revenue totals differ slightly due to the timing of when payments were made, and refunds and other adjustments to revenue receipts in AFRS. Aquarius data represents invoices paid for Fiscal Years 2020 and 2021.

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Coal Mining And Preparation	65,432	2	16,358
Combined Food Processing Waste Treatment	150,376	4	18,797
Combined Industrial Waste Treatment	157,322	3	26,220
Combined Sewer Overflow System	31,408	1	15,704
Concentrated Animal Feeding Operation	98,333	29	1,695
FAC NOC - Individual Permit	1,612,147	61	13,214
Flavor Extraction	1,010	3	168
Food Processing	3,419,640	77	22,205
Fruit Packers - General Permit	2,049,764	123	8,332
Fruit Packers - Individual Permit	47,048	1	23,524
Fuel And Chemical Storage	172,777	8	10,799
Hazardous Waste Clean Up Sites	191,513	12	7,980
Ink Formulation And Printing	24,165	2	6,041
Inorganic Chemicals Manufacturing	395,636	11	17,983
Iron And Steel	268,460	4	33,558
Metal Finishing	255,373	21	6,080
Municipalities	9,924,687	267	18,586
Noncontact Cooling Water w/o Additives - GP	68,132	27	1,262
Noncontact Cooling Water w/o Additives - Indiv.	220,644	11	10,029
Noncontact Cooling Water/Additives - GP	60,563	25	1,211
Noncontact Cooling Water/Additives - Indiv.	113,884	6	9,490
Nonferrous Metals Forming	89,436	2	22,359
Ore Mining	49,432	7	3,531
Organic Chemicals Manuf/RCRA Sites	172,996	1	86,498
Petroleum Refining	1,412,306	5	141,231
Photofinishers	7,854	1	3,927
Power And/Or Steam Plants	400,674	11	18,212
Private & State Owned Domestic Wastewater Facilities	345,071	35	4,930
Pulp, Paper And Paperboard	2,620,802	14	93,600
Radioactive Effluents & Discharges	75,972	1	37,986
RCRA Corrective Action Sites	172,996	1	86,498
Sand and Gravel – General Permit	2,771,569	897	1,545
Seafood Processing	687,363	30	11,456
Shipyards	348,638	21	8,301
Solid Waste Sites	408,785	18	11,355
Textile Mill	157,066	1	78,533

Permit Fee Category	Revenue Received	# of Permit Holders (Avg.)	Avg Annual Fee within Category
Timber Products	973,066	19	25,607
Vegetable/Bulb Washing Facilities	20,044	8	1,253
Vehicle Maintenance & Freight	47,116	5	4,712
Vessel Deconstruction	44,403	2	11,101
Water Plants - General Permit	225,120	31	3,631
Water Plants - Individual Perm	42,872	4	5,359
Winery - General Permit	16,795	7	1,200
Winery - Individual Permit	506,246	14	18,080
Stormwater Construction	7,095,653	3,522	1,007
Individual Stormwater	263,880	15	8,796
Industrial Stormwater	4,597,576	1,140	2,016
Municipal Stormwater General Permit	5,002,253	164	15,297

Table B: Fiscal Years 2020 and 2021 Highest Fee Revenue Categories

Fee Category	Total Revenue	% Total
Municipalities	9,924,687	20%
Stormwater Construction	7,095,653	14%
Municipal Stormwater General Permit	5,002,253	10%
Industrial Stormwater	4,597,576	9%
Food Processing	3,419,640	7%
Sand and Gravel – General Permit	2,771,569	6%
Pulp, Paper And Paperboard	2,620,802	5%

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 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 are eligible to apply for fee reductions except for industrial and construction stormwater general permits. The fee schedules for these permits already include considerations for small businesses.

