



# **Air Operating Permit Program Report**

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**Fiscal Year 2023**

**(July 1, 2022 – June 30, 2023)**

By

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For the

**Air Quality Program**

Washington State Department of Ecology  
Olympia, Washington

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<sup>1</sup> [www.ecology.wa.gov/contact](http://www.ecology.wa.gov/contact)

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DEPARTMENT OF  
**ECOLOGY**  
State of Washington

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## Introduction

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) 2023 (July 1, 2022 - June 30, 2023).

## Air Operating Permit Program Summary

The AOP Program is an air pollution control program, based on 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 the 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 Shauna Abbenhaus at [Shauna.Abbenhaus@ecy.wa.gov](mailto:Shauna.Abbenhaus@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 website<sup>2</sup> by February 28<sup>th</sup> that allows for a sixty-day public comment period before publishing the final draft by June 30<sup>th</sup>. The analysis includes resource requirements for

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

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 2022, Ecology published the workload analysis for fiscal years 2024 and 2025 (July 1, 2023 – June 30, 2025). 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 Shauna Abbenhaus at Shauna.Abbenhaus@ecy.wa.gov.

## Total program revenue and expenditure

For FY 2023 (July 1, 2022 - June 30, 2023), Ecology’s AOP program budget and projected revenue was \$2,441,459.

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 2022 and 2023

	FY 2022	FY 2023
AOP account opening balance	\$2,563,799	\$3,084,221 <sup>3</sup>
Actual revenue (fees)	\$2,021,917	\$2,695,288
Actual expenditures	\$1,501,295	\$1,699,991
AOP account closing balance	\$3,084,221	\$3,458,552

## 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 are suspended until the opening fund balance of a fiscal year is greater than nine months’ worth of estimated expenditures for the ensuing fiscal year (determined by prorated

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<sup>3</sup> Our state accounting system shows that we collected \$3,084,221 in fee revenue.

available expenditure authority). The opening fund balance in FY 2023 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 2023 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 2021-2023, which left \$400,000 to be proportionately distributed. Each of Ecology's sources received a rebate based on their FY 2023 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 \$2,326,587 from 25 facilities with AOPs. WAC 173-401-900(5)(b) directs the allocation of AOP fees to each source, which are due annually by February 28<sup>th</sup>. The amount billed included:

- Tier 1: Flat fee of \$31,021.16 per facility
- Tier 2: Complexity fee of \$131.31 per hour of oversight
- Tier 3: Emission fee of \$57.78 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 \$144,786 in D&O costs. Local clean air agencies' D&O fees are due annually by March 31<sup>st</sup>.

## **Expenditures**

Chapter 173-401-940 WAC lists the activities authorized to be performed using funds supported by the state AOP program. During FY 2023, Ecology spent \$1,699,990.60 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 2023 Expenditures

Salaries and Wages	\$1,023,887.45
Employee Benefits <sup>4</sup>	\$349,842.78
Professional Service Contracts	\$120,601.88
Goods and Services <sup>5</sup>	\$17,316.33
Travel	\$25,331.07
Capital Outlays <sup>6</sup>	\$534.12
Grants, Benefits, & Client Services <sup>7</sup>	\$318.00
Intra-Agency Reimbursements <sup>8</sup>	\$162,158.97
<b>Total</b>	<b>\$1,699,990.60</b>

## 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 minimum<sup>9</sup> rate for federal FY 2023 (September 2022 – August 2023) was \$58.55 per ton of emissions. Ecology sources emitted 13,421 tons of regulated pollutants, so Ecology’s presumptive minimum was \$775,529.

Ecology revenue was within range of the presumptive minimum for 2023 and is 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, and appeals.

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<sup>4</sup> Survivors’ insurance, disability insurance, retirement, etc.

<sup>5</sup> Materials, supplies, communications, postage, utilities, subscriptions, etc.

