



**Yakima Regional Clean Air Agency  
Title V Program Review  
(1<sup>st</sup> Round)**

**EPA Region 10**  
*Final September 27, 2024*

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**Attachments**

- 1 Region 10 Program Review Kickoff Letter and Information Request to YRCAA, December 26, 2023
- 2 YRCAA Program Review Information Request Response, February 27, 2023
- 3 Title V Operating Permit System Data Summary as Reported by YRCAA, July 31, 2024
- 4 YRCAA Meeting Questionnaire, January 13/14, 2024
- 5 YRCAA Report on Agreed-Upon Procedures from the Office of the Washington State Auditor, March 23, 2023

# I. Introduction

This report documents the (2024) first review of the Yakima Regional Clean Air Agency’s (YRCAA’s) title V permitting program. A title V program is an air permitting program for major stationary sources of air pollution and certain other sources designated by the Administrator as requiring a permit. Title V permits consolidate new source review permit conditions, state implementation plans requirements, federal standards, and other applicable requirements into one permit for ease of implementation.

## YRCAA’s Title V Program

The Yakima Regional Clean Air Agency is a local air pollution control agency with jurisdiction in Yakima County in southern Washington. EPA Region 10 is the title V permitting authority for sources located on Tribal land, such as the Yakama Nation. Within YRCAA’s county area, Washington Department of Ecology is the permitting authority for all chemical pulp mills and aluminum smelters and Washington Energy Facility Site Evaluation Council (EFSEC) is the permitting authority for all thermal electric energy projects that are at least 350 megawatts in size.

YRCAA implements and enforces the Washington Administrative Code (WAC) State Air Pollution Control rules adopted by Ecology in Title 173 under chapter 70A.15 RCW, as in effect now and all future amendments, except where specific provisions of YRCAA Regulation 1 apply. EPA granted YRCAA, along with Washington state, six other local agencies and 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).

State and local permitting authorities base their title V operating permits program on the part 70 rule. There are three part 70 sources operating within YRCAA’s jurisdiction, and YRCAA has issued title V permits to all three of them. There is currently one permit writer that is responsible for writing title V permits as well as reviewing emission inventories and other miscellaneous duties. There are other staff that provide management, administrative, enforcement and accounting support to the title V program.

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. 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

<b><u>Permitting Authority (first round)</u></b>	<b><u>Report Date</u></b>	<b><u>Permits</u></b>
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, that commitment was fulfilled and it was 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.<sup>1</sup>

<b><u>Permitting Authority (second round)</u></b>	<b><u>Report Date</u></b>
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. After the first-round review report was final, EPA Region 10 asked the permitting agencies to provide a response stating how the agency planned on resolving Region 10's concerns. In the second round of program reviews, EPA focused on the issues identified in the previous round specific to each permitting agency to evaluate how that agency was implementing its permitting program. We also considered permit issuance progress, resources, compliance assurance monitoring (CAM)<sup>2</sup> and how permitting authorities have integrated new requirements and rules into their permits and program. After the second-round reviews, we again asked the permitting agency to explain how our concerns would be addressed. Because the focused approach used in the second round was both efficient and effective, a similar

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

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

approach has been used during this third round of reviews for all title V programs (with the exception of Yakima Regional Clean Air Agency and Benton Clean Air Agency as it was their first round).

<u>Permitting Authority (third round)</u>	<u>Report Date</u>
Puget Sound Clean Air Agency (WA)	September 2022
Idaho Department of Environmental Quality	September 2023
Benton Clean Air Agency (WA, first round)	September 2024
Yakima Regional Clean Air Agency (WA, first round)	September 2024

To prepare for the review, EPA Region 10 sent a November 21, 2023, kickoff letter, requesting specific information from YRCAA (Attachment 1). Region 10 reviewed YRCAA’s emailed responses (Attachment 2) which included a staff list, financial records, and the response to the questionnaire included in the kickoff letter. EPA Region 10 also reviewed the permit issuance data that YRCAA reported semi-annually to the Title V Operating Permits System (Attachment 3). Due to YRCAA only having three permits and one permit writer, all title V permits were reviewed. The three permits reviewed are listed in the table below.

<u>Permit No.</u>	<u>Company Name &amp; Location</u>	<u>Date Issued</u>
y-003-04	Novolex Shields, LLC	02/9/2024
y-004-03	Terrace Heights Landfill	08/10/2022
Y-00063-1	Cheyne Landfill	03/14/2024

On February 7, 2024, EPA Region 10 staff interviewed YRCAA permit writing staff and management on a virtual conference call (Attachment 4). The purpose of the interviews was to learn how the agency operates as well as 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 any specific issues identified during the review of YRCAA’s program.

### **Program Review Report Structure**

This program review report is presented in five main sections:

- I. Introduction
- II. Evaluation of Program Review
- III. Additional Review
- IV. Summary

Section I presents background information regarding YRCAA’s title V program as well as an overview of Region 10’s program review plan. Section II presents Region 10’s evaluation of YRCAA’s program review except for CAM. Section III presents additional observations from Region 10’s review of YRCAA’s individual permits and other information provided. Finally, Section IV summarizes Region 10’s this round’s concerns.