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:

- Fiscal Year 2020: Ecology reduced permit fees for 38 businesses, resulting in a savings for small business totaling \$154,000.
- Fiscal Year 2021: Ecology reduced permit fees for 18 businesses, resulting in a savings for small business totaling \$124,000. The decrease in businesses applying for fee reductions in 2021 is mostly due to Sand and Gravel permittees moving to inactive status, which reduces their fee to \$103. Inactive site fees are not included as small business savings.

Expenditures

Expenditures were significantly less during the 2019-21 Biennium due to the statewide hiring and contract freezes put in place for most of the biennium to help curtail the economic impacts of COVID 19. The savings created by the freezes allowed Ecology to maintain fees next biennium at Fiscal Year 2021 levels. Table C lists the total 2019-21 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: 2019-21 Permit Fee Expenditure Summary by Agency andProgram (Source: AFRS data as of September 10, 2021)

Ecology Program	FTE	Dollars
Water Quality	116.0	\$30,176,234
Environmental Assessment	17.5	\$ 5,200,228
Administration	20.1	\$ 4,302,703
Solid Waste Management	7.3	\$ 2,020,433
Toxics Cleanup	3.7	\$ 945,446
Nuclear Waste	0.4	\$ 66,758
Total Ecology Expenditures	165.0	\$42,711,802
Dept. of Agriculture Expenditures	0.2	\$ 57,368
Grand Total	165.2	\$42,679,170

Table D: 2019-21 Permit Fee Expenditure Summary by Object (Source:AFRS data as of September 10, 2021)

Object of Expense	Agriculture	Ecology
Salaries	\$28,859	\$25,732,877
Benefits	\$11,236	\$ 9,203,677
Personal Services Contracts		\$ 28,589
Goods and Services	\$10,965	\$ 2,914,808
Travel	\$ 908	\$ 536,610
Capital Outlays		\$ 164,320
Grants, Benefits & Client Services		\$ 2,301
Intra-Agency Reimbursements	\$ 5,400	\$ 4,128,620
Agency Total	\$57,368	\$42,711,802

Workload Explained for 2019-21 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' Manual².

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

²https://fortress.wa.gov/ecy/publications/SummaryPages/92109.html

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

Water quality permits can be appealed within 30 days after they are issued, reissued or modified. 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

This is the management of 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 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, and Ecology received appropriation authority from this account starting in the 2021-23 Biennium. Permit fees supported this work in the 2019-21 Biennium as the program transitioned to being fully supported by operator certification fees 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 feeeligible 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.

Programs Funded with Permit Fees

Water Quality Program

The Water Quality Program (WQP) is the designated lead for administering the wastewater discharge permit program within the agency. It also administers 99% of the wastewater discharge permits managed by Ecology. The WQP manager is the designated policy lead of the permit program. WQP has three sections at headquarters, sections in each of Ecology's four regional offices, and personnel assigned at Ecology's Bellingham and Vancouver field offices.

WQP - The Program Development Services Section

The Program Development Services Section (PDS), located at headquarters, has the responsibility of establishing permit rules. PDS administers the industrial, construction, and municipal stormwater general permits, and is involved in other types of general permit development and maintenance. It maintains central quality control. This section also provides technical support to the permit managers (e.g., the permit writers' manual).

WQP - The Water Quality Program Regional and Field Offices

There are four regional offices located in Shoreline, Lacey, Union Gap, and Spokane and two field offices located in Bellingham and Vancouver. These offices are responsible for issuing, managing, and inspecting permitted facilities and promoting permit compliance.

Solid Waste Management Program

The Solid Waste Management Program (SWMP) includes the Industrial Section that is responsible for permit processing, management, and inspections for major NPDES industrial wastewater facilities statewide. These facilities include most pulp and paper mills, aluminum mills, and oil refineries. The Industrial Section also has air quality and solid waste permitting responsibilities for these facilities.

Environmental Assessment Program

The Environmental Assessment Program (EAP) is Ecology's in-house environmental consultant. EAP conducts environmental surveys and special studies. It also conducts the fieldwork and hydraulic modeling necessary for the development of total maximum daily loads (TMDLs), or water quality cleanup plans. Based on that work, EAP also provides waste load allocation recommendations to the permitting programs (e.g., Water Quality Program) for effluent limits in permits. Specific deliverables include:

• Quality assurance plans (QAPPs) and reports for TMDL/watershed pollution studies.