<sup>6</sup> Furnishings, equipment, and software purchases with a useful life greater than one year

<sup>7</sup> Charge to permittees for using electronic payment service (E-Pay)

<sup>8</sup> Reallocation of expenditures and accruals within an agency.

<sup>9</sup>[https://www.epa.gov/system/files/documents/2022-09/FEE70\\_2023.pdf](https://www.epa.gov/system/files/documents/2022-09/FEE70_2023.pdf)



- Permit management – inspections, stack test oversight, emissions reports, complaint investigations, 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.

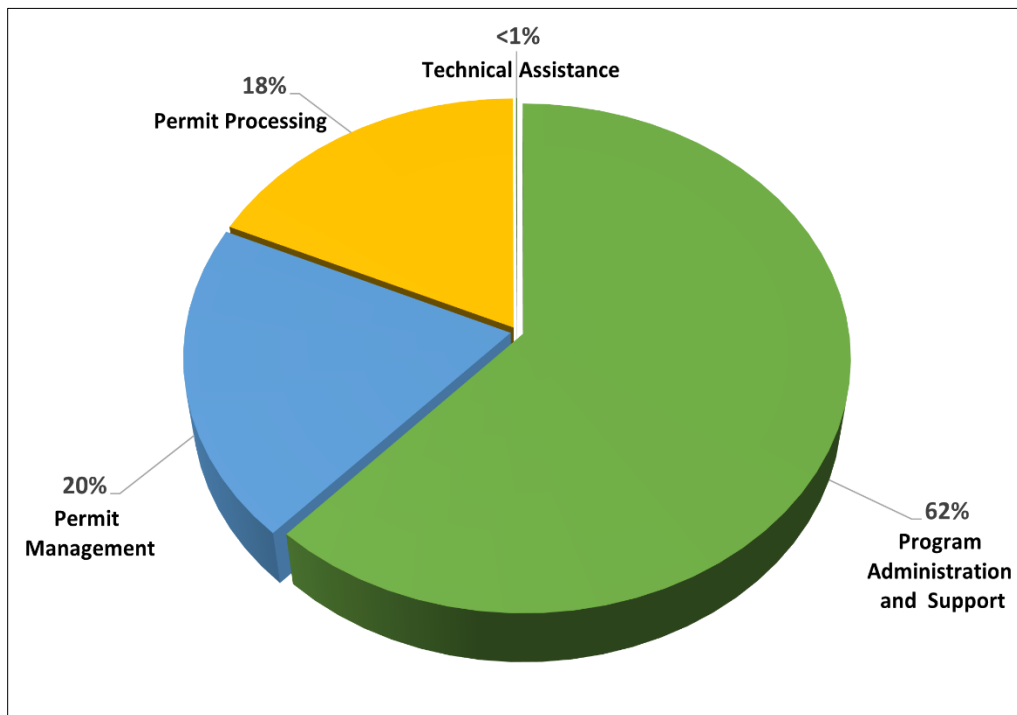


Figure 1. Air Operating Permit Work Activities

## Staffing levels

Ecology staff is 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 to 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 2023. In some instances, the actual FTE is more or less than the projected FTE due to the 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	0.43
Science and Engineering Section	1.45	1.32
Policy and Planning Section	0.03	0.03
Technical Services Section	0.41	0.16
Central Regional Office	1.15	0.85
Eastern Regional Office	3.11	1.37
Solid Waste Mgmt. Program - Industrial Section	5.51	5.37
Nuclear Waste Program - Hanford	2.24	1.54
Department of Health	0.54	0.53
	<b>14.82</b>	<b>9.50</b>

## 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 2023 fees, emissions data from calendar year 2021 was used. In Ecology's jurisdiction, sources with an AOP produced a total of 13,421 tons of fee eligible emissions:

- 1,877 tons of particulate matter of 10 microns in diameter or smaller (PM<sub>10</sub>)
- 2,633 tons of sulfur dioxide (SO<sub>2</sub>)
- 7,675 tons of nitrogen oxides (NOX)
- 1,236 tons of volatile organic compounds (VOC)

