From: Richart, Ann
Sent: Wed, 18 Mar 2026 19:30:47 +0000
To: Zulauf, Ryan C (FAA)
Subject: Fw: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android]
From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 3:36:01 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Megan,

With thanks to Ann, here is a timeline of correspondence with FAA headquarters regarding aviation fuel tax compliance (relevant letters attached):

April 10, 2024	Request from FAA for information
July 12, 2024	WSDOT response to FAA
October 21, 2025	FAA request for further information and clarification
November 6, 2025	WSDOT request for more time to respond
December 15, 2025	FAA grant of additional time to respond. New deadline: 2/18/2026
February 19, 2026	WSDOT request for additional time
March 17, 2026	FAA demand for information

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Tuesday, March 17, 2026 2:24 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri

<kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Steve,

Can you confirm that WSDOT requested another extension a few weeks ago?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

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External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

____

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

From: Richart, Ann
Sent: Wed, 18 Mar 2026 19:44:48 +0000
To: Zulauf, Ryan C (FAA)
Subject: Fw: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: State of Washington AFT Richart letter 2026 03 17 Signed.pdf

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

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Sent: Tuesday, March 17, 2026 8:02:47 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

March 17, 2026

John Ryser
Acting Director
Washington State Department of Revenue
Executive Office
PO Box 47450
Olympia, Washington 98504-7450

Julie Meredith
Secretary
Washington State Department of Transportation (WDOT)
Transportation Building
PO Box 47300
310 Maple Park Avenue S.E.
Olympia, Washington 98504-7300

Subject: FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements

Dear Secretary Meredith and Acting Director Ryser:

On October 21, 2025, the Federal Aviation Administration (FAA) sent a letter to the State of Washington addressed to Ann B. Richart, Aviation Director, Washington State Department of Transportation, requesting detailed information regarding the collection and expenditure of aviation fuel tax proceeds associated with the State's Petroleum Products Tax and Hazardous Substance Tax. A copy of that letter is attached for reference. These taxes are not subject to the federal grandfathering provisions that apply to certain state aviation fuel taxes.

The requested information is necessary for the FAA to determine whether revenues derived from aviation fuel are being used in a manner consistent with 49 U.S.C. §§ 47107(b) and 47133 and the FAA's Policy and Procedures Concerning the Use of Airport Revenue (64 Fed. Reg. 7696).

The October 21 letter requested that the State provide the information within 60 days. On November 6, 2025, the State requested additional time to respond. The FAA subsequently granted an extension and established February 18, 2026, as the revised deadline for submitting the requested information. Unfortunately, the FAA did not receive the requested information by that date.

On February 19, 2026, FAA staff contacted Ms. Richart regarding the status of the State's response. During that conversation, Ms. Richart acknowledged the missed deadline and left little optimism that the State would fulfill the FAA's request.

The State's failure to provide the requested information after repeated requests and an extended deadline leaves the FAA without the information necessary to carry out its statutory oversight responsibilities. As a result, the FAA cannot determine whether aviation fuel tax revenues are being used in compliance with federal law or consistent with federal airport revenue-use requirements.

The FAA remains prepared to review the requested information should the State provide it. However, if the FAA does not receive the requested information within 10 days of receipt of this letter, the Department will proceed with appropriate compliance and enforcement actions.

Sincerely,

Michael V. Helvey

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosures:	October 21, 2025, FAA Letter December 15, 2025, FAA Letter
cc:	Ann R. Richart, Aviation Director, WDOT Daniel J. Edwards, Associate Administrator, Office of Airports

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

October 21, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
Transportation Building
310 Maple Park Avenue S.E.
PO Box 47300
Olympia, Washington 78540-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) is currently assessing the Washington State Department of Transportation's (State) procedures and reporting of the proceeds of aviation fuel tax collected as outlined in the *Washington Action Plan, FAA Policy concerning Airport Revenue, 2021 Update* (Action Plan). The State's Action Plan was found to be compliant with the Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register 66282, November 7, 2014) by the FAA.

Despite this compliance, the FAA has several questions and requires further clarification. The State levies various taxes on aviation fuel sales, detailed as follows:

1. **Aircraft fuel tax (Chapter 82.42 RCW):** This tax is levied by the State on each gallon of aviation fuel sold, delivered, or used in the State. The tax rate of $0.05 per gallon was in effect on December 30, 1987, and is considered grandfathered. The current tax rate is $0.18 per gallon, with $0.13 per gallon being subject to the federal revenue requirements. The State has not provided a summary of the tax collections, and the FAA requests these figures to ensure compliance with Comment 4 of the Amendment.