- Technical memoranda documenting workload allocation calculations, mixing zone model results, recommendations to external stormwater work group, etc.
- Data assessment reports related to point source monitoring projects.
- Standard operating procedures for point source monitoring methods.
- Literature reviews related to permits (e.g., stormwater best management practices effectiveness).
- Technical memoranda documenting reviews of QAPPs and reports prepared by individual permittees/consultants (e.g., for mixing zone models).
- Technical memoranda documenting reviews of QAPPs and reports prepared by general permittees (e.g., for municipal stormwater grant monitoring projects).

Toxics Cleanup Program

The Toxics Cleanup Program (TCP) headquarters and regional office sections administer Washington's implementation of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the state's Model Toxics Control Act (MTCA). Occasionally, cleanups involving leaking underground storage tanks and other non-independent actions require wastewater discharge permits. In those cases, TCP has the lead responsibility for permit processing, management, and inspections. The Sediments Unit in TCP is responsible for developing sediment quality standards and permit guidance for their implementation.

Additionally, TCP houses the Urban Bay Action Teams. These teams coordinate cleanup activities that occasionally involve wastewater discharges as part of a treatment system for the cleanup. In those instances, TCP has the permit processing, management and inspection responsibilities.

Administrative Services

The Administrative Services Program supports agency-level activities that are not always directly attributable to programs and expenses that are charged to programs as a cost of doing business. Administrative Services includes financial, personnel, portions of executive-level management, and others.

The Administrative Services Program supports the WQP to help it accomplish its mission related to the Water Quality Permit Fee Account. These support activities include:

- Providing information to citizens about environmental threats.
- Providing executive policy direction.
- Promoting working relationships with members of the Legislature and tribes.
- Providing regional support services.

- Providing human resource services.
- Managing financial systems and issues.
- Providing information technology services.
- Providing safe and secure workplaces.
- Managing Ecology records and ensuring appropriate public access to those records.

Additional shared agency costs are pooled and then charged to Ecology programs through the cost allocation process. Cost allocation consists of direct monetary charges to Ecology programs that are required to pay for items such as building space and Information Technology services. These costs are included in the totals for each program listed in Table E. Cost allocation for WQP and SWMP are listed as "intraagency reimbursements" in Table D.

Nuclear Waste Program

The Nuclear Waste Program enforces regulatory compliance and cleanup at the Hanford site and at other facilities managing nuclear waste statewide. The program administers wastewater permits at the Hanford site.

Department of Agriculture – Dairy Wastewater Discharge Permit Program

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. WSDA also administers, implements, and enforces Chapter 90.48 RCW regarding violations by dairies.

2021-23 Biennium

Addressing Fee Inequity

Ecology aims to have fees for each permit category align with the workload and related expenditures for administering that category of permits. The goal is to have adequate staffing and to avoid shifting costs from one type of permit to another. Within each permit category, permittees require various levels of effort or support in a given year, but this discrepancy will balance out over the five-year permit cycle and the set of permittees. Our equity concern is at the permit category level, where we aim to align fees with workload. Each fiscal year Ecology evaluates the revenue and expenditure data for all permit categories to help inform future fee adjustment proposals. Every two years, as the permit fee rule is updated, we identify where permit category revenue and expenditures are out of alignment. We then try to restore balance, whether by increasing staffing if we are behind on a growing workload, or by avoiding fee increases.

Ecology adopted fees for the 2021-23 Biennium through amendments to Chapter 173-224 WAC. Due to the economic impacts of COVID 19, and the savings accumulated in permit fees from the hiring and contract freezes, Ecology maintained permit fees at Fiscal Year 2021 levels. In addition, Ecology included a new fee category for the Puget Sound Nutrient General Permit developed in the 2021-23 Biennium. However, unless the fee cap in RCW 90.48.465(2) is adjusted, Ecology will not be able to recover the costs to implement this permit because all domestic municipal wastewater facilities are already charged the maximum fee allowed by statute. Fees for domestic municipal wastewater treatment plants have not increased for many years due to the statutory fee cap that has not increased since 2009.

