



**Washington Department of Ecology
Title V Program Review
(3rd Round)**

EPA Region 10
Final September 28, 2022

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- 1 Region 10 Program Review Kickoff Letter and Information Request to Ecology, February 28, 2022
- 2 Ecology Program Review Information Request Response, March 31, 2022
- 3 Title V Operating Permit System Data Summary as Reported by Ecology
- 4 Region 10 Report: Ecology Title V Program Review (1st Round), September 7, 2006
- 5 Region 10 Report: Ecology Title V Program Review, (2nd Round), September 22, 2014
- 6 Region 10 Permit “Backlog” Letter to Ecology, February 18, 2022

I. Introduction

This report documents the (2022) third review of the Washington Department of Ecology's (Ecology's) title V permitting program. A title V program is an air permitting program for stationary sources with the potential to emit greater than 100 tons of pollutant per year. Air construction permits and other permit conditions are rolled up into one title V permit for ease of implementation. The first title V program review for Ecology was completed in September 2006. The second round was completed in September 2014.

Ecology's Title V Program

Ecology is a state air pollution control agency with jurisdiction in 18 of the 39 counties in Washington and for all chemical pulp mills and aluminum smelters in Washington with a few exceptions. The Energy Facility Site Evaluation Council (EFSEC) has jurisdiction for all thermal electric energy projects that are at least 350 megawatts in size. The EPA Region 10 is the title V permitting authority in Indian country throughout Washington with one exception: Ecology is the title V permitting authority on non-trust land within the 1873 Survey Area of the Puyallup Reservation. Seven local agencies have title V jurisdiction in the other 21 counties in Washington.

Ecology's title V regulation is found in Washington Administrative Code 173-401. Region 10 granted Ecology, along with the seven local agencies and the EFSEC, interim approval of its title V program effective December 9, 1994, and full approval effective September 12, 2001, 66 FR 42439 (August 13, 2001). A revision to Ecology's program was approved on January 2, 2003, 67 FR 71479 (Dec 2, 2003).

Ecology issues title V permits to approximately 25 sources through four different offices: the Eastern Regional Office (ERO) in the state's Air Quality Program (12 permits in 12 counties); the Central Regional Office (CRO) in the state's Air Quality Program (5 permits in 5 counties); the Richland Regional Office in the state's Nuclear Waste Program (1 permit for the U.S. Department of Energy's Hanford facility); and the Industrial Section (IS) in the state's Solid Waste Management Program (7 permits for chemical pulp mills and aluminum smelters). The Northwest Regional Office has no title V sources in the one county for which they are responsible. There are about 10 permit engineers at Ecology that spend at least some of their time on title V permits; all of the title V staff have non-title V duties as well.

Each permit is accompanied by a statement of basis (SoB) that explains the technical and legal basis for the permit.

Program Review Objective and Overview

The EPA initiated title V program reviews in response to recommendations in a 2002 Office of Inspector General audit. The general objective of broader program reviews (as opposed to individual permit reviews) is to identify good practices that other agencies can learn from, document areas needing improvement and learn how the EPA can help improve state and local title V programs and expedite permitting.

The EPA set an aggressive initial national goal of reviewing all state and local title V programs with ten or more title V sources. Ecology was one of ten title V programs in Region 10 reviewed between 2004 and 2007. Here is the list of agencies in Region 10 reviewed in the first round along with the final report date and an approximate number of title V sources they regulated when reviewed:

<u>Permitting Authority (first round)</u>	<u>Report Date</u>	<u>Permits</u>
Idaho Department of Environmental Quality	January 2004	59
Oregon Department of Environmental Quality	June 2006	111
Lane Regional Air Protection Agency (OR)	June 2006	19
Spokane Regional Clean Air Agency (WA)	August 2006	10
Puget Sound Clean Air Agency (WA)	September 2006	35
Washington Department of Ecology	September 2006	27
Northwest Clean Air Agency (WA)	September 2006	21
Alaska Department of Environmental Conservation	September 2006	158
Olympic Region Clean Air Agency (WA)	September 2007	15
Southwest Clean Air Agency (WA)	September 2007	12

In response to a 2005 follow-up review by the Office of Inspector General, the EPA also committed to repeat the reviews of all title V programs with 20 or more title V sources every four years beginning in 2007. The original, second-round commitment covered each of the four state programs in Region 10 (Alaska, Idaho, Oregon and Washington) as well as two local agencies in Washington (Puget Sound Clean Air Agency and Northwest Clean Air Agency). In September 2016, we fulfilled that commitment and decided to continue second-round reviews for the remaining agencies that were reviewed in the first round, but not yet reviewed for a second time.

