

Wastewater and Stormwater Discharge Permit Fee Program

Report to the Legislature
State Fiscal Biennium 2005-07

March 2008

Publication Number 08-10-05;



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Prepared by:
Beverly A. Poston
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

May 2008
Publication Number 08-10-039

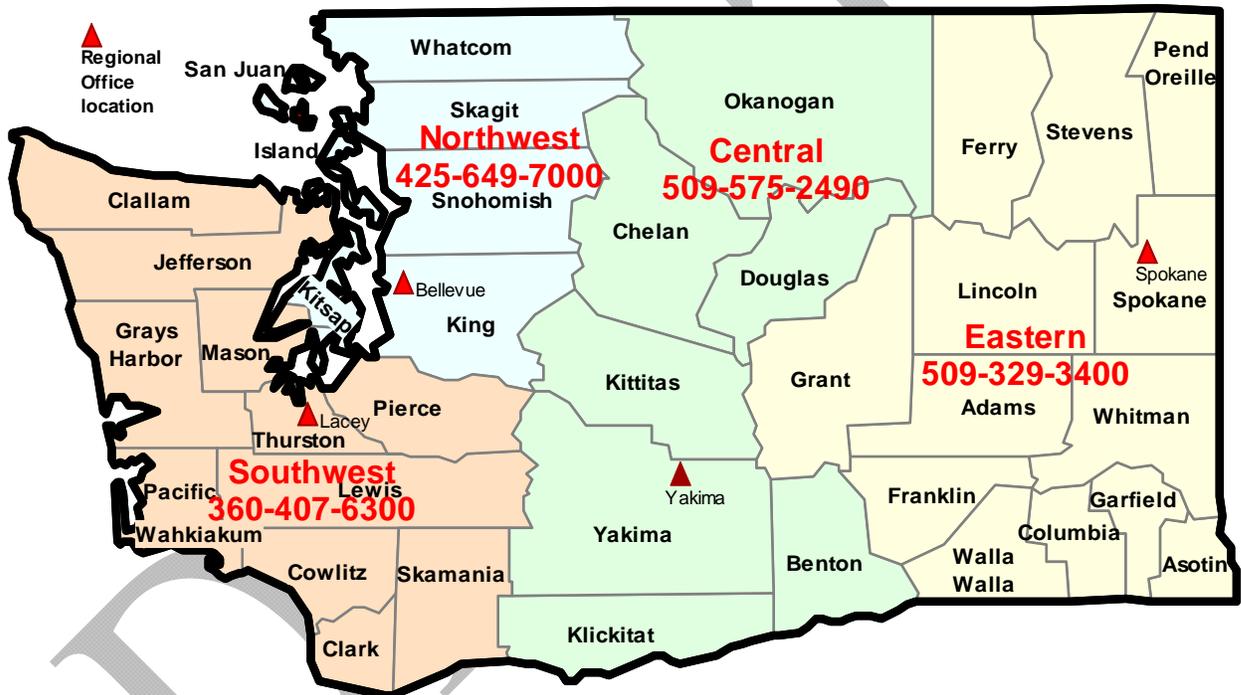
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For more information contact:

Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Telephone: 360-407-6502

Headquarters (Lacey) 360-407-6000



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Wastewater and Stormwater Discharge Permit Fee Program

Report to the Legislature

Introduction

The Department of Ecology (Ecology) is authorized by state law to assess annual fees to fund the operation of the water quality wastewater discharge permit program. RCW 90.48.465 (Water Pollution Control) gives Ecology the authority to establish fees that will fund the administration of wastewater discharge permits. The law states that all fees charged will be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and the reduction of the quantity of pollutants.

The water quality wastewater discharge permit program has been funded through annual fees since 1987, when Senate Bill 6085 was passed authorizing the development of a rule establishing annual permit fees (to recover revenue to meet the biennial appropriation set by the Washington State Legislature). Ecology responded to this authorization by developing Chapter 173-224 WAC – Wastewater Discharge Permit Fees.