Focus Area: Wastewater Discharge Fees

While Ecology continues to work toward fee equity between fee categories, a cap in statute prevented Ecology from recovering the full cost of administering municipal wastewater permits as directed in state law. For the last several years, expenditures for administering the roughly 300 wastewater treatment facilities have exceeded their permit fees by about \$2 million each year. Combined with a staffing gap of about another \$2 million each year, we have been unable to keep up with permit workload, causing a significant backlog. Ecology currently has about 20 FTEs devoted to wastewater permits, but needs about 30 to meet the demand.

Aligning revenue from domestic wastewater permits with the workload is a critical step in achieving equity throughout the fee system. The cap has resulted in fees that are around half of what they would be if they had kept up with wage growth, which affects adequate oversight of permits in some areas, and has led to about 62% of wastewater permits being expired. Eliminating the statutory cap shifts the fee setting to the rulemaking process – which is how it is done for all other permits.

Revenue

The revenue estimate assumes the permit base is stable, however it is possible the permit program has not yet experienced the full economic impact of COVID 19. The number of permittees paying fees last biennium went from 7,152 in Fiscal Year 2020 to 7,049 in Fiscal Year 2021, roughly a 1% decrease in the number of permittees and in revenue. If the number of permits significantly decreases in the 2021-23 Biennium, it will result in less revenue than the projected \$50 million. However, with the savings realized in the 2019-21 Biennium, Ecology believes the program can weather a minor revenue shortfall in 2021-23.

Appropriation

Appropriations remained about the same for the 2021-23 Biennium for Fund 176 Water Quality Permit Account – at \$47.9 million. The hiring and contract freezes have ended, and Ecology expects expenditures to return to normal as vacant positions are filled and permit work resumes.

Historically, expenditures related to the permit program increase on average about \$2.5 million per biennium due to inflationary costs for salaries, benefits, and central services. Ecology expects this trend to continue. Subsequently, fee increases are anticipated in future biennia to ensure that sufficient revenue is collected to recover the costs of the permit program.

For budget allocations from the <u>Water Quality Permit Account to Ecology programs</u>³, see the "*Budget by Program*" section of the *Budget and Program Overview for 2019-21*.

³ https://apps.ecology.wa.gov/publications/SummaryPages/1901005.html

Conclusion

Ecology uses more than 7,000 water quality permits as the state's primary tool for preventing point source water pollution, and to address 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. 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 Washington waters from point source pollution discharges.

Funding sustains an adequate base level of wastewater permitting in almost all permit categories. However, domestic wastewater is a notable exception, where 62% of permits are expired as a result of inadequate revenue and inadequate staffing. Current revenue and spending authority limit water quality outcomes in several important ways. For example, several permittees desire faster turn-around in their permitting process and higher levels of technical assistance. Ecology does not have the resources for consistent, frequent inspections across all permit types, creating greater risk of 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.

Every two years, Ecology reviews permit fees to ensure they reflect the costs of administering water quality permits. Ecology will continue to work with permittees to improve the fee structure each biennium in pursuit of an equitable system. Domestic wastewater discharge fees stand out as the one permit category where Ecology cannot fully staff the permit workload, due to the permit fee cap in statute. Ecology anticipates an updated fee structure will fully resolve these issues.

The changes made during the 2022 Legislature (SB 5585) will provide the opportunity for those who pay the fee, as well as other interested parties, help set the fees. Under the new law, domestic wastewater discharge fees will then follow the intention of a self-funded permitting system that protects Washington waters. Over the next several years, we expect the fee rule to be updated, staff to be hired and trained, and the permit backlog steadily reduced.