2. **State sales and use taxes (Chapters 82.08 and 82.12 RCW):** These taxes apply to retail sales of tangible personal property, certain services, digital products, and extended warranties, with exceptions for agricultural purposes and aviation fuel purchased for interstate or foreign air transportation. The State's tax rate of 6.5% remains unchanged since 1983 and is considered grandfathered. The FAA requires annual collection amounts for these taxes to ensure compliance with Comment 4 of the Amendment.

3. **The Hazardous Substance Tax (HST) and Petroleum Products Tax (PPT) (Chapters 82.24 and 82.23A RCW):** These taxes are levied on the first possession in the State of hazardous substances, including aviation fuel. The State Department of Ecology uses the funds to help clean up and manage solid and hazardous waste in the State. Both HST and PPT were imposed later than December 30, 1987, and are subject to federal revenue use requirements. The FAA requires evidence that these taxes are reserved for aviation or airport purposes, as stipulated by the Amendment.

The FAA acknowledged that changes to align State and local taxes with federal law would require State legislation. The 2014 Amendment required the development of action plans to amend non-compliant laws and to establish tracking and reporting systems for aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and track systems and amend any non-compliant State statutes. Although 11 years have passed since the Amendment, actual amounts rather than estimates are still needed. The FAA's Revenue Use Policy (64 FR 7696, February 16, 1999) mandates actual data as evidence of proper allocation for aviation purposes. A timeline for implementing tracking and reporting systems is needed.

The Amendment in FY 2014 provided that State and local officials should have prepared an action plan to initiate the process to amend any non-compliant State laws and local ordinances as necessary to conform to federal law on the use of aviation fuel tax revenues. The Amendment went on to describe the requirements of the Action Plan, detailing the process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and tracking systems and amend any non-compliant State statutes.

Eleven years have elapsed, and estimates are being provided rather than actual amounts without any indication of when the reporting requirements will be attained. The FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy) (64 FR 7696, February 16, 1999) provides that estimates cannot be relied upon as documentary evidence to show the aviation fuel tax proceeds were collected and allocated for aviation purposes. The FAA will need a timeline for implementing all tracking and reporting tasks.

In correspondence dated July 12, 2024, with Scott Glenn, Division Manager of the FAA's Airport Financial Compliance Division (ACO-200), the State indicated that all proceeds collected on the HST and PPT are allocated according to State statute. HST collected is directed to be deposited proportionally in the model toxic control operating, capital, and stormwater accounts. All collections from the assessment of PPT are deposited in the Pollution Property Liability Insurance Program Trust Account, with the potential transfer of funds to the Liability Insurance Agency Underground Storage Tank Revolving Account. These funds, if not used for aviation purposes, conflict with revenue use requirements. The FAA directs stakeholders to the Aviation Fuel Tax Docket (Docket ID: FAA-2013-0988) for guidance.

The State tracks aviation appropriations from other funds that can offset the environmental tax proceeds. The FAA received State provided documentation titled *Washington State Aviation State Aviation Appropriations 2019-2023* (Attachment) as evidence of these offsets. In-kind services benefitting airports and aviation may be recognized as offsets but require FAA review and approval to confirm their aviation-related benefits.

The FAA staff from ACO-200 and the FAA's Northwest Mountain regional office recently undertook a review of in-kind costs associated with aviation fuel tax collections. This part of the review was to determine the compliance of these costs with federal revenue requirements. The detailed examination revealed several in-kind appropriations that need further clarification to ascertain their allowability.

The review process was methodical, involving a detailed analysis of various appropriations across multiple fiscal years and budgetary allocations, as summarized in Attachment A below. The appropriations were categorized based on their allowability status: Allowable, Not Allowable, or Requiring Clarification. Among the appropriations that were deemed allowable were funds allocated to programs under various sections, like Program Y and Z from the 2019-21 HB 1160 (Transportation), as well as several appropriations under the Capital and Operating budgets across different fiscal years.

However, a significant portion of the appropriations, totaling over $82 million, was identified as not allowable. These included appropriations under the 2021-22 SSB 5165 (Transportation budget) and the 2023 Supplemental ESSB 5200 (Capital), among others. These not allowable appropriations are excluded from being offset against aviation fuel taxes due to their lack of direct benefit to aviation or airport operations.