Fees paid by holders of wastewater and stormwater discharge permits are deposited in a dedicated account and not into the state general fund. Each biennium the state Legislature authorizes Ecology in the same operating budget to spend fee funds from the permit fee account for fee-eligible activities. This report discusses fee revenues and expenditures from the permit fee account for the 2005-07 biennium (July 1, 2004, through June 30, 2006). This report also lists fee-eligible activities and gives a brief description of each Ecology program using monies from the dedicated permit fee account for the 2005-07 biennium.

The number of permit fee payers statewide for the 2005-07 biennium averaged 5,120.

Initiative 601

In 1994 Washington State voters passed Initiative 601 (I-601) which required fee increases to be linked to the state fiscal growth factor. The average fee increase for the administration of the wastewater discharge permit program since the passage of I-601 has averaged between two and six percent. Historically, Ecology has not increased fees beyond the fiscal growth factor for wastewater and stormwater discharge permit holders. During the 2005 legislative session, Ecology received an authorization allowing an increase in permit fees beyond the fiscal growth factor for the 2005-07 biennium.

Initiative 960

Initiative 960 (I-960), passed by Washington State voters in November 2007, requires new and increased fees to receive legislative approval prior to implementation. It also requires ten-year cost projections for fee proposals and makes provisions for certain notification procedures. The effective date of I-960 was December 5, 2007.

Ecology received the authority during the 2008 legislative session to increase fees for FY2009 up to the fiscal growth factor. Formal rule-making to cover fiscal years 2009 and 2010 has begun and Ecology expects to adopt fee increases by August. Because rule-making can only occur once every two years, Ecology is also proposing a fee increase up to the fiscal growth factor for FY2010 provided the Legislature authorizes that fee increase. If there is no authorized increase, the fee amount adopted for FY2009 will remain in effect.

Permit Fee Task Force

Ecology has charged annual permit fees since 1988. However, because of restrictions in the Department's ability to increase fees to meet program costs (I-601 and I-960), monies collected can no longer fully fund the permit program. Because of this, Ecology experienced a large revenue shortfall for FY2009.

While the Department wanted to increase fees above the fiscal growth factor, which had been allowed by the Legislature, Ecology felt it prudent to better document its expenditures. In late calendar year 2006, Ecology developed and implemented a new time management system which provides detailed information on the management of wastewater and stormwater discharge permits. Information from this system will be used to evaluate the permit fee structure. Presently, Ecology has one complete year's worth of data collected from the time management system.

Permit holders have also expressed concern over the existing fee structure and have requested the opportunity to examine the fee schedule and identify alternatives to the existing structure that would provide equity between fee payers and still fully fund Ecology's permit program.

Ecology convened a Task Force in February 2008, which began examining the permit fee regulation and addressing the difference between program costs and program revenues. Recommendations and decisions made by Ecology and Task Force members will be addressed in future rule-making.

Biennial Legislative Appropriation For 2005-07

Appropriation Level: \$31,909,000*

* Includes \$238,000 appropriated to the Department of Agriculture for management of dairy wastewater permits.

Revenues for the 2005-07 Biennium

The total revenue received from holders of wastewater permits, state waste discharge permits, and stormwater permits for the 2005-07 biennium totaled \$29,515,340.

Revenues from wastewater and state waste discharge permit holders

Table 1 below shows the amount of revenue Ecology received during the 2005-07 biennium from industrial and municipal wastewater and state waste discharge permit holders. It also indicates the average number of permit holders within each permit fee category. Permit fees for wastewater and state waste discharge permit holders are based on various criteria. Some fee categories are a flat fee for a specific permitted activity; several categories contain subcategories based on permitted maximum discharge flow while other subcategories are based on production.

Fees for a permit held by a municipality for a domestic wastewater facility are based on a flat rate multiplied by the number of residential equivalents (RE) the municipality governs. Presently, the flat rate totals \$1.80 per RE for municipalities who have an RE population totaling less than 250,000. The fee rate totals \$1.18 per RE for municipalities who have an RE population totaling greater than 250,000. At this time, all municipalities, with the exception of Seattle King County, are at the fee cap totaling \$1.80 per RE. Fees for these municipalities cannot be increased unless the Legislature changes the \$1.80 fee cap set in RCW 90.48.465 – Water Pollution Control. The fee for Seattle King County can be increased until it reaches the \$1.80 fee cap, provided Ecology gets prior legislative approval to increase fees and goes through formal rule-making.