Below is the list of agencies reviewed to date in the second round along with the final report date. All of the program review reports can be found on Region 10's air permitting website.¹

<u>Permitting Authority (second round)</u>	<u>Report Date</u>
Idaho Department of Environmental Quality	September 2007
Puget Sound Clean Air Agency (WA)	September 2008
Northwest Clean Air Agency (WA)	September 2013
Washington Department of Ecology	September 2014
Alaska Department of Environmental Conservation	September 2015
Oregon Department of Environmental Quality	September 2016
Lane Regional Air Protection Agency (OR)	September 2017
Spokane Regional Clean Air Agency (WA)	November 2018
Southwest Clean Air Agency (WA)	November 2019
Olympic Region Clean Air Agency (WA)	September 2020

In the first round of title V program reviews, EPA covered all major elements of a title V program. In the second round of program reviews, EPA focused on previously identified issues specific to each permitting authority's implementation of its permitting program. We also considered permit issuance progress, resources, compliance assurance monitoring (CAM)², and how permitting authorities have integrated new requirements and rules into their permits and program. EPA Region 10 asked each permitting authority to provide a response to each of the first-round program reviews, stating how the agency planned on addressing Region 10's comments. The focused approach used in the second round was both efficient and effective, and has been carried forward during the third round of reviews to determine how the permitting authority implemented the previous recommendations. The review also evaluated management

¹ <https://www.epa.gov/caa-permitting/permit-program-reviews-epa-region-10>

² CAM is required to be added to the renewed title V permit for most sources.

of resources and permit issuance. Below is a list of agencies reviewed to date in the third round along with the final report date.

Permitting Authority (third round)
Puget Sound Clean Air Agency (WA)

Report Date
September 2022

To prepare for the third round review, EPA Region 10 sent a February 28, 2022 letter, requesting specific information from Ecology (Attachment 1). Region 10 reviewed Ecology’s emailed responses (Attachment 2) which included a staff list, financial records, and an update on the concerns raised in 2014. EPA Region 10 also reviewed the permit issuance data that Ecology reported to the Title V Operating Permits System (Attachment 3) and a selection of recently issued title V permits. Permits that were issued more recently were intentionally selected for review to provide an accurate depiction of how Ecology’s permits are currently being issued. The four permits reviewed to assess how Ecology responded to the full scope of 2nd round concerns (A-1 through AC-6) are listed in the table below. We also reviewed nine other permits to assess 2nd round “big concern” CAM implementation. Our review and comments regarding CAM are discussed in Section III of this report separate from our follow-up to the other 2014 concerns that are discussed in Section II.

<u>Permit No.</u>	<u>Company Name & Location</u>	<u>Date Issued</u>	<u>Issuing Office</u>
20AQ-C241	SDS Lumber Company	03/30/2022	CRO
20AQ-E056	D&L Foundry	12/28/2020	ERO
0000078	WestRock Longview, LLC	12/15/2020	IS
0000809	Cosmo Specialty Fibers, Inc.	01/22/2022	IS

A virtual conference was conducted with Ecology on May 16-17, 2022, where EPA Region 10 staff interviewed Ecology permit writing staff, finance staff, and management. The purpose of the interviews was to clarify and discuss what was learned from the permit reviews and other information provided. The conference also included a discussion of permit issuance progress, program resources (and the fee program), general program implementation, and specific issues identified during the previous review of Ecology’s program.

Program Review Report Structure

This program review report is presented in five main sections:

- I. Introduction
- II. Follow-up to 2014 2nd Round Program Review
- III. Compliance Assurance Monitoring
- IV. Additional Review
- V. Summary of Concerns

Section I presents background information regarding Ecology’s title V program as well as an overview of Region 10’s program review plan. Section II presents Region 10’s evaluation of Ecology’s progress in resolving concerns identified in the 2014 program review except for CAM. Section III presents Region 10’s review of Ecology’s implementation of the CAM program. Section IV presents additional observations from Region 10’s 2022 review of Ecology’s individual permits and other information provided. Finally, Section IV summarizes Region 10’s third-round concerns.