## **II. Evaluation of Program Review**

EPA Region 10 is evaluating YRCAA’s program for the first time in this third round of reviews. In this initial title V program review, Region 10 will provide observations delineated into nine

separate topic areas labeled A through I. The second and third round of program reviews for other agencies use similar labeling to identify concerns to maintain a consistency between the reports. Similar to the other first round review reports, this report will focus on recognizing both the agencies' good practices as well as identifying any areas of concern for the title V permitting program.

## **Section A. Title V Permit Preparation and Content**

### **Good Practices**

1. YRCAA staff regularly participate in quarterly Washington permit writers meetings, EPA-sponsored permitting workshops, and other events, trainings, and webinars and have good relationships with other Washington air permitting agencies. Actively participating in events outside their agency and building relationships with other organizations allows a small agency to benefit from others' experiences.
2. It is generally easy to determine which permit conditions are, and which are not federally enforceable.
3. In two of the reviewed permits, there were multiple years of calculated emissions based on the LandGEM Model. Having multiple years of actual emissions or calculated emissions based on activity at the source allows the public to understand potential impacts from the source.
4. Permit Shields closely follow the language in WAC 173-401-530 and clearly list and explain the inapplicable requirements.
5. In the permits that were reviewed, the origin and authority of permit conditions are clearly stated.

### **Concerns**

1. In one of the reviewed permits, it is unclear from the permit or Statement of Basis how the general provisions of part 60 or 63 apply to the source. Newer NSPS and NESHAPs include tables listing applicable paragraphs in the general provisions that permit writers can use as a starting point.
2. In all of the reviewed permits, it is not always clear from the SoB what a source's permitting and compliance history are. Sometimes this information can be pieced together from information included in different sections of the SoB, but having the facility's history in a single section of the SoB can help to understand the source's regulatory and compliance background.
3. In two of the reviewed permits, there is no list or description of all of the emission units covered by the permit. Without identifying the emission units at the source, it is not clear where unit specific requirements apply.
4. In one of the reviewed permits, although the SoB explains in broad terms that an NSPS applies, it does not go into detail about how these standards apply or how they have been incorporated into the permit. Creating tables of applicable and inapplicable requirements in the SoB make it clear that inclusion of federal standards in the permit is

complete and can be an aid to the permit writer (or future permit writer) when there are changes to the source and/or the regulation.

5. In at least one of the reviewed permits, there are several conditions which cite “40 CFR part 60 subpart WWW or subpart Cf” as the basis for the requirement. Subpart Cf of part 60, which contains “emission guidelines and compliance times,” is not directly enforceable. Instead, it directs states to prepare state plans for existing sources. If a state does not prepare a state plan, the existing source is subject to the federal plan for landfills in 40 CFR part 62.

## Section B. General Permits

YRCAA has not developed or issued any general permits.

## Section C. Monitoring

### Good Practices

1. In all of the reviewed permits, there is a Section 2 of the permit which identifies applicable requirements and match them with reference methods as well as monitoring, recordkeeping and reporting requirements.
2. YRCAA often adds gap filling monitoring where SIP requirements do not specify monitoring. For example, facility-wide scans to monitor for visible emissions and records of complaint responses related to particulate fallout.
3. In some cases, YRCAA relies on the permittee to self-certify compliance when monitoring or recordkeeping could be performed. For example: the permittee could keep records of fuel sulfur content to assure compliance with the SIP SO<sub>2</sub> limit. Certification is an appropriate form of monitoring for some conditions.

### Concerns

1. In all of the reviewed permits, the SoBs do not mention or discuss CAM applicability. CAM may not be applicable, but including a section on CAM in the SoB will make it clear that CAM was considered as an applicable requirement.
2. In all of the reviewed permits, there are no explanations in the SoBs as to whether or not either gap-filling or sufficiency monitoring had to be included in the permit. Because some standard monitoring conditions apply to SIP requirements that do not include monitoring (e.g., facility-wide scans to detect sources of visual emissions) it appears that there may have been some gap filling.
3. YRCAA often requires permittees to create and update operation and maintenance plans in its permits. Although not all operating and monitoring parameters may be understood at the time of permit issuance, there needs to be adequate oversight of these plans. Furthermore, if relying on such plans to assure compliance, the permitting agency must have the authority to approve, as well as disapprove, them and to require updates if the plans are found to be inadequate to assure compliance.
4. In all of the reviewed permits, YRCAA includes in several locations an out-of-date mailing address for the EPA where the Permittee may submit reports. YRCAA should

consider requiring permittees to submit compliance reports via CEDRI whenever this is feasible and practicable. At the very least, YRCAA should consider including mailing addresses in a single location in the permit so that when addresses need to be updated, they only need to be updated in a single location within the permit.