Table 1 – 2005-07 Biennium Industrial Wastewater/State Waste Discharge Permit Fee Revenues by Fee Category

Type of Permit Holders	Revenue Received	Number of Permit Holders (Average)
Industrials		
Aggregate Production – General Permit	\$ 2,089,981	912
Aggregate Production – Individual Permit	14,934	3
Aluminum & Magnesium Reduction Mills	522,297	6
Aluminum Alloys	29,523	1
Aluminum Forming	91,288	2
Aquaculture – General Permit	487,296	86
Aquaculture – Individual Permit	119,690	14
Aquatic Pest Control	57,991	93
Boatyards – General Permit	28,588	96
Coal Mining & Preparation	94,467	2
Combined Food Processing Waste Treatment	113,056	4
Combined Industrial Waste Treatment	103,323	3
Combined Sewer Overflow System	23,616	1
Concentrated Animal Feeding Operation	23,291	9
Crop Preparing – General Permit	980,872	124
Crop Preparing – Individual Permit	18,892	1
Dairies – General Permit	65,376	51
Facilities Not Otherwise Classified	1,185,226	74
Flavor Extraction	1,361	5

Food Processing	3,013,372	80
Fuel & Chemical Storage	169,192	10
Hazardous Waste Clean Up Sites	147,381	13
Ink Formulation & Printing	31,794	3
Inorganic Chemical Manufacturing	274,616	11
Iron & Steel	118,912	2
Metal Finishing	132,751	18
Noncontact Cooling Water with Additives – General Permit	86,829	49
Noncontact Cooling Water with Additives – Individual Permit	101,101	9
Noncontact Cooling Water without Additives – General Permit	65,483	16
Noncontact Cooling Water without Additives – Individual Permit	307,417	17
NonFerrous Metals Forming	59,046	2
Ore Mining	64,948	3
Organic Chemical Manufacturing/RCRA	130,062	1
Organic Chemical Manufacturing	59,041	1
Petroleum Refining	1,001,756	5
Photofinishers	16,530	5
Power and/or Steam Plants	280,835	12
Private & State Owned Facilities	160,368	32
Pulp, Paper and Paperboard	2,537,838	15
Radioactive Effluents & Discharges	262,551	2
RCRA Corrective Action Sites	41,496	1
Seafood Processing	539,198	35
Shipyards	223,283	19
Solid Waste Sites	212,915	14
Textile Mills	118,086	1
Timber Products	383,297	20
Vegetable/Bulb Washing	10,609	6
Vehicle Maintenance & Freight Transfer	39,777	7
Water Plants – General Permit	133,377	30
Water Plants – Individual Permit	34,070	6
Wineries	78,909	12
Municipals		
< 10,000 Residential Equivalents	1,364,185	250
10,000 - < 50,000 Residential Equivalents	2,028,265	25
50,000 - < 250,000 Residential Equivalents	1,436,063	5
250,000 Residential Equivalents & Greater	1,464,985	3

Revenues from stormwater permit holders

Table 2 below shows the amount of revenue Ecology received during the 2005-07 biennium from stormwater discharge permit holders. It also indicates the average number of permit holders within each permit fee category. Fees for municipal general permit holders are based on the number of housing units contained within the census defined area covered by the permit. Fees for industrial general permit holders are based on company gross revenue. This structure enables Ecology to mitigate the impact of the

fee on small businesses. Fees for construction and individual permit holders are based on the number of disturbed acres for the project.

Table 2 – 2005-07 Biennium Stormwater Permit Fee Revenues by Fee Category

Type of Permit Holders	Revenues Received	Number of Permit Holders (Average)
Municipal General Permits	\$ 793,162	60
Construction General Permits	2,502,676	1864
Industrial General Permits	2,097,259	958
Individual Permits	316,203	28

Small Business Fee Reductions

The water quality permit law (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. The eligibility requirements for small businesses consist of the following:

- 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 business.
- Have annual sales of one million dollars or less of the goods and services produced using the processes regulated by the waste discharge permit.
- Pay an annual discharge permit fee greater than \$500.

