



Air Operating Permit Program Report

Fiscal Year 2022

(July 1, 2021 – June 30, 2022)

By

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For the

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¹ www.ecology.wa.gov/contact

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DEPARTMENT OF
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State of Washington

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Introduction

The Air Quality Program works to limit and reduce air pollution so that everyone living in and around Washington has clean, healthy air to breathe, improved visibility, and a healthy environment.

Our strategic plan ensures our employees and other stakeholders are working toward common goals. Work performed to meet these strategic goals is supported by funds from the Air Quality Program and fee programs.

This report summarizes the Air Operating Permit (AOP) Program financial details, performance, and program activities for Fiscal Year (FY) 2022 (July 1, 2021 – June 30, 2022).

Air Operating Permit Program Summary

The AOP 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.

Under section 502(b) of the 1990 federal Clean Air Act (CAA) amendments, all sources subject to the permitting requirements under the air operating permit must pay an annual fee. These fees must cover all reasonable direct and indirect costs required to develop and administer the permit program.

EPA establishes an annually adjusted minimum fee (“presumptive minimum fee”) expected to pay for AOP 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 AOP program undergoes a financial audit every other year. Permit program activities are summarized in this report and are consistent with the Washington Clean Air Act, the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). These provide regulatory authority for the AOP program.

For more information about this report, contact Trischa Lohr Barlet at trischa.lohrbarlet@ecy.wa.gov.

Air Operating Permit Program Financial Performance

Workload analysis

Ecology is required to conduct a workload analysis every two years. The workload analysis is a projected budget for the work to be performed in the next biennium. This includes publishing a

draft on Ecology’s website² by February 28th that allows for a sixty-day public comment period before publishing the final draft by June 30th. The analysis includes resource requirements for both the direct and indirect program costs. These costs are associated with Ecology staff who perform fee eligible AOP activities (Chapter 173-401-900 WAC).

In June 2020, Ecology published the workload analysis for fiscal years 2022 and 2023 (July 1, 2021 – June 30, 2023). The analysis was sent to individuals on a distribution list who have requested to receive notice about AOP fees.

To be added to this distribution list, contact Trischa Lohr Barlet at trischa.lohrbarlet@ecy.wa.gov.

Total program revenue and expenditure

For FY 2022 (July 1, 2021 – June 30, 2022), Ecology’s AOP program budget and projected revenue was \$2,454,670.

Ecology’s actual revenue for FY 2022 was \$2,021,917, which is a difference from the projected revenue of \$432,752. This was due to \$400,000 in rebates given back to AOP facilities and a one-time fee correction in the amount of \$32,752.

The AOP program’s opening and closing balance is a working capital reserve required to maintain a positive fund balance throughout the fiscal year. Opening fund balances greater than nine months’ worth of estimated expenditures in the following fiscal year are eligible for rebates, as described in the “rebates and credits” section of this report.

Table 1. Account Balance Comparison for Fiscal Years 2021 and 2022

	FY 2021	FY 2022
AOP account opening balance	\$1,841,468	\$2,563,799 ³
Actual revenue (fees)	\$2,386,503	\$2,021,917 ⁴
Actual expenditures	\$1,624,172	\$1,501,295
AOP account closing balance	\$2,603,799	\$3,084,221

² <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Air-Quality-permits/Air-operating-permits>

³ The FY 2022 opening balance varies from the FY 2021 closing balance because adjustments occurred during the prior biennium (July 1, 2019-June 30, 2021) and were not reflected until 2022. This accounted for two transactions: Section 721(4) of the 2019-21 operating budget (Chapter 415, Laws of 2019) directed the Office of Financial Management to administer a lease cost pool for a specific list of agencies with real estate projects (relocation of our Northwest Regional Office); and IT investment cost per ESHB 1109 per LEAP omnibus document IT-2019 amounting to \$40,000.

⁴ Our state accounting system shows that we collected \$2,021,917 in fee revenue, however a \$200 registration fee was deposited into the AOP account during FY 2020 in error. The error was discovered during FY 2021 and the payment was moved to the correct account in FY 2022. This correction reduced the total revenue by \$200 equaling \$2,021,717.

