

# Municipal Wastewater Permit Fees Advisory Committee

## Final Recommendations and Decisions

### Background and Orientation

#### Purpose and Authority

During the 2022 Legislative session, the legislature removed a cap on fees that can be charged to municipalities for water quality permits for municipal/domestic wastewater facilities. With the cap removed, the permit fee program can recover the costs of administration and Ecology can adequately support these communities with their permitting needs.

Permit management and legal complexity has grown dramatically over the last few decades, while the permit fee rates have not maintained adequate funding levels to fully support necessary work. As a result, Ecology's staffing is not sufficient to keep up with the overall workload, which includes updating permits every 5 years, conducting inspections, providing technical assistance, and performing required engineering oversight. Ecology cannot currently meet all the community needs that ensure wastewater treatment facilities are functioning properly to protect streams, rivers, and Puget Sound. Ecology routinely must prioritize local needs, resulting in inconsistent timeliness and level of service. As Ecology has endeavored to manage the workload with limited staff, a large permitting backlog has developed. Approximately seventy percent of Ecology's roughly 300 municipal permits are past their expiration date and have been administratively extended, meaning they remain in effect and are enforceable but may not be modified.

ESSB 5585 (2022 Legislative session) amended RCW 90.48.465 to remove the fee cap and create The Municipal Wastewater Permit Fees Advisory Committee ("advisory committee"). The advisory committee was tasked with producing municipal wastewater discharge permit fee recommendations to the Department of Ecology's Water Quality Program (WQP). The recommendations must adjust fees to reduce the permit backlog and fully recover the costs of administering municipal wastewater permits. Statutory performance targets include reducing the permit backlog to forty percent by 2025 and twenty percent by 2027.

There were two phases of the advisory committee that were required by ESSB 5585:

- Conducting a workload analysis to determine the necessary staffing to best support permittees and reduce the permit backlog, to meet state and federal legal mandates and needs of permittees.
- Recommending how to structure the underlying permit fees and the timing and sequence of adjustments to reduce the permit backlog to 20% by 2027.

#### Scope

The Municipal Wastewater Permit Fees Advisory Committee's recommendations will address the fees only for individual domestic wastewater permits. This fee schedule is described in Section (3)(a) of the current WAC 173- 224-040 permit fee schedule. All other changes to permit fees are addressed by the broader WQ Permit Fee rule update process.

## Committee Decisions and Recommendations

Details of the Advisory Committee's discussions can be found in meeting presentations and notes on Ecology's [EZView webpage](#). What follows is a summary of the key decisions and recommendations of the Committee.

### Workload Analysis

- Ecology does not have detailed data on how long it takes to write a permit or perform other permit management functions. Since each municipal wastewater facility faces unique situations and wastewater management demands, data related to facility-specific workload would be highly variable. After evaluating staffing ratios across the 4 regions, the committee approved Ecology's recommendation of a 10:1 ratio of WWTP permits per permit manager FTE.
- 10:1 was identified by Ecology as the staffing level necessary in the WQ program to support adequate levels of service to WWTP permittees.
- 10:1 is based on high-level performance data (backlog rate) that incorporate all variables and this staffing ratio has been shown to work in the Northwest Region over time.
- The group's decision also included a recommendation that Ecology hire an additional coordinator position to optimize statewide permitting efficiencies.
- With 12 external members voting, the group came to a general consensus with everyone showing either enthusiastic or lukewarm support.

### Fee Schedule Recommendation

- The committee recommends using the existing fee structure methodology (based on Residential Equivalents, or REs, meaning households or equivalent wastewater) for the 2023 fee rule update (establishing FY24 and FY25 fees), to achieve the 10:1 staffing level agreed to earlier. This is calculated to be an annual rate of \$3.43 per RE. The \$3.43 per RE rate covers the cost of staffing, associated costs to support permitting work (equipment, travel for site visits, lab analyses, agency overhead and administration, etc.), and some inflation. We plan to phase in additional increases in order to eliminate using other fund sources to support WWTP permitting.
- The committee was strongly interested in using facility flow data as a basis for permit fees, but several barriers to quick implementation emerged. The committee recommends meeting in 2024 to explore in more detail these other fee structure options for 2025.
- With 9 external members voting, the group came to a general consensus with everyone showing either enthusiastic or lukewarm support.

### Annual Check-ins

- The committee recommends that Ecology host annual check-in meetings with the committee starting in 2024 through 2027.
- Annual check-in meetings allow the group to track if the staffing level is operating as intended to reduce the backlog and to consider other options or adjust the fee structure as needed.
- In addition, Ecology will send an email update in 2023 detailing the progress that has been made to date.

### Requests for Additional Information

- The group has identified a list of additional data or informational needs they request Ecology look into before reconvening in 2024. Requested items include:

- Water quality permit philosophy for fee rate setting and funding water quality protection (use of permit fees, general fund, and other accounts)
- Workload data (how many hours it takes to write and manage each permit)
- Ecology's strategy to get ahead (and stay ahead) of the issue of water quality permits increasing complexity
- Progress update on Ecology's efficiencies identified by permit writers in an earlier process improvement workgroup
- Tracking how fee revenue grows vs. inflation as a result of RE growth
- Considering whether smaller treatment plants need individual NPDES or SWD permits, or whether there is a simpler tool available that still protects water quality
- Exploration/understanding of PARIS actual flow data, to assess its potential use as a basis for fees
- The committee also identified key communication elements for a summary of this process to help other jurisdictions understand our recommendations. This overall workplan might include:
  - Our overall goals/what we're trying to accomplish
  - Reminders about what the fees cover
  - Describing the two phases of fee changes (using REs at a higher rate now; considering other options and reducing the use of other fee sources in 2025)
  - Describing areas for further exploration, our implementation strategy and follow up items

## Ecology's Notes on Implementation

Ecology is eager to reduce the backlog as well as address the committee's additional requests. With an awareness of limited resources, the permit backlog will be Ecology's paramount priority. The initial focus will be hiring, onboarding, and training new staff to increase permit writing capacity. Ecology will concurrently assess and respond to the committee's additional requests, including further data and informational needs, as capacity allows.

In order to reduce the permit backlog, Ecology submitted a request for additional staff to the Governor's budget office (OFM) in early September 2022. The budget request included 12 permit related FTEs. The CR-102 for 2023 fee rulemaking will include the committee's proposed annual rate of \$3.43 per RE, calculated to achieve the 10:1 permit to FTE staffing level needed to reduce the backlog. The rule making process includes public comment, which has the potential to result in changes. We expect the CR-102 to be public in March 2023.

At annual check-ins, Ecology will report back on hiring and progress made towards reducing the permit backlog. This will also provide an opportunity for permittees to share the level of technical assistance they are receiving. At the 2024 check-in, Ecology will bring additional information on alternative fee structures, such as a design-flow based structure, for the committee to consider. Also, if we are not reducing the backlog as fast as we expect to, we have the ability to trouble-shoot with the committee. Because the fee rule is updated routinely (every two years), we can easily make small adjustments to get us on track. Should Ecology see that we are collecting more revenue than we need, we can reduce the fee level in any fee rule update. Alternately, if we are still falling behind on reducing the backlog and need to add staff and collect more revenue, we can incorporate that change into a future rule revision.