

**WAC 173-401-920 Accountability—Ecology and delegated local authorities.** (1) Public participation during fee determination process. Ecology shall provide for public participation in the fee determination process described under WAC 173-401-900, which provision shall include, but not be limited to, the following:

(a) Ecology shall provide opportunity for public review of and comment on each biennial workload analysis and budget.

(b) Ecology shall publish in the *Permit Register* notice of issuance of its draft biennial workload analysis and draft biennial budget and issuance of its annual fee schedule.

(c) Ecology shall make available for public review, on or before February 28 of each even-numbered year, copies of its draft biennial workload analysis and draft biennial budget. Ecology shall make available for public review, on or before October 31 of each year, copies of its annual fee schedule, including information on availability of the data used for the determination. Ecology shall maintain a mailing list of persons requesting opportunity for review under this subsection or under WAC 173-401-925(1). Ecology may, from time to time, inform the public of the opportunity to be placed on the mailing list and may delete from the list persons who fail to respond to an inquiry regarding continued interest in receiving materials.

(d) Ecology shall provide at least sixty days for public comment on the draft biennial workload analysis and draft biennial budget. Such sixty-day period for comment shall run from the date ecology mails the draft workload analysis and draft budget as provided in (c) of this subsection.

(2) Tracking of revenues, time and expenditures.

(a) Revenues. Ecology shall track revenues on a source-specific basis.

(b) Time and expenditures. Ecology shall track time and expenditures on the basis of source categories and functional categories, except that, as part of a demonstration project undertaken pursuant to RCW 70.94.162, ecology will track time and expenditures on a source-specific basis for at least three but no more than five sources.

(i) Sources will be grouped into five categories, as follows:

(A) Kraft pulping mills;

(B) Sulfite pulping mills;

(C) Metal processing and related industries;

(D) Sources located on the Hanford Reservation; and

(E) Other sources, including those sources under the jurisdiction of ecology's central and eastern regional offices.

(ii) Functions will be grouped into several categories and subcategories, as follows:

(A) Program management and support;

(B) Program development;

(C) Permit processing;

(I) Application assistance and review;

(II) Preparing draft and final permits;

(D) Permit management and compliance activities;

(E) Technical assistance; and

(F) Outreach and education.

(c) Use of information obtained from tracking revenues, time and expenditures.

(i) Ecology shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during the biennial review provided for under WAC 173-401-900.

(ii) The information obtained from tracking revenues, time and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

(3) Fiscal audits and reports.

(a) Ecology and each delegated local authority shall contract with the state auditor to have the auditor perform a fiscal audit of ecology's and each delegated local authority's operating permit program every other year.

(b) Fiscal audits shall address the following:

(i) Determine how much operating permit fee revenue was collected each fiscal year.

(ii) Determine whether operating permit fee revenue covered all authorized program expenses.

(iii) Determine whether the fees were computed correctly.

(iv) Determine whether invoices were sent out in a timely manner.

(v) Determine whether billed fees were collected.

(vi) Determine how fee revenues and expenses were accounted for, including amounts of shortfalls and overages and an explanation for them.

(vii) Determine if there was a program budget increase or decrease over the period being audited.

(viii) Determine whether operating permit fee revenues were used only for authorized activities.

(4) Performance audits and reports. Ecology and each local authority (the agencies) shall have a performance audit at least every three years.

(a) Overview performance audit. Every three years, the agencies shall:

(i) Conduct an overview audit using data collected in previous years. Each agency shall collect and analyze their data and provide a summary to the air operating permit performance audit advisory committee (the committee).

(ii) Consider program efficiencies that could reduce costs or improve performance of the operating permit program and report any identified efficiencies to the committee.

(b) Intensive performance audit.

(i) The committee, as established in subsection (5) of this section, may recommend an agency participate in a more intensive audit.

(ii) The public may submit a request for an intensive audit to the committee. The request must identify issues of concern and explain how the overview performance audit does not address them.

(iii) An intensive audit will not take place more frequently than every six years.

(iv) Ecology shall determine final recommendations for the requirements of the overview and intensive performance audits.

(c) Performance audit elements. The following are intended to serve as a guideline for operating permit program intensive performance audits.

Intensive performance audits may include, but are not limited to, assessing the following elements:

(i) Administration of program - Review of activities such as program administration, training, data management, fee administration, and clerical support.

(ii) Permit processing - Review of activities such as review of required permit elements, adequacy of statement of basis, adequacy of technical support document, timeliness of permit processing, permit modifications, permit amendments, and permit appeals.

(iii) Permit management - Review of activities such as inspections, stack test oversight, reports, complaint investigations, administrative enforcement, and compliance.

(iv) Technical assistance - Review of the operating permit technical assistance program.

(v) Education and outreach - Review of activities such as public notification, permit register maintenance, notifications to EPA and affected states, and publications.

(d) Reports on the overview and intensive audit results.

Ecology shall publish a report for each audit. The report shall include:

(i) Recommendations from the committee members.

(ii) Ecology's final recommendations for performance audit requirements.

(iii) Audit results. Ecology shall distribute a copy of the report to the delegated local authorities and the committee members. Ecology shall also post the report on their website.

(5) Air operating permit performance audit advisory committee (the committee).

(a) Ecology shall establish the committee.

(b) The committee shall operate under a written charter. In consultation with the committee, ecology shall establish the committee charter.

(c) The committee shall meet at least once every three years and begin the first overview performance audit no later than January 2017.

(d) Ecology shall appoint committee members.

(e) Committee membership shall include, at a minimum:

(i) Representation from ecology.

(ii) Representation from the regulated community.

(iii) Representation from a delegated local authority.

(iv) The following representation is desirable:

(A) Environmental group(s).

(B) General public.

(f) The committee shall:

(i) Develop a timeline for the schedule of agency reviews, collecting reports, reviewing reports, and submitting recommendations to ecology.

(ii) Every three years, review data reports prepared by the agencies.

(iii) Submit to ecology:

(A) Recommendations for evaluating and improving program performance statewide.

(B) Observations from the data review, including trends analysis (identifying trends).

(C) Recommendations for intensive audit content if an intensive audit is recommended.

(g) Public process. The committee meetings shall be open to the public. Ecology shall announce the public meeting and opportunity to comment on performance audit recommendations.

(6) Conducting intensive performance audits.

(a) If ecology determines that an intensive performance audit is needed, ecology shall establish the intensive audit schedule.

(b) Ecology shall audit the delegated local authorities. A delegated local authority shall audit ecology. An independent contractor may be used to conduct a required intensive audit.

(c) Performance audit contractor requirements.

(i) If an independent contractor is used to conduct an intensive performance audit, the contractor must have experience with the operating permit program.

(ii) To the extent possible, the contractor shall be free of any conflicts of interest. A contractor applying to conduct the audits shall disclose any potential conflicts of interest in its application.

[Statutory Authority: RCW 70.94.011, 70.94.161, 70.94.162, 70.94.331, and 70.94.510. WSR 16-05-003 (Order 13-12), § 173-401-920, filed 2/3/16, effective 3/5/16. Statutory Authority: Chapter 70.94 RCW. WSR 94-02-041 (Order 93-19), § 173-401-920, filed 12/30/93, effective 1/30/94.]