Rebates and credits

The Office of Financial Management (OFM) previously allowed Ecology to accrue a negative cash balance until fees were received later in the fiscal year. Since 2015, OFM has required Ecology to maintain a positive monthly cash balance in each dedicated account it manages. The AOP account has ongoing expenditures throughout the year and total revenue is received in annual payments nine months into each fiscal year. Fiscal years begin July 1 and end June 30, and revenue is generally received at the end of February through the end of March. To maintain a positive cash balance in the AOP account, Ecology has slowly built a working capital reserve in this account.

Rebates were suspended until the opening fund balance of a fiscal year was greater than nine months' worth of estimated expenditures for the ensuing fiscal year (determined by prorated available expenditure authority). The opening fund balance in FY 2022 was \$2.6 million, largely due to underspending during FY 2020 and 2021 which resulted in a surplus of \$800,000.

Expenditure authority in the AOP account for FY 2022 was \$2.4 million. When this amount was prorated for 9 months' worth of expenditures, a working capital reserve (opening balance) of \$1.8 million was required. The \$800,000 surplus was divided into two, for each year of the biennium, which left \$400,000 to be proportionately distributed. Each of Ecology's sources received a rebate based on their FY 2022 fee.

Air operating permit fee revenue

Chapter 173-401-900 WAC stipulates that Ecology costs be distributed according to a three-tiered model with each of the three tiers being equally weighted. The three tiers are based upon:

- The number of sources under Ecology's jurisdiction.
- The complexity of the sources under Ecology's jurisdiction.
- The size of the sources, measured by the quantity of each fee-eligible pollutant emitted.

After rebates, Ecology billed and collected \$1,907,737 from 26 facilities with AOPs. WAC 173-401-900(5)(b) directs the allocation of AOP fees to each source, which are due annually by February 28th. The amount billed included:

- Tier 1: Flat fee of \$30,006.27 per facility
- Tier 2: Complexity fee of \$95.58 per hour of oversight
- Tier 3: Emission fee of \$55.14 per ton

Development and oversight revenue

Development and Oversight (D&O) 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 AOP pay Ecology’s D&O costs (Chapter 173-401-900(5)(a)). The costs for Ecology sources are included in the flat fee (Tier 1) portion of their billing. Washington’s seven local clean air agencies paid \$114,181 in D&O costs. Local clean air agencies’ D&O fees are due annually by March 31st.

Expenditures

Chapter 173-401-940 lists the activities authorized to be performed using funds supported by the state AOP program. During FY 2022, Ecology spent \$1,501,295 administering these activities:

- Program administration and support
- Permit processing
- Permit management
- Delegation and regulation
- Technical assistance
- Public outreach and education
- Ambient monitoring and oversight

Table 2. Fiscal Year 2022 Expenditures

Salaries and Wages	\$924,418.43
Employee Benefits ⁵	\$292,731.77
Professional Service Contracts	\$95,456.33
Goods and Services ⁶	\$33,155.42
Travel	\$15,287.01
Capital Outlays ⁷	\$628.29
Grants, Benefits, & Client Services ⁸	\$150.00
Intra-Agency Reimbursements ⁹	\$139,467.54
Total	\$1,501,294.79

Air operating permit program presumptive minimum test

The Environmental Protection Agency (EPA) establishes an annually adjusted minimum fee called “presumptive minimum” that is expected to cover AOP program costs. The presumptive minimum¹⁰ rate for federal FY 2022 (September 2021 – August 2022) was \$54.37 per ton of emissions. Ecology sources emitted 14,149 tons of regulated pollutants, so Ecology’s presumptive minimum was \$769,281.

⁵ Survivors’ insurance, disability insurance, retirement, etc.

⁶ Materials, supplies, communications, postage, utilities, subscriptions, etc.

⁷ Furnishings, equipment, and software purchases with a useful life greater than one year

⁸ Charge to permittees for using electronic payment service (E-Pay)

⁹ Reallocation of expenditures and accruals within an agency

¹⁰ <https://www.epa.gov/title-v-operating-permits/historical-permit-fee-rates>

Ecology revenue was greater than the presumptive minimum for 2022, so it was presumed sufficient to cover program costs.

Program Performance

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

- Permit processing – application reviews, writing draft and final permit renewals, permit amendments and modifications, public notices and hearings, public comment responses, operational reviews, appeals.
- Permit management – inspections, stack test oversight, emissions reports, complaint investigations and oversight, modeling, and facility annual compliance certifications.
- Program administration and support – program management, data management, fee administration, emissions inventory support, permit workshops and training, clerical support, administrative enforcement, program coordination, audits, local program oversight, permit register, public records requests, rules and regulation guidance, and general outreach.
- Technical assistance – source assistance and interagency agreements.