II. Evaluation of Progress Since 2nd Round Program Review

EPA Region 10 evaluated the progress Ecology made in addressing the concerns identified in the 2014 second program review. In the initial title V program review, finalized in September 2006, Region 10 provided observations delineated into nine separate topic areas labeled A through I (Attachment 4). The second and third program reviews use the same labeling of identified concerns to maintain a consistency between the reports. Ecology responded to Region 10's first and second program reviews in November 2006 and December of 2014, respectively, explaining how they were going to address the concerns identified. To initiate the third round review, Ecology provided Region 10 with an update on implementation of the program and previously-identified issues. Each of Region 10's concerns identified in the second round report is described below (Attachment 5), followed by Ecology's 2014 response (Appendix A of Attachment 2), Ecology's 2022 update (Attachment 2), and Region 10's current (Round 3) evaluation.

Section A. Title V Permit Preparation and Content

A-1 Background: In 2006, Region 10 identified the concern that SoB content varies widely between the permits reviewed. In response, Ecology produced a SoB outline for its permit writers. In 2014, after completing another round of permit reviews, Region 10 reiterated the concern that Ecology's SoB lack important information needed to explain the permit such as potential to emit, applicability of requirements (e.g., MACT, NSPS, NESHAP and CAM), source aggregation, and monitoring decision explanations. Region 10 recommended Ecology develop better guidance for SoB writing.

2014 Ecology Response: *Ecology needs to develop better internal guidance for of Basis (SoB) and Air Operating Permit (AOP) writing. This guidance should address the documentation of Compliance Assurance Monitoring (CAM) applicability, excursions and exceedances.*

In developing SoB guidance Ecology will also work to address the following topics identified by EPA in current and past program reviews:

- a. Incorporation of applicable MACT standards.*
- b. Addition and documentation of permit shields.*
- c. Standardized paraphrasing language.*
- d. Defining state-only requirements.*
- e. Inclusion of O&M measures necessary for assuring compliance.*
- f. Defining deviation reporting.*
- g. Proper compliance demonstrations for long term limits.*
- h. Clarifying the compliance determination method, when multiple compliance methods are listed.*
- i. Specifying the basis for VOC limits.*

Ecology has just hired a new statewide AOP coordinator who will lead the development of the SoB guidance. Ecology will initiate the development of this guidance within the next year.

2022 Ecology Update: *The AOP coordinator that was hired in 2014 worked with permitting staff in each office to develop a draft Statement of Basis guidance in response to the 2014 review. In addition to working on SoB guidance, they worked on CAM applicability guidance. While this guidance was not formalized, it has been used by each office to inform their own templates based on their source categories and permitting*

needs. Each office uses their own approach for updating SoBs, taking EPA R10's suggestions from 2014 into consideration, as renewal or initial permits come up. There have been 3 different AOP coordinators since the 2014 review, permitting staff, and several managers. Air Quality is in the process of forming a Title V workgroup that can address guidance as needed, which will include SoB guidance. This workgroup will include staff from Ecology offices that issue AOPs. The Nuclear Waste Program reviewed the Change Determination Key pursuant to the 2014 recommendation and determined nothing needed to be updated. Since 2014, the Air Quality program has also invested significant permitting staff resources to develop guidance for mNSR permitting, including NOCs and technical support documents.

Round 3 Evaluation: Region 10 reviewed SoB supporting four of Ecology's permits to assess progress on Concern A-1. There was considerable variability between the SoB in the degree to which explanations were provided for permit requirements. Important information (to some degree) was lacking in each of the four SoB. For example, some SoB were missing or contained incomplete information for an actual emissions inventory to assist in explanation of monitoring requirements. Some SoB lacked discussions of applicable requirements (e.g., NSPS, NESHAP, and CAM). The inclusion of a potential emissions inventory should be present in every SoB at an emission unit by emission unit level. The inclusion of an emissions inventory that reflects potential pre-control device emissions allows for an accurate and complete CAM analysis. Ecology should consider developing and finalizing the internal guidance document on SoB writing that was discussed during the 2014 program review. Consult EPA's April 30, 2014 guidance document³ for help identifying key SoB content and EPA's expectations. Although just five pages long, the document refers to numerous key documents to illustrate its points. Creation of Ecology's own internal guidance document should assist in addressing the variability in SoB content between the different offices and even between different permit writers within the same office.