## Permit Processing

An Air Operating Permit 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 2023:

- 0 issued permit
- 1 modification
- 0 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	2	1	8	1	32%	38%

## Permit Management

Ecology’s goal is to ensure compliance by offering assistance and education to permittees. Compliance and enforcement<sup>10</sup> 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

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:

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<sup>10</sup> <https://echo.epa.gov/>

- 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
- 37 PCEs
- 103 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:

- 5 NOVs
- 7 HPVs
- 8 FRVs
- 3 NOPs

## Penalties

In FY 2023, Ecology issued 4 penalties for violating air quality standards and received \$118,250 in penalty money<sup>11</sup>.

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

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<sup>11</sup> Ecology's Docket Management System

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 rule<sup>12</sup> 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 the 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.<sup>13</sup> Ecology rule writers update 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.

### 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 System<sup>14</sup> (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

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<sup>12</sup> <https://www.epa.gov/title-v-operating-permits/current-regulations-and-regulatory-actions>

<sup>13</sup> <https://app.leg.wa.gov/RCW/dispo.aspx?cite=70.94>

<sup>14</sup> <https://icis.epa.gov/icis/>

data into ICIS. Staff can attend Environmental Compliance History Online<sup>15</sup> (ECHO) data verification training webinars to ensure proper data verification 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 which 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 Section<sup>16</sup> (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 2023, third-party training included:

- Western States Air Resources Council (WESTAR)
- EPA webinars
- Air Knowledge (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 150 people on the distribution list. There is an average of seventy attendees at each meeting. The meetings primarily consist of engineers and permit writers from Ecology, local clean air agencies, EPA 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 15, 2022

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<sup>15</sup> <https://echo.epa.gov/>

<sup>16</sup> <https://pnwis.org/>

- December 15, 2022
- March 16, 2023
- June 23, 2023

## 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.

- August 16, 2022: WestRock, Tacoma – Issued Permit Renewal
- August 17, 2022: Port Townsend Paper Corp – Issued Permit Renewal
- February 14, 2023: Puget Sound Energy – Application for AOP & Acid Rain Permit Renewal
- March 24, 2023: SGL Composites – Proposed Draft Modification to AOP Permit
- March 14, 2023: Echo Bay Minerals Company – Proposed Draft for Title V Permit
- May 2, 2023: LAB Washington – AOP Application
- May 5, 2023: Guy Bennett Lumber – Proposed Draft Permit Renewal

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

- November 23, 2022: Proposed Complexity Level for AOP Fees.

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 website<sup>17</sup>.

## 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 January 2024 for fiscal years 2021 and 2022. The next fiscal audit will be completed during FY 2026. The reports are published on the State Auditor’s Office website<sup>18</sup>

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<sup>17</sup> <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Air-Quality-permits/Air-operating-permits/Permit-register>

<sup>18</sup> <https://sao.wa.gov/reports-data/audit-reports/>

Every three years, Ecology and local clean air agencies conduct an overview performance audit. The last audit was completed in May 2022 and a report was issued in May 2022. Chapter 173-401 WAC requires an audit advisory committee, an audit framework, and options for an intensive performance audit. The next audit is scheduled to be conducted in 2024.

To view these reports, visit Ecology's website.<sup>19</sup>

Periodically, EPA conducts reviews of the Title V program. EPA conducts a Title V program review<sup>20</sup> to determine the timeliness of permit issuance, permit content, and financial accountability. They also conduct a State Review Framework<sup>21</sup> (SRF) to review how our program manages compliance, enforcement, and data reporting accuracy. Each of these reviews considers if previous findings have been addressed.

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<sup>19</sup> <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Air-Quality-permits/Air-operating-permits>

<sup>20</sup> <https://www.epa.gov/caa-permitting/permit-program-reviews-epa-region-10>

<sup>21</sup> <https://www.epa.gov/compliance/state-review-framework>