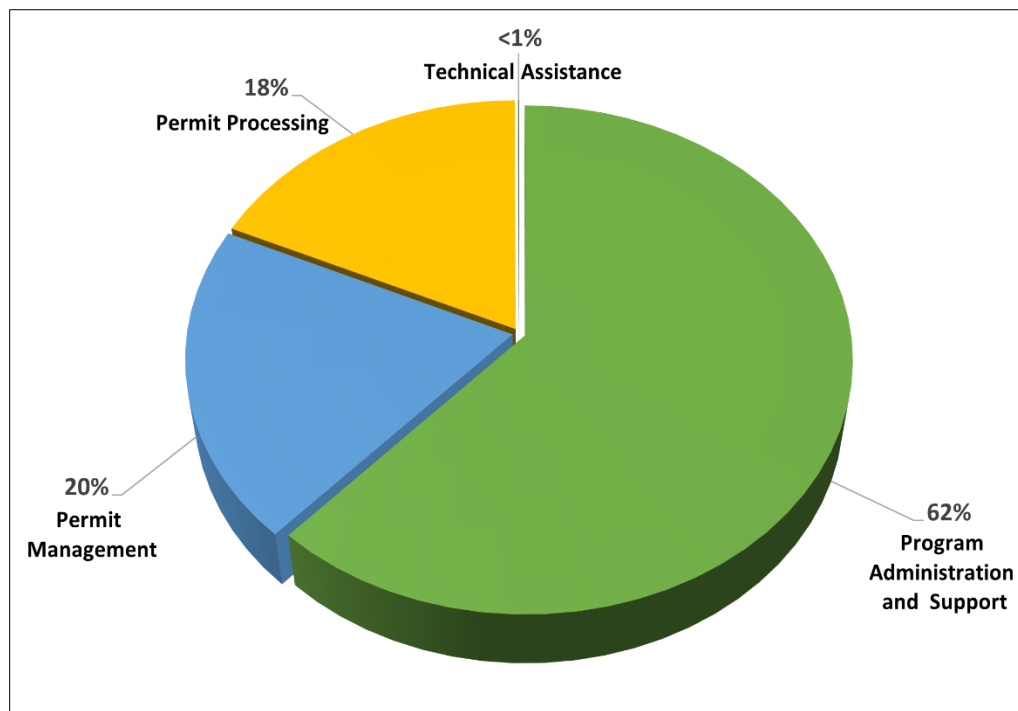


Figure 1. Air Operating Permit Work Activities

Staffing levels

Ecology staff are calculated as full-time equivalents (FTE). This measurement helps budget analysts estimate labor costs. One FTE is a unit that indicates the workload of one full-time employee working 40 hours per week. OFM assumes 2,088 work hours equal one FTE in a fiscal year. To calculate actual FTEs, the number of staff hours worked is divided by 2,088.

The program was staffed to cover required work during FY 2022. In some instances, the actual FTE is more or less than the projected FTE due to shifting of staff resources and vacancies.

Table 3. Projected vs. Actual FTE

AOP Staffing Areas	Projected Direct FTEs	Actual Direct FTEs
Program Management - Ecology Headquarters	0.38	0.39
Science and Engineering Section	1.45	1.44
Policy and Planning Section	0.03	0.00
Technical Services Section	0.41	0.39
Central Regional Office	1.15	0.88
Eastern Regional Office	3.11	1.44
Solid Waste Mgmt. Program - Industrial Section	5.68	3.15
Nuclear Waste Program - Hanford	2.29	1.66
Department of Health	0.64	0.53
	15.14	9.87

Emissions Inventory

An emissions inventory is a list of pollutants discharged into the air during a specific 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.

Air pollution sources submit their emissions data using the Washington Emissions Inventory Reporting System (WEIRS). WEIRS is an electronic data collection system that allows facilities with an AOP 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 NEI 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 emission sources. The data allows EPA to identify trends and establish air quality standards.