Furthermore, there were several appropriations, totaling nearly $15 million, that require additional clarification before a final determination can be made. These include appropriations such as those under the 2019-21 HB 1102 (Capital Budget) and 2021-23 ESSB 5092 (Operating Budget), where the FAA needs confirmation on specific aspects like the use of appropriations, the scope of studies, or the proportionate benefit to aviation.

For instance, the appropriation for Section 815 Program T under the 2019-21 HB 1160 requires a demonstration of its sole benefit to aviation or a substantiated aviation role based on appropriate metrics. Similarly, for several other appropriations, there is a need to confirm whether funds were used as intended or transferred to subsequent budgets, and whether the expenditures align with aviation-related criteria.

The FAA's comprehensive review underscores the importance of substantive documentation and justification for appropriations intended to be used as offsets to aviation fuel taxes. Ensuring compliance with federal requirements helps maintain transparency and accountability in the management of aviation-related finances. The next steps will involve the State furnishing the required clarifications and justifications for the identified appropriations, enabling a definitive decision on their eligibility.

While the Washington State Department of Transportation's Action Plan has met initial compliance with FAA policies concerning aviation fuel tax revenues, there remain significant areas requiring further clarification and action. The FAA seeks comprehensive data on tax collections and assurances that airport revenue use aligns with federal revenue requirements. The necessity for accurate tracking and reporting systems cannot be overstated, especially as over a decade has passed since the 2014 Amendment. The FAA is committed to working collaboratively with the State to address these issues, ensuring that all aviation fuel tax proceeds are properly allocated and that all State in kind contributions are appropriately assessed for their benefit to aviation. We appreciate your attention to these matters and kindly request that the State provide the information and timelines for compliance within 60 days.

Please do not hesitate to reach out should you have questions or require further guidance.

Sincerely,

Michael W. Helvey
Digitally signed by MICHAEL W HELVEY
Date: 2025.10.22 08:58:06 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosure

cc: Jessica Sypniewski, Acting ARP-1
William Garrison, Director, ANM Airports Division
Peter Doyle, Airport Compliance Manager, ANM

Attachment A – ***In-Kind Offsets to Aviation Fuel Tax Collections***

Appropriation	Allowable	Not Allowable	Clarify	Comment
2019-21 – HB 1160 (Transportation)				
Sec. 310 Program Y	$500,000			
Sec. 311 Program Z	$60,000			
Sec. 803 Jt. Transport.	$500,000			
Sec. 815 Program T			$500,000	Provide benefit solely for aviation or airport, or substantiate aviation role proportionately based on an appropriate metric.
2019-21 HB 1102 (Capital Budget)				
Sec. 1042 (Commerce)			$3,451,000	Confirm that the appropriation was used and not transferred to 2021 - 2023 SHB 1080.
Sec. 6003 (Commerce)			$2,000,000	Determine what conditions are remedied by the acquisition, and how the new zoning will satisfy the Runway Protection Zone design criteria.
2019-21 – HB 1109 (Operating Budget)				
Sec. 607 (Washington State University)	$1,040,000			
Sec. 1501 (State Bd for Community and Technical Colleges)	$300,000			
Sec. 1502 (University of Washington)	$250,000			
2020 Supplemental – ESSB 6248 (Capital Budget)				
Sec. 1011 (Dept. of Commerce) (from 2019-			$750,000	Confirm that appropriation was used and not transferred to 2021 - 2023 SHB 1080.

21 funding update-Sunnyside)				
2021 Supplemental – (SHB) 1080 (Capital Budget)				
Sec. 1074 (Dept. of Commerce)			$5,700,000	Confirm that appropriation was used and not transferred to 2022 Supplemental SB 5651(Capital).
2021-22 – SSB 5165 (Transportation Budget)				
Sec. 1008 Washington State Department of Transportation (WSDOT) Program Y – Rail)		$500,000		
Sec. 1009 (WSDOT Program Z – Capital)	$60,000			
Sec. 113 (Joint Legislative Audit and Review Committee)		$200,000		
2021-23 – SHB 1080 (Capital Budget)				
Sec. 1075 (Commerce)	$450,000			
Sec. 6007 (Commerce) *(from 2019-21 funding and 2020 supplemental update-Sunnyside)*	$3,701,000			
2021-23 – ESSB 5092 (Operating Budget)				
Sec. 607 (Washington State University)	$1,090,000			
Sec. 1121 (Commerce)			$300,000	Confirm the scope of the study for SeaTac.
Sec. 1220 (Health)			$125,000	Confirm the scope of the study for SeaTac.
2022 Supplemental – SB 5975 (Transportation Additive Funding)				