In addition to the small business fee reduction, Ecology also allows for extreme hardship fee reductions. Businesses that qualify for the extreme hardship fee reduction are allowed to have their annual permit fee reduced to \$100. The eligibility requirements consist of the following:

- Have annual sales totaling \$100,000 or less of the goods and services produced using the processes regulated by the waste discharge permit.

Holders of wastewater discharge permits, stormwater construction permits, and industrial stormwater individual permits are eligible to apply for fee reductions. The fee schedule used for industrial stormwater general permit holders was developed in a manner that incorporated both small business and extreme hardship reductions into its schedule.

The total savings to wastewater and state waste discharge small businesses that qualified for the small business and/or extreme hardship fee reduction consideration for the 2005-2007 biennium totaled \$501,669. The breakout for each fiscal year is as follows:

- Fiscal year 2006: Ecology reduced permit fees for 156 businesses, resulting in a savings for small business totaling \$253,852.
- Fiscal year 2007: Ecology granted 99 businesses annual fee reductions for a total savings of \$257,917. The number of applications received for fiscal year 2007

was reduced from the previous year because the fee structure for industrial stormwater general permits was changed with fees now being based on company gross revenue. By having this type of structure, the criteria for small business and extreme hardship are already reflected in the fees being paid by the permit holders.

Expenditures for the 2005-07 Biennium

Available budget

2005-07 Biennium carry-over:	\$	181,721
Actual Revenue:	\$	29,515,340
Operating Budget:	\$	30,359,126

Table 3 below shows the actual expenditures by fee-eligible tasks for wastewater and state waste discharge permit holders for the 2005-07 biennium. FTE represents the number of full-time employees.

Table 3 – 2005-07 Biennium Actual Permit Fee Expenditure Summary For Industrial Wastewater/State Waste Discharge Permits

Activity	FTEs	Cost \$
Management and Support	11.69	2,289,269
Regional and Clerical	3.31	546,987
Compliance	2.70	514,780
Program Development	6.46	1,326,915
Permit Processing & Management	27.81	5,407,554
Inspections	15.93	3,618,531
Report and Review	7.26	1,496,116
Appeals	0.97	202,474
Data Management	3.38	650,385
Technical Assistance	4.17	829,240
Outreach and Education	0.47	89,842
Administrative Services	3.28	423,929
Cost Allocation	18.63	2,859,398
Expenditures	106.05	20,255,419.05

Table 4 below shows the actual expenditures by fee-eligible tasks for stormwater discharge permit holders for the 2005-07 biennium. FTE represents the number of full-time employees.

Table 4 – 2005-07 Biennium Actual Permit Fee Expenditure Summary For Stormwater Discharge Permits

Activity	FTE's	Cost - \$
Management and Support	6.29	1,232,683
Regional and Clerical	1.78	294,531
Compliance	1.45	277,189
Program Development	3.48	714,493
Permit Processing & Management	14.98	2,911,760
Inspections	8.58	1,948,440
Report and Review	3.91	805,601

Appeals	0.52	109,024
Data Management	1.82	350,207
Technical Assistance	2.25	446,514
Outreach and Education	0.25	48,377
Administrative Services	1.77	228,270
Cost Allocation	10.03	1,539,676
Expenditures	57.10	10,906,764.10

The number of FTEs paid from permit fee revenue for the 2005-07 biennium for wastewater and stormwater totals 163.16. The FTE total on Table 4 is a subset of the FTE total on Table 3. The permit fee revenue collected from wastewater and stormwater permit holders for the 2005-07 biennium totals \$30,359,126.

Actual expenditures by activity

This section summarizes the fee-eligible components of the wastewater discharge permit program listed in Tables 3 and 4.

Program Management and Administrative Support

Activities in these categories include supervision, management, and clerical support of direct permit program services. These activities include permit manager support, word processing, and other clerical assistance in the course of developing permits. They also include the provision of guidance and management in controversial situations and the administration of the fee system, budget, and program planning.