Ecology's emissions inventory group manages the database for major stationary sources of air pollution. Fee eligible emissions are calculated from the most current available data. For FY 2022 fees, emissions data from calendar year 2020 was used. In Ecology's jurisdiction, sources with an AOP produced a total of 14,149 tons of fee eligible emissions:

- 1,813 tons of particulate matter of 10 microns in diameter or smaller (PM₁₀)
- 4,131 tons of sulfur dioxide (SO₂)
- 6,867 tons of nitrogen oxides (NO_x)

- 1,338 tons of volatile organic compounds (VOC)

Permit Processing

An AOP expires five years after it is issued. Ecology completes the initial permit issuance or renewal process in an average of eighteen months. If a source has submitted a complete application to Ecology within six to twelve months of expiration, the source may continue operating under their current permit (Chapter 173-401-705 WAC). Sources can apply for AOP modifications and amendments at any time.

Permit activity and timeliness during FY 2022:

- 1 issued permit
- 1 modification
- 1 permit rescinded

Table 4. Ecology Air Operating Permit Timeliness Tracking

Sources	Active Permits	Initial Permits Issued (<18 mo.)	Outstanding Initial Applications (>18 mo.)	Expired Permits	Extended Permits (>5 yrs.)	Outstanding Significant Modification	% Extended	% Outstanding + Extended
26	25	0	1	0	8	1	32%	34%

Permit Management

Ecology’s goal is to ensure compliance by offering assistance and education to permittees. Compliance and enforcement¹¹ are prioritized to ensure the conditions of each facility’s permit are met. Activities associated with permit management are:

- facility inspections
- stack test oversight
- compliance evaluations
- annual compliance certifications
- complaint investigations/field responses
- EPA reporting
- deviation/violation processing

Compliance and enforcement

¹¹ <https://echo.epa.gov/>

Staff completed full compliance evaluations (FCEs) which are comprehensive on-site evaluations to assess compliance of a facility. They address all regulated pollutants at emission units and the current compliance status of each unit.

Partial compliance evaluations (PCEs) are also completed throughout the year. They are conducted on-site or off-site 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

During the reporting period, the agency completed:

- 8 FCEs
- 49 PCEs
- 142 stack test reviews

Formal and informal enforcement actions include (in increasing severity):

- notice of correction (NOC)
- notice of violation (NOV)
- administrative order
- notice of penalty (NOP)

Before being issued an NOV, a facility is given a verbal warning and offered technical assistance. Violations can result from an excess of hazardous air pollutant emissions, permit non-compliance, visible emissions, and reoccurring or unresolved issues. Ecology notifies a source of a high priority violation (HPV) or federally reportable violation (FRV) if one is found during an inspection.

During the reporting period, the agency undertook the following enforcement actions:

- 6 NOVs
- 4 HPVs
- 15 FRVs
- 2 NOPs

Penalties

In FY 2022, Ecology issued 2 penalties for violation of air quality standards and received \$14,000 in penalty money¹².

Money received from penalties does not become part of the AOP 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.

Delegation and Regulation

Rulemaking

On April 1, 2022, the EPA proposed a new rule¹³ to align its operating permits program with requirements for air emissions limits set under other Clean Air Act programs. This proposal would remove the emergency affirmative defense provisions from the Title V AOP program regulations under Chapter 173-401-645 WAC.

The Code Reviser's Office reformatted Washington Clean Air Act Chapter 70.94 RCW to Chapter 70A.15 as directed by 2020 legislation. The Code Reviser's Office removed expired sections, so they are found in the dispositions section.¹⁴ Ecology rule writers are updating these references in the WAC as they update rules.

Training

Ecology staff provide training, assistance, and advice on air permits to local clean air agencies, industry, other Ecology staff, and other affected groups. Staff also receive opportunities to attend training, workshops, and conferences.

¹² Ecology's Docket Management System

¹³ <https://www.epa.gov/title-v-operating-permits/current-regulations-and-regulatory-actions>

¹⁴ <https://app.leg.wa.gov/RCW/dispo.aspx?cite=70.94>

Emissions inventory training

Annually, the emissions inventory group provides training on the Washington Emissions Inventory Reporting System (WEIRS). Attendees typically include industry facility managers, contractors, and state and federal agencies.

Permit writers training

The Integrated Compliance Information System¹⁵ (ICIS-AIR) is a federal database used by permit writers and authorized personnel. EPA offers online training courses containing six integrated modules that Ecology staff can use to learn about minimum data requirements when entering data into ICIS. Staff can attend Environmental Compliance History Online¹⁶ (ECHO) data verification training webinars to ensure proper verification of data is entered into ICIS-AIR. This training is always available, and EPA offers webinars annually.