A-3 **Background:** In 2006, Region 10 identified concerns with documenting permit shields in the permits that were reviewed. In some of the permits reviewed, permit shields were included without sufficient explanation to determine whether a shield was warranted and in others, the list of non-applicable requirements included many requirements that were clearly not applicable. In response, Ecology acknowledged this concern and sought to address it through the development of the internal SoB guidance document. Ecology produced an SoB outline for its permit writers. In 2014, after completing another round of permit reviews, Region 10 remarked that the SoB outline didn't seem to resolve the permit shield inconsistencies.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern A-3) associated with permit and SoB writing.

2022 Ecology Update: *Ecology includes and documents Permit Shields in renewal and initial AOPs. Ecology looks to continuously improve the documentation of Permit Shields.*

Round 3 Evaluation: Region 10 reviewed four of Ecology's permits and associated SoB to assess progress on Concern A-3. All permits included permit shield language. In one of

³ See pages 12 to 16 at <https://www.epa.gov/sites/default/files/2015-08/documents/20140430.pdf>

the permits reviewed, the permit contained a long list of inapplicable requirements, some of which were obviously inapplicable and did not merit attention under the permit shield. Most of the permits reviewed did not address the permit shield in the SoB. Although it is only required for a shield to be contained within the permit itself, it is good practice to include a section in the SoB explaining each determination. Ecology should address how to add and document permit shields in the guidance document that is being developed.

- A-4 Background: In 2006, Region 10 identified the concern that not all permits reviewed included language explaining the limitations associated with the use of paraphrasing. Some of the permits reviewed contained language clarifying that when the paraphrasing language occurs, the underlying requirement is what takes precedence. One of the permits (which included the use of paraphrasing) did not explain its limitations. Ecology acknowledged this issue and agreed that this important language should be incorporated in all permits going forward. In 2014, after completing another round of permit reviews, Region 10 again discovered a permit (which included the use of paraphrasing) that did not explain its limitations.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern A-4) associated with permit and SoB writing.

2022 Ecology Update: *Ecology is improving paraphrased applicable requirements. Applicable requirements and state-only conditions are included in SoBs and AOPs, as renewals or initial permits occur.*

Round 3 Evaluation: In Region 10's review of the four permits for this program review, three of the permits contained sufficient language to clearly indicate the use of paraphrasing and that the underlying requirement was the enforceable applicable requirement if there were any discrepancies between the two versions. One of the permits could have indicated these differences more clearly. Ecology should address this concern in the guidance document and include standard paraphrasing language in every permit.

- A-5 Background: In 2006, Region 10 identified a concern that the SoB did not explain why certain conditions are enforceable only by the state. In most of the permits reviewed, the permit did distinguish "state-only" requirements from federal requirements. Ecology stated that this was an issue regarding consistency and that the development of the SoB guidance would address this topic. In 2014, after completing another round of permit reviews, Region 10 again found that all SoB do not explain why certain conditions are enforceable only by the state.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern A-5) associated with permit and SoB writing.

2022 Ecology Update: *Ecology is improving paraphrased applicable requirements. Applicable requirements and state-only conditions are included in SoBs and AOPs, as renewals or initial permits occur.*

Round 3 Evaluation: Ecology distinguished state-only requirements from federal requirements in each of the four permits reviewed. In most permits, a table was employed to help differentiate between state-only and federally enforceable requirements. In one of the permit's SoB, it states that there are certain conditions that are not federally enforceable but does not explain why. The SoB guidance that Ecology is developing

should include language explaining why certain requirements are only enforceable by the state.

A-7 Background: In 2006, Region 10 recommended Ecology consider including in AOP portions of operation and maintenance (O&M) plans. For instance, add those parts of O&M plans that are critical for assuring compliance with applicable requirements (as the compliance technique, periodic monitoring, or CAM). Add monitoring or recordkeeping to ensure the O&M plan is being implemented. Ecology stated that they did not think it was appropriate to include entire O&M plans within the permit because the permits are already arguably too complicated and detailed. In 2014, Region 10 clarified that it was not advocating that entire O&M plans be included in the AOP. Region 10 reiterated recommendation to include in permits those O&M measures necessary for assuring compliance with applicable requirements and including in SoBs an explanation of the O&M measures added to the permit.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern A-7) associated with permit and SoB writing.