Sec. 203 (Commerce)	$10,000			
2022 Supplemental – SB 5651(Capital)				
Sec. 1022 Commerce)	$5,700,000			
2022 Supplemental – ESSB 5693 (Operating)				
Sec. 128 (Commerce)	$450,000			
2023 Supplemental – ESHB 1125 (Transportation)				
Sec. 205 (Transportation Commission)		$75,000		Seems to be an overall economic development funding.
2023 Supplemental – ESSB 5200 (Capital)				
Sec 1025 (Commerce)	$1,861,000	$1,000,000		
Sec. 1034 (Commerce)		$324,000		
Sec. 1079 (Military)		$80,200,000		
2023 Supplemental – ESSB 5187				
Sec. 310 (Dept. of Natural Resources)	$762,000			
Sec. 607 (WSU)	$1,000,000			
Sec. 618 (Washington State Historical Society)		$341,000		
Sec. 1114 (Commerce)			$2,000,000	Confirm the amount beneficial to aviation, as other modes of transportation are included.
Total	**$17,734,000**	**$82,640,000**	**$14,826,000**	

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, D.C. 20591

December 15, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation

Dear Ms. Richart:

Subject: Approval of Extension Request – Fuel Tax Compliance Review

I am writing to acknowledge receipt of your letter dated November 6, 2025, requesting an additional 60-day extension for the submission of additional information related to our ongoing fuel tax compliance review.

After reviewing your request and considering the complexities involved, including the necessity to coordinate with multiple state agencies and the impact of recent administrative changes, the Federal Aviation Administration (FAA) has approved your request for an extension.

The new deadline for submission will be 120 days from the date of October 21, 2025, letter, extending your original deadline to February 18, 2026. We believe this additional time will facilitate a comprehensive and accurate response, reflecting your commitment to compliance and transparency.

We appreciate your proactive approach and continued dedication to aviation excellence in Washington State. Should you need further clarification or assistance during this process, please feel free to reach out to my office directly.

Thank you for your ongoing partnership and cooperation.

Sincerely,

Michael W. Helvey

Michael W. Helvey
Director

From: Breaux, Steven
Sent: Tue, 17 Mar 2026 22:36:01 +0000
To: Cotton, Megan (GOV); Hansen, Erik (OFM)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Richart, Ann
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final WSDOT Compliance Response 12 JUL 24.pdf, FAA Letter 2025 10 21 Signed.pdf, ANM_Washington State_Letter_Fuel_Tax_SIGN 2024 04 10.pdf, 6 NOV 25 Response to FAA HQ deadline extension request.pdf, State of Washington AFT Richart Letter_Ext Req Approval_2025 12 15 Signed.pdf, 19 FEB 26 Response to FAA.pdf

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With thanks to Ann, here is a timeline of correspondence with FAA headquarters regarding aviation fuel tax compliance (relevant letters attached):

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Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW

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SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

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Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

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Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 12, 2024

Scott Glenn
Division Manager
Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Glenn;

This letter is in response to your letter of April 10, 2024, requesting information on Washington State's efforts to implement our Revenue Policy Action Plan of 2021.

Washington Department of Transportation has worked diligently with other agencies to provide the information that you requested. This preliminary response details the answers to most of your requests. We continue to work to develop the specific actions that will address all of the questions in your letter.

I will respond to your requests in the order that you presented them:

Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.

- Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
  - Copies of sample revised taxpayer reports and schedules and;
  - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.

With assistance from the Washington State Department of Licensing (which administers Washington's aircraft fuel tax) and the Aviation Division of the Washington State Department of Transportation, the Washington State Department of Revenue has identified taxpayers that could potentially owe hazardous substance tax (HST), petroleum products tax (PPT), and/or local sales and use taxes (LSUT) on aviation fuel. These taxpayers are required to complete a worksheet as an addendum to their regular combined excise tax return to indicate what portion of their reported taxes are attributable to aviation fuel. We have also included oil spill taxes on the worksheet, as we believe they may also be subject to the FAA's revenue use requirements.

Please see the *Aviation Fuel Worksheet* tab of the *FAA Report Exhibits* attachment for a blank copy of the worksheet that taxpayers must complete when filing their Combined Excise Tax Return. The *Sample Taxpayer completed Worksheet* tab contains a copy of the same worksheet as it would appear after being filled out by a taxpayer.

Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:

- The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
- Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
- Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.

On June 8, 2022, we received provisional FAA approval for our 2021 action plan and the Department of Revenue (DOR) began implementing their proposed data collection efforts. After the necessary programming and tax return changes were complete, actual data collection began with the Quarter 3-2023 tax returns. In lieu of collected data prior to Quarter 3-2023, DOR has provided estimates from 2017 through Quarter 2-2023. Attached is *FAA Estimate of Total Taxes Paid on Aviation Fuels From December 8, 2017.* This document details the methodology used to estimate the HST/PPT taxes required to be appropriated for aviation projects prior to the Taxpayer Report commencement in July 1, 2023.

Estimates from fiscal year 2017 through fiscal year 2023 (ending with Q2-2023) are attached as *FY17 through FY23 Estimated Aviation Fuel Tax Data*. Actual figures for state tax collections for Q3-2023 and Q4-2024 are as follows:

	2023 Quarter 3 (revised)		2023 Quarter 4	
Tax	Taxpayer Count	Tax Due (dollars) [1]	Taxpayer Count	Tax Due (dollars) [1]
	Preliminary [2]		*Preliminary* [2]	
Petroleum Products Tax	14	$388,545	23	$288,119
Hazardous Substance Tax	11	$4,086,019	16	$3,121,581
Oil Spill Taxes [3]	5	$4,591	5	$2,060
	Total Tax Due	$4,479,154	Total Tax Due	$3,411,760

Notes:

1. *Data Source: Department of Revenue, Excise Tax Data, as of March 5, 2024.*
2. *This data is preliminary and will continue to change significantly as we work with taxpayers to true up our data and educate them for future reporting. We have already removed some taxpayer reporting errors from Q3 based on more accurate reporting in Q4.*
3. *Oil Spill Taxes are 5 cents per barrel (1 cent per barrel for Response Tax and 4 cents for Administration tax).*

It will take some time to ensure that taxpayers are educated and reporting correctly using this addendum. Because data collection began relatively recently, DOR is still in the process of educating taxpayers on how and when to report, and many taxpayers are not yet providing accurate data. Due to these compliance factors, the data collected so far is incomplete and contains reporting errors – issues that are expected to improve over time as taxpayers are educated, and they adjust to the new requirements. DOR expects the collected data to match the estimates more closely as taxpayer reporting improves.

However, because the estimates involve taxes which are not specific to aviation fuel, DOR does not have any historical data regarding what portions of these taxes are attributable to aviation fuel, so their estimates rely on assumptions and incomplete data. They have provided the most comprehensive estimates they are able to provide in light of these circumstances, but still expect that the actual collection data will not match the estimates perfectly, even after taxpayer compliance improves.

Local sales and use tax (LSUT) is levied by the local taxing district and collected by the Department of Revenue on their behalf, so all collections are provided back to the local taxing district that levied the tax – including any LSUT on aviation fuel. Once again, DOR does not have data on specific amounts attributable to aviation fuel prior to the start of their data collection in Q3-2023, but here is a summary of LSUT collections on aviation fuels allocated to the fifty local government entities receiving distributions of LSUT starting Q3-2023:

- Quarter 3 2023 Total Local Sales/Use Tax from the Sale of Aviation Fuel (total accumulation with rate exclusions applied) - **$488,546**
- Quarter 4 2023 - **$1,013,230**
- Quarter 1 2024 - **$4,006,742**

The significant increases here are a result of taxpayer education, especially with large stakeholders that were not reporting accurately prior to Q1-2024.

Adjustments to both the LSUT and HST/PPT will continue as efforts to true up the collected data continue.

Washington Department of Transportation (WSDOT) tracks aviation appropriations made out of other funds which can be used to offset the HST/PPT/Oil Spill proceeds. The specific appropriations made are detailed in the Attachment *Washington State Aviation Appropriations 2019-2023.*

Provide the total amounts of HST and PPT collected on aviation fuel, including:

- Detailed information of transactions in the funds, and the balances attributable to airport use;
- Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;

whether these funds are being tracked, reported, and used for airport purposes only.

All proceeds from HST or PPT collected on aviation fuel are directed in accordance with state statute, along with all other HST and PPT proceeds. While the revenue amounts attributable to tax on aviation fuel are tracked to ensure appropriations fully offset any and all taxes on aviation fuel, the actual deposits and movement of aviation fuel revenues through these accounts are not separately tracked. The appropriations to fully fund aviation programs do not generally come out of the accounts where HST or PPT are deposited. Rather, offsetting funds will come from other accounts as appropriated by the legislature or local governing authorities.