EPA Region 10 hosts a Title V workshop every other year where Tribal members, Air Quality and local clean air agency staff attend. These workshops include information about EPA policy and oversight, permit writing and content, and compliance/enforcement.

The National Association of Clean Air Agencies (NACAA) holds monthly air permitting meetings for air agencies. These meetings often have guest speakers and valuable discussions.

The Pacific Northwest International Section¹⁷ (PNWIS) is a branch of the Air and Waste Management Association that holds annual conferences on a variety of air quality topics.

Ecology promotes environmental training courses offered 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 2022, third party training included:

- Western States Air Resources Council (WESTAR)
- EPA webinars
- AirKnowledge (through EPA)

Permit writers' meetings

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

The Air Permit Writers Meetings are held once per quarter, with approximately 125 people on the distribution list. There is an average of seventy attendees each meeting. The meetings primarily consist of engineers and permit writers from Ecology, local clean air agencies, EPA

¹⁵ <https://icis.epa.gov/icis/>

¹⁶ <https://echo.epa.gov/>

¹⁷ <https://pnwis.org/>

Region 10, Department of Health, Oregon Department of Environmental Quality, Oregon Lane Regional Air Protection Agency County, Alaska Department of Conservation, and Idaho Department of Environmental Quality. Other attendees are rule writers, scientists, and compliance staff.

The purpose of the meetings is to exchange information, discuss technical permitting issues, develop work groups, and interpret rules and policies.

Meeting dates:

- September 16, 2021
- December 16, 2021
- March 17, 2022
- June 23, 2022

Public Outreach

The public participation process provides an opportunity to comment on draft permits or draft environmental reviews, participate in stages of rulemaking, and attend public meetings or hearings.

Ecology held a public comment period on the following AOP program activities.

- September 10, 2021: Gas Transmission Northwest – Compressor Station #7 – Draft Permit Renewal
- November 24, 2021: WestRock, Tacoma – Draft Permit Renewal
- January 10, 2022: Port Townsend Paper Corporation – Draft Permit Renewal
- May 10, 2022: Washington State University – AOP facility took limits for a Synthetic Minor
- May 10, 2022: Boise Cascade Wood Products, Kettle Falls Lumber – Draft Permit Renewal

Ecology invited the public to participate in meetings or provide public comments on the following AOP program activities:

- October 25, 2021: Proposed Complexity Level for AOP Fees
- February 25, 2022: Draft Workload Analysis and Budget for fiscal years 2024 and 2025
- June 24, 2022: Workload Analysis and Budget for fiscal years 2024 and 2025 published

This list does not include public comment periods from other air agencies. To view current or past permit register entries, visit Ecology's permit register website¹⁸.

¹⁸ <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Air-Quality-permits/Air-operating-permits/Permit-register>

Oversight and Monitoring

Audits

The AOP program undergoes a fiscal audit every two years and an overview performance audit every three years (WAC 173-401-920(3)&(4)).

The purpose of a fiscal audit is to verify that the AOP account funds are being used as authorized. Ecology and the State Auditor's Office completed a fiscal audit in May 2022 for fiscal years 2020 and 2021. The next fiscal audit will be completed during FY 2024. The reports are published on the State Auditor's Office website¹⁹

Every three years, Ecology and local clean air agencies conduct an overview performance audit. The last audit was completed in December 2020 and a report was issued in March 2021. Chapter 173-401 WAC requires an audit advisory committee, audit framework, and options for an intensive performance audit. The next audit is scheduled to be conducted during 2023.

To view these reports, visit Ecology's website.²⁰

Periodically, EPA conducts reviews of the Title V program. EPA conducts a Title V program review²¹ to look at timeliness of permit issuance, permit content, and financial accountability. They also conduct a State Review Framework²² (SRF) to review how our program manages compliance, enforcement, and accuracy of data reporting. Each of these reviews takes into account if previous findings have been addressed.

¹⁹ <https://sao.wa.gov/reports-data/audit-reports/>

²⁰ <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Air-Quality-permits/Air-operating-permits>

²¹ <https://www.epa.gov/caa-permitting/permit-program-reviews-epa-region-10>

²² <https://www.epa.gov/compliance/state-review-framework>