2022 Ecology Update: *O&M conditions have been added to AOPs as an appropriate method of demonstrating or maintaining compliance. Progress has been made clarifying deviation triggers in many of the issued AOPs.*

Round 3 Evaluation: Of the permits that were reviewed, only one of them required that an O&M plan be developed and implemented. That permit took certain monitoring elements from the O&M plan and inserted them into the title V permit to assure compliance with emission limitations. Region 10 considers this concern resolved.

Section C. Monitoring

C-1 Background: In 2006 for the permits that were reviewed, Region 10 identified inadequate SoB discussion of CAM applicability and monitoring decisions. For instance, the SoB did not discuss in sufficient detail how excursion thresholds were derived. Ecology acknowledged this concern and agreed to address it in the SoB guidance document that was being created. During the 2014 program review, Region 10 again identified as a concern inadequate SoB discussion of CAM applicability and monitoring decisions.. Region 10 recommended Ecology consider developing and providing internal training and written guidance to address this issue.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern C-1) associated with permit and SoB writing.

2022 Ecology Update: See 2022 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern C-1) associated with permit and SoB writing.

Round 3 Evaluation: Region 10 reviewed 13 of Ecology's permits focusing on CAM requirements. Four of the 13 are noted above in Section I, and the remaining 9 are noted below in Section III. In 7 of the 13 permits reviewed, an incomplete CAM analysis was included in the SoB. One of the 13 permits reviewed did not document CAM at all in the SoB. Region 10 continues to believe that CAM is an ongoing concern that should be

addressed in Ecology's internal SoB guidance document. See the CAM section of this report for additional information.

Section AC. Additional Comments Raised During 2014 Review

AC-2 2014 EPA Comment: *Three of the four offices of Ecology that issue operating permits have small permit backlogs. According to the most recent TOPS report to EPA, seven of the 12 permits issued by the Eastern Regional Office have been administratively extended awaiting renewal. This backlog developed primarily during the last two years. With the recent replacement of an experienced permit writer that retired, Ecology hopes to issue the backlogged permits within the next 12-18 months.*

2014 Ecology Response: *Ecology needs to eliminate the backlog of renewal and new AOPs at the Eastern Regional Office.*

ERO has hired a new permit writer who is experienced in AOP permitting. All of her time will be dedicated to AOP writing, until all permits are issued. Additionally, CRO staff has been assigned to assist with the backlog. Specifically, the GTN 7 and GTN 8 renewal permits are in final form and will be issued in 2014. Five AOPs (WSU, Boise Arden, Boise Lumber, Bennett Lumber, and Avista or Vaagan Bros) should be issued by the end of 2015. The remaining four AOPs (Boise Plywood, Baagen Bros or Avista Kinross, Ponderay Newsprint) should be issued by the end of 2016. A new initial application (SGL) was recently received. ERO anticipates that SGL will continue to be challenging, and anticipates issuance of the initial SGL AOP permit by the end of 2017. Issuance of all AOPs may take less time if additional staff becomes available to assist the effort.

2022 Ecology Update: *ERO has worked diligently in reducing their backlog since 2014. They currently have 2 outstanding initial applications (Kinross-Echo Bay and SGL). ERO is working on renewing their NOCs, then issuing AOPs (Echo Bay should be issued by the end of 2022 and SGL by the end of 2023). They have 2 outstanding renewals (ERO is planning on beginning the public comment period for Boise Cascade Lumber by May). Washington State University is the other outstanding renewal, but they decommissioned the equipment that made them a Title V source. ERO plans to rescind that AOP prior to June 30, 2022. Since 2014, ERO has hired, shifted staff, and had staff turnover, and are currently recruiting for another AOP permit writer. Additional staff are assisting with AOPs as they are available.*

Round 3 Evaluation: *Ecology's ERO, CRO and IS have made progress on addressing the permit backlog since the previous program review in 2014. There is still room for improvement, however, and Region 10 sent Ecology a notice on February 18, 2022 (see Attachment 6) requesting a plan for how Ecology is planning to reduce the current backlog to less than 20% permit.*

AC-3 2014 EPA Comment: *While not all permits reviewed included MACT standards, in one case the permit simply incorporated by reference one aspect of the applicable MACT standard rather than write the specifics into the permit. Those requirements should be clearly spelled out in the permit, so a reader does not have to go to a Code of Federal Regulation to learn what is required. In another place in the same permit, Ecology referenced emission testing procedures in a MACT standard as a part of a gap-filling requirement that was added to the permit. Even in that situation, the permit needs to include the details. In the same permit, MACT control device monitoring parameters were set by testing that was completed well ahead of permit issuance, but were not*

incorporated into the permit, but should have been. While these may be isolated issues, we thought it was important enough to include it in this report.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern AC-3) associated with permit and SoB writing.