Compliance

Currently, formal enforcement is not paid by permit fees. However, compliance activities are actions aimed at getting and keeping permit holders in compliance with their permits. Activities include the use of such methods of warning letters and telephone calls, providing technical assistance, and other actions until such a time issues might escalate to a level where formal enforcement actions are needed.

Program Development

Activities under this category include those that support or guide fee-related permit development updates and revisions. These include rule development to implement statutory requirements as well as other activities that involve the development of policies and standard operating procedures to efficiently and effectively administer the permit program.

Permit Processing

Permit processing involves soliciting and processing permit applications, evaluating and making decisions on information and data contained in the applications, preparing fact sheets to communicate how permit decisions are made, conducting a public process on draft and final permits, and issuing individual and general permits.

Permit processing also includes quality assurance and quality control (QA/QC) of the content of the permit before it is issued by the headquarters or regional office. This QA/QC process involves checking permits for consistency with both federal and state law.

Permit processing includes activities involved in the oversight of pretreatment-delegated municipalities (those that have received authority from Ecology to write and issue their own wastewater discharge permits) as well as the technical assistance provided to municipalities in obtaining pretreatment delegation.

Inspections

Inspections involve facility and site inspections conducted by headquarters and regional offices, compliance monitoring, and complaint response. They also include specialized environmental investigations that might be needed to ensure permit compliance and to determine if special conditions need to be implemented within a given discharge area that might not meet state water quality laws.

Report Review

This involves reviewing permit-required reports, such as discharge monitoring reports and other permit holder prepared submittals. It also includes the review of engineering studies and sewage system planning reviews.

Appeals

This involves responding to appeals of permits by permit holders or third parties. Appeals involve case preparation and participation by Ecology staff at the Pollution Control Hearings Board sessions.

Data Management

Data management involves the operation and maintenance of the permit program's central database, the Water Permit Lifecycle System (WPLCS). WPLCS is the central data management system that stores permit-specific information on each of the permitted facilities. Information includes, but is not limited to, facility name, type of facility, location, effluent limits, discharge monitoring reports, and inspection and enforcement data.

This category also includes entering permit holder and financial data and maintaining the Billing and Revenue Tracking System (BARTS) that is used to track and account for the fees for almost 6,000 permit holders.

Technical Assistance

Technical assistance is provided to permit holders before, during, and after processing a permit or authorization that is not part of the normal permit review and communication process. It involves municipal wastewater treatment plant operators and permit holders on the application of rules, policies, guidelines, and manuals. It also includes site visits to many general permit holders.

Outreach and Education

Outreach and information sharing with a focus on the permit program is provided to the public or permitted industries and municipalities. It includes preparing and using educational materials and conducting outreach to permit holders on the proper use of technical manuals and guidelines.

Administrative Services

This 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 include financial, personnel, portions of executive-level management, and others.

Cost Allocation

Cost allocation consists of direct monetary charges to Ecology programs that are required to pay for items such as building space and communications. There are no staff members associated with cost allocation.

Anticipated expenses for the 2007-09 Biennium

The 2007 Legislature authorized \$38,900,000 to be expended from wastewater and stormwater permit fees for the 2007-09 biennium. This amount was reduced during the 2008 legislative session after it was discovered Ecology would not collect the higher amount authorized from permit holders. The FY2009 projection totals \$34,067,509. The Department of Agriculture will receive \$61,000 for operation of the dairy program. The total fee-funded FTEs are projected to be approximately 163.

Revenue Impacts to the Fee Program

The permit fee program will have a decreased number of FTEs because of the unanticipated expenses that occurred after the fee rule was last amended and fee rates changed to reflect program costs for state fiscal years 2007 and 2008. All state employees were given pay increases for both fiscal years. The Washington State Department of Personnel further authorized additional pay increases for state employees in the engineering and hydrogeologist work classes beyond the percentages given to all state employees. There are a significant number of engineers and hydrogeologists managing permits within the wastewater and stormwater permit program.