#### **Section D. Public Participation and Affected State Review**

##### Good practices

1. YRCAA public notices draft permits on its website.
2. YRCAA informs tribes and affected states within 50 miles of a project and always informs Yakama Nation.
3. On YRCAA's website there is an easy to find link to sign up for email notifications of permitting actions.
4. YRCAA routinely translates public notices into Spanish and has Spanish speaking staff.

##### Concerns

1. Like many other agencies, YRCAA shares pre-draft copies of permits with permit applicants. YRCAA should develop standard procedures for documenting this and any changes made to permits during pre-draft review.
2. YRCAA should create a list of active title V permits and their associated Statements of Basis on their website to allow for easy public access to this material.

#### **Section E. Permit Issuance / Revision / Renewal**

##### Good practices

1. YRCAA has issued all three of the title V sources in its jurisdiction initial permits and all three are currently issued renewal permits.

##### Concerns

1. According to YRCAA's TOPS submissions, there is a persistent backlog of title V renewal permits.
2. It is unclear as to whether or not members of the public are informed of their right to challenge permits through state boards or petitioning the Administrator to object.
3. YRCAA does not consistently send permit applications, proposed permits, or final title V permits to EPA Region 10 as required in WAC 173-401-810. Utilizing EPA's Electronic Permitting System (EPS) is a preferred way of submitting material to Region 10.
4. Members of the public have no way of knowing when the EPA's 45-day review period begins or ends, triggering the timeline to petition the Administrator.

#### **Section F. Compliance**

##### Good practices

1. YRCAA has developed a standard reporting sheet for semiannual monitoring reports.

2. YRCAA has stated that they perform full compliance evaluations of all title V sources on an annual basis. OECA guidance only recommends full compliance evaluations every other year.
3. Permits include standard conditions requiring annual compliance certifications and semiannual monitoring reports.
4. The permit requires prompt reporting of permit deviations and excess emissions. The permit defines what is meant by “prompt.”

## **Section G. Resources and Internal Management Support**

### Good practices

1. YRCAA is able to adjust its permit fees each year so that fees and costs precisely match.

### Concerns

1. YRCAA has a very knowledgeable and experienced permit writer but needs to prepare for succession planning.
2. YRCAA has experienced regular staff turnover, likely as a result of uncompetitive salaries.
3. It is unclear as to whether or not YRCAA’s current accounting system can accommodate expenses attributable to the title V program that are not directly related to timesheet entries and that cannot be prorated to time spent working on the permitting program (e.g., specialized training or travel).

## **Section H. Title V Benefits**

1. Writing and issuing title V permits has improved YRCAA’s understanding federal air requirements. This includes inspectors as well as permit writers.
2. Permit renewal provides an opportunity to review compliance status and permitting actions related to title V sources as well as improving the knowledge base for major sources in the area.
3. Title V has resulted in emissions reductions in part due to sources becoming synthetic minor sources to avoid the title V program.

## **Section I. Document Review (Rules/Forms/Guidance)**

1. YRCAA uses standard title V permit applications developed by the state of Washington. YRCAA has a section on their website that lists out various forms for NSR and construction permits, however, there does not appear to a link for title V initial or renewal applications.

## **III. Additional Review**

This section of the third-round program review report presents Region 10’s evaluation of YRCAA’s financials and any other concerns identified during the individual permit reviews.

## Financials

Region 10 requested information from YRCAA 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. YRCAA reports their permit issuance progress semiannually. That data indicates YRCAA's backlog had one outstanding initial permit application and one permit that has expired and has not yet been renewed.

YRCAA provided Region 10 with recent budget data. YRCAA 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. YRCAA's financial statements are audited by the Washington State's auditor's office and the latest report that was issued in March of 2023 found no significant findings (Attachment 5). The report does mention that YRCAA has not updated the Agency's written procedures since they were last approved by the Board on May 14, 2009, which is greater than the three years indicated in the report. YRCAA charges fees on a calendar year basis and the Agency's fiscal year runs from July until June. YRCAA uses a three-tier fee structure that is based on a flat component emission fee, emissions generated fee, and finally a project complexity fee. This system seems to work in allowing the agency a lot of flexibility of determining their fees and expenses.

YRCAA is currently staffed with one experienced title V staff member writes permits and another engineer that only reviews and signs the permits. All title V work is assigned to this single staff member and all other programs are assigned to other staff. Staff retention is difficult to judge at the agency due to the low number of staff, but the experienced title V staff person that is currently employed has been there for over 22 years.

YRCAA appears to manage their fees and expenses adequately. The agency had neither a negative balance nor an excessive amount of funds in reserve indicating that they are able to sufficiently balance their account every year. Region 10 believes that YRCAA is financially stable however there is one concern about YRCAA's management of their resources (see Section G Concern #3).

## IV. Summary

This is YRCAA's first round for program reviews. Region 10 has identified numerous good practices within the agency as well as seventeen initial concerns that should be addressed.