2022 Ecology Update: *Applicable MACT standards have been incorporated in AOPs, and in applicability and history discussed in the SOBs.*

Round 3 Evaluation: All 4 permits reviewed included NESHAP requirements. In one of the four permits that were reviewed, no citations were listed for the underlying applicable NESHAP requirements.

- AC-4 2014 EPA Comment: *One permit with long term limits (ton/year) listed a test method as the compliance technique. For long term limits, the compliance method needs to clarify how test data will be coupled with production data to calculate emissions over the duration of the reporting period. If the limit is a synthetic minor limit used to avoid major source status, the emission factors must be in the permit. Again, this may not be a wide-spread issue, but this is an important permitting concept.*

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern AC-4) associated with permit and SoB writing.

2022 Ecology Update: *Long-term emission limits, VOC limits and test methods, and compliance determination methods are included and clarified in the AOPs.*

Round 3 Evaluation: In one of the permits reviewed, the emission limit that is listed is incomplete and unenforceable. The permit writer needs to finish the compliance demonstration method to make the emission limit enforceable as a practical matter. Recent EPA guidance on practical enforceability is included in a July 26, 2019, federal register notice starting on page 36318. When the underlying limits are not practicably enforceable, they should ideally be revised in the forum within which they were developed. But if such revision is not accomplished prior to the next title V permit renewal, then the permit authority should consider using its title V periodic monitoring authority in WAC 173-401-615(1)(b) or WAC 173-401-630(1), as applicable, to make the limits enforceable.

- AC-5 2014 EPA Comment: *In more than one permit, multiple compliance methods were listed along with the monitoring requirements. It was not always clear which method was the compliance determination method. There should only be one compliance determination method. All other methods are only used to indicate compliance or as credible evidence.*

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern AC-5) associated with permit and SoB writing.

2022 Ecology Update: *Long-term emission limits, VOC limits and test methods, and compliance determination methods are included and clarified in the AOPs.*

Round 3 Evaluation: Ecology typically employs tables to present emission limits with associated monitoring and reporting requirements. The header from such a table generally looks something like this:

Condition	Parameter	Emission Limit	Monitoring & Reporting	Underlying Requirement
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Based on our review of permits during this 3rd round review, it continues to be a challenge to distinguish the compliance method from monitoring requirements. Ecology could make the distinction clearer by inserting the compliance method in the “Limit” column rather than the “Monitoring & Reporting” column.

AC-6 2014 EPA Comment: *Some permits had volatile organic compound emission limits but did not always specify the basis for the VOC value (e.g. carbon, propane, actual organic constituents, etc). To be enforceable, the limits, as well as the compliance method, should clarify the VOC basis.*

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns (including Concern AC-6) associated with permit and SoB writing.

2022 Ecology Update: *Long-term emission limits, VOC limits and test methods, and compliance determination methods are included and clarified in the AOPs.*

Round 3 Evaluation: In one of the permits that were reviewed, the SoB did not provide sufficient information to determine whether a VOC (as carbon) limit was appropriate. For synthetic minor source emission limits, a VOC (as compound(s) emitted) is appropriate. Is the limit intended to limit a project’s emissions increase to less than 40 tpy PSD SER threshold? The underlying permit establishing the limit is not available online, and the AOP SoB does not explain why it is unnecessary to limit VOC (as compound emitted). The AOP should clearly state the VOC basis, and the SoB should explain why using carbon as a basis is permissible.