Another impact to the fee revenue projection has been the inability of Ecology to anticipate the number of construction stormwater permits it will manage during the biennium. Historically, the construction stormwater permit program has averaged approximately 800 - 900 permits during a biennium. However, when the permit was re-issued, construction sites between one and five acres were required to obtain permit coverage if a stormwater discharge resulted from the construction activity. Although the numbers of construction stormwater permits has increased dramatically (800 +/- to more than 2,000 in a very short time), the overall projected number of permits is lower than what was estimated. This resulted in less revenue being received. In addition, the number of stormwater construction permit fee delinquencies has increased to a rate higher than was expected.

Table 5 below shows the anticipated expenditures by fee-eligible task for wastewater and state waste discharge permit holders for the 2007-09 biennium. FTE represents the number of full-time employees.

**Table 5 – 2007-09 Biennium Anticipated Permit Fee Expenditure Summary
Industrial Wastewater/State Waste Discharge Permits**

Activity	FTE's	Cost - \$
Management and Support	11.68	2,440,573
Regional and Clerical	3.30	690,314
Compliance	2.70	563,264
Program Development	6.45	1,348,092
Permit Processing & Management	27.78	5,807,031
Inspections	15.92	3,327,108
Report and Review	7.26	1,516,887
Appeals	0.97	203,465
Data Management	3.37	705,175
Technical Assistance	4.17	870,768
Outreach and Education	0.47	97,442
Administrative Services	3.28	684,653
Cost Allocation	18.61	3,889,110
Expenditures	105.95	\$ 22,143,881

Table 6 below shows the anticipated expenditures by fee-eligible tasks for stormwater discharge permit holders for the 2007-09 biennium. FTE represents the number of full-time employees.

**Table 6 – 2007-09 Biennium Anticipated Permit Fee Expenditure Summary
Stormwater Discharge Permits**

Activity	FTE's	Cost - \$
Management and Support	6.29	1,314,155
Regional and Clerical	1.78	371,707
Compliance	1.45	303,296
Program Development	3.47	725,895
Permit Processing & Management	14.96	3,126,863
Inspections	8.57	1,791,520
Report and Review	3.97	816,785
Appeals	0.52	109,558
Data Management	1.82	379,709
Technical Assistance	2.24	468,875
Outreach and Education	0.25	52,469
Administrative Services	1.76	368,659
Cost Allocation	10.02	2,094,136
Expenditures	57.05	11,923,628

Ecology 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 percent of the wastewater discharge permits managed by Ecology. The WQP manager is the designated policy lead of the permit program. The WQP has three sections at headquarters and sections in each of Ecology's four regional offices, as well as personnel assigned at Ecology's Bellingham and Vancouver field offices.

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

The Watershed Management Section, located at headquarters, has primary responsibility for non-permit Water Quality functions. Most of the work assigned to this section includes maintenance of water quality standards, water body assessments, and policies for managing impaired water bodies.

The Financial Management Section within the WQP manages grant and loan activities and the collection of permit fees. Assessing permit fees for all wastewater and stormwater permit holders, invoicing, monitoring delinquent accounts, and revoking permits for nonpayment of fees are the duties of the Permit Fee Unit housed within this section.

The Water Quality Program Regional and Field Offices include four regional offices located in Bellevue, Lacey, Yakima, and Spokane and two small field offices located in Bellingham and Vancouver. These offices are responsible for issuing, managing, and inspecting permitted facilities and ensuring permit compliance within its regional boundaries. Water quality regional section managers report to the headquarters office.

Solid Waste and Financial Assistance Services

Solid Waste and Financial Assistance Services Program at headquarters includes the Industrial Section that is responsible for permit processing, management, and inspections for major industrial wastewater and state waste discharge permittees 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 permits.

Environmental Assessment Program

The Environmental Assessment Program (EAP) is Ecology's in-house environmental consultant. EAP also conducts most detailed inspections, 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.

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 (CRCLA) 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, the TCP has the lead responsibility for permit processing, management, and inspections. The Sediments Unit is also housed in the TCP and is responsible for developing sediment quality standards and permit guidance for their implementation.

Additionally, the TCP houses the "Urban Bay Action Teams" in the Western Washington regions for Puget Sound. These teams coordinate major cleanups directly affecting Puget Sound. These cleanups occasionally involve wastewater discharges. In those instances, the TCP has the permit processing, management, and inspection responsibilities.