III. Compliance Assurance Monitoring

This section of the third-round program review report presents Region 10’s evaluation of Ecology’s implementation of the CAM program. CAM, found in 40 CFR Part 64 and referenced in WAC 173-401-615(4), remains an important focus for Region 10’s oversight work for several reasons. CAM is required to be applied in the initial permit for sources with “large” pollutant-specific emission units and in the first renewal for all other emission units. Most pollutant-specific emission units are not large, so CAM has been primarily implemented during the renewal phase of the title V program. Region 10 had a rigorous permit oversight program in the early years of title V. By the time state and local agencies were issuing renewal permits, Region 10 had scaled back its oversight program substantially and, in fact, reviewed very few permits that addressed CAM. Beginning in fiscal year 2013, Region 10 began to review a small percentage of state/local renewal permits to see how CAM was being addressed. A consistent lack of documentation regarding CAM applicability and monitoring decisions in statements of basis was discovered. Logically, Region 10 has been specifically reviewing how CAM is addressed in permits as part of the Part 70 program reviews.

Background: In the 2006 program review, Region 10 reviewed six permits for CAM applicability and their analysis for a determination. Some of the SoB lacked a discussion about CAM applicability. Most of the SoB lacked explanations regarding the monitoring (including CAM) decisions in the permits. See Attachment 4 for details. Region 10 reiterated those same

comments after reviewing 3 permits during the 2014 program review. See Attachment 5 for details.

2014 Ecology Response: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns including CAM associated with permit and SoB writing.

2022 Ecology Update: See 2014 Ecology response noted above for Concern A-1. Ecology intended that response to apply to several Region 10 concerns including CAM associated with permit and SoB writing.

Round 3 Evaluation: In addition to the all-around review of the four permits listed in Section I, EPA reviewed the following nine permits primarily for CAM:

<u>Permit No.</u>	<u>Company Name & Location</u>	<u>Date Issued</u>	<u>Issuing Office</u>
14AQ-C182	Regional Disposal Roosevelt Regional Landfill	06/16/2014	CRO
19AQ-C232	Puget Sound Energy Goldendale Generating Station	06/26/2019	CRO
19AQ-C233	Lab Washington Ash Recycling Facility	05/04/2021	CRO
18AQ-E013	Guy Bennett Lumber Company	09/18/2018	ERO
18AQ-E017	Avista Kettle Falls Generating Station	12/28/2018	ERO
19AQ-E008	Vaagen Brothers Lumber	08/01/2019	ERO
20AQ-E003	Ponderay Newsprint	02/28/2020	ERO
20AQ-E051	Gas Transmission Northwest Compressor Station #8	11/30/2020	ERO
21AQ-E048	Gas Transmission Northwest Compressor Station #7	12/17/2021	ERO

CAM-1 Applicability – Minimum Analysis for all Permitting Actions

Of these thirteen permits that were reviewed, only one of them did not contain any discussion of CAM applicability in the SoB. For the remaining twelve permits that were reviewed, there was a varying level of analysis within the SoB with some containing more information about the facilities’ applicability than others. In those cases where Ecology simply referred to the analysis performed by the permittee, Ecology failed to include the analysis to the SoB. In general, it would be good to see all permits address applicability whether or not the rule applies. A short general CAM introductory section followed by the facility-specific applicability analysis would be ideal.

CAM-2 Applicability – Summary Table

Of the thirteen permits that were reviewed, ten regulated at least one emission unit that used a control device to comply with an emission limitation or standard. Of the ten permits, only two of the statements of basis provided a succinct summary of applicability in tabular format similar to the following:

Pollutant	Applicable Emission Limitation or Standard	ELOS Reference	Use Control Device to Comply with EL0S?	Potential Pre-Control Device Emissions (tpy)	Major Source Threshold	CAM Applicable to EL0S?	CAM Exemption: Post-11/15/90 NSPS or NESAP	CAM Exemption: Continuous Compliance Determination Method	CAM Required for EL0S?

Ecology should consider crafting such a table in the SoB when at least one emission unit is using a control device to achieve compliance. Each row is dedicated to an emission limitation or standard for a pollutant (or surrogate thereof) whereby compliance is achieved through use of the control device.

CAM-3 Applicability – Making Emission Inventories Readily Accessible

For all thirteen permits reviewed, only two statements of basis provided both the pre- and post-control PTE emission inventories to support the CAM applicability analysis, although ten of them did include the PTE inventory submitted by the permittee. Attaching to the SoB both the pre- and post-control PTE inventories (drafted either by the permittee or Ecology) is a best practice that enables the public to more meaningfully review the basis for applicability (based upon pre-control PTE) and the basis for permit monitoring conditions specifying minimum data collection frequency (based upon post-control PTE). All calculations used to assess CAM applicability should be readily available to the public.

CAM-4 Applicability – The Forms of Emission Limitations and Standards

In one of the thirteen permits reviewed, Ecology was presented with the challenge of correctly determining that minimum control efficiency requirements are “emission limitations or standards” as that term is defined in 40 CFR 64.1. CAM applies to emission limitations or standards. Ecology erroneously did not apply CAM to the control efficiency requirements.

CAM-5 Monitoring Approval – CAM Citation

In at least one of the thirteen permits reviewed, Ecology determined that CAM applied to at least one emission unit. In the permitting action, Ecology erroneously did not include the core CAM citation for the approval of monitoring 64.6(c)(2) - defining excursion.

CAM-6 Monitoring Approval – Making CAM Plan Part of SoB

In a few of the thirteen permits reviewed, Ecology determined that CAM applied to at least one emission unit. In each case, Ecology relied heavily upon material in the permittee’s CAM plan to support its approval of the proposed monitoring. Ecology’s CAM analysis presented in the SoB lacked the detail provided in the permittee’s CAM plan. With the exception of one permit, Ecology did not attach a copy of the permittee’s CAM plan to any of the statements of basis. It would be helpful to see the permittee’s CAM plan if Ecology refers to it in explaining its CAM determination.

IV. Additional Review

This section of the third-round program review report presents Region 10’s evaluation of Ecology’s financials and other concerns identified during the individual permit reviews. This section also offers a few suggestions for improving the agency’s SoB and highlights several concerns not previously identified in 2006 or 2014.

Financials

In addition to reviewing concerns identified in the second review, Region 10 requested an update about program resources and permit issuance progress. In reviewing the agency’s permit issuance progress and resources, including their fee program and staffing, we learn how the title V program is being managed. Permit issuance problems, namely large backlogs of unissued permits, are often linked to a lack of resources. Ecology reports their permit issuance progress semiannually. That data indicates Ecology’s backlog had two outstanding initial permit applications and eight extended permits that had outstanding renewal applications.

Ecology provided Region 10 with recent budget data. Ecology uses generally accepted accounting principles (GAAP) account to accruing expenses and revenues to the period in which it was incurred or earned. All of the transactions are processed in a fund accounting system which tracks each source of funds and their respective approved expenses separately. Ecology's financial statements are audited by the Washington State's auditor's office and the latest report that was issued in May of 2022 found no significant findings.⁴ The Agency's fiscal year runs from July until June. Ecology charges fees to each source based on a three-part formula involving the amount of emissions generated by the source, the complexity of the source, and lastly a flat fee that is the same for all. This system seems to be working in allowing the agency a lot of flexibility of determining their fees and expenses.

Ecology is staffed with a range of experienced and new staff. Engineers from ERO and CRO are assigned to processing permit applications from a variety of sources (excluding the ones covered by the Industrial section) as well as performing inspections and confirming compliance. Engineers from the Industrial Section focus primarily on issuance of air permits to pulp and paper mills and primary aluminum smelters for the entire state of Washington. Staff retention seems adequate at the agency.

Ecology appears to manage their fees and expenses adequately. The Agency did have an excess amount of fees collected for the previous year, however, they are able to adjust the discrepancies by issuing rebates for a source's upcoming fee payment and balance out the appropriate accounts. Irrespective of the permit backlog, Region 10 has no concerns about Ecology's management of their resources.

New Concern

After reviewing the 4 permits noted in Section I of this report, Region 10 has the following new concern about Ecology's title V permit writing practices:

1. In a few of the permits that were reviewed, a statement was included that specified: "Unless specified otherwise, the basis of authority for the type and frequency of monitoring imposed in Conditions XX through XX is WAC 173-401-615." Instead of including this general statement in the permit, Region 10 would encourage Ecology to cite in the specific monitoring conditions where 173-401-615 is being utilized.

V. Summary of Concerns

This is Ecology's third round review. Twelve of the seventeen concerns and one of the six additional comments identified in the 2014 second-round program review have been resolved to Region 10's satisfaction. There are ten issues remaining from the 2014 program review. Region 10 has also identified seven new issues (six CAM concerns and one new concern). Region 10 thinks all of these seventeen issues should be addressed in Ecology's response to Region 10.

⁴ <https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?arn=1030407&isFinding=false&sp=false>