In addition to the data DOR has provided on HST/PPT revenues, they can also provide data on overall HST/PPT deposits – however this data would not be specific to aviation fuel, so it may not be useful for your purposes. Please let me know if you would like that data regardless.

In general, HST and PPT are directed as follows:

For HST, the Motor Vehicle Fund for transportation stormwater activities and projects receives the first $50 million of these taxes each biennium. The remaining proceeds are deposited into the following accounts:

- 60% to the Model Toxics Control Operating Account (RCW 70A.305.180).
- 25% to the Model Toxics Control Capital Account (RCW 70A.305.190).
- 15% to the Model Toxics Control Stormwater Account (RCW 70A.305.200).

For PPT, the Pollution Liability Insurance Program Trust Account receives all receipts from this tax. Each biennium, if the account balance exceeds $7.5 million, the Pollution Liability Insurance Agency Underground Storage Tank Revolving Account may receive a transfer of up to $20 million (RCW 70A.345.080).

Additionally we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and

any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

There has been no new legislation specific to aviation fuel, but there have been changes to the HST and PPT rates described below. No new processes have been developed by the Department of Revenue aside from those already described above.

The state tax rate change related to aviation fuel revenue was an annual inflation adjustment to the hazardous substance tax on petroleum products. The rate is volumetric rather than value-based and is annually adjusted for inflation using the US Department of Commerce's implicit price deflator.

The per-barrel rate was $1.13 on January 11, 2021, had increased to $1.40 by the time data tracking began in Q3-2023, and increased to $1.48 on July 1, 2024.

The PPT rate has changed twice since January 11, 2021. Before July 1, 2021, the rate was 0.0030. It decreased to 0.0015 from July 1, 2021, to September 30, 2023. From October 1, 2023, forward, the rate returned to 0.0030.

PPT includes a "trigger" mechanism based on the amount of funds in the Pollution Liability Insurance Program Trust Account, which suspends the tax when an account balance threshold is met. PPT was last reinstated on January 1, 2020, and has not been suspended since. New thresholds were set in 2023 and are now as follows:

- Beginning October 1, 2023, when the balance falls below $15 million for the most recent quarter, the tax starts.
- Beginning October 1, 2023, When the balance exceeds $30 million for the previous calendar quarter, the tax stops.

There have been several local tax rate changes since January 11, 2021, that affect aviation fuel reporting. Please see, FAA Report Exhibits Attachment, *Local Rate Changes* tab for a complete list of changes.

Please let me know if you have any questions about this information or if you would like to further discuss the State of Washington's funding of aviation programs.

Sincerely,

Ann B. Richart

Ann B. Richart, AAE
Aviation Director

Enc.

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

October 21, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
Transportation Building
310 Maple Park Avenue S.E.
PO Box 47300
Olympia, Washington 78540-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) is currently assessing the Washington State Department of Transportation's (State) procedures and reporting of the proceeds of aviation fuel tax collected as outlined in the *Washington Action Plan, FAA Policy concerning Airport Revenue, 2021 Update* (Action Plan). The State's Action Plan was found to be compliant with the Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register 66282, November 7, 2014) by the FAA.

Despite this compliance, the FAA has several questions and requires further clarification. The State levies various taxes on aviation fuel sales, detailed as follows:

1. **Aircraft fuel tax (Chapter 82.42 RCW):** This tax is levied by the State on each gallon of aviation fuel sold, delivered, or used in the State. The tax rate of $0.05 per gallon was in effect on December 30, 1987, and is considered grandfathered. The current tax rate is $0.18 per gallon, with $0.13 per gallon being subject to the federal revenue requirements. The State has not provided a summary of the tax collections, and the FAA requests these figures to ensure compliance with Comment 4 of the Amendment.

2. **State sales and use taxes (Chapters 82.08 and 82.12 RCW):** These taxes apply to retail sales of tangible personal property, certain services, digital products, and extended warranties, with exceptions for agricultural purposes and aviation fuel purchased for interstate or foreign air transportation. The State's tax rate of 6.5% remains unchanged since 1983 and is considered grandfathered. The FAA requires annual collection amounts for these taxes to ensure compliance with Comment 4 of the Amendment.

3. **The Hazardous Substance Tax (HST) and Petroleum Products Tax (PPT) (Chapters 82.24 and 82.23A RCW):** These taxes are levied on the first possession in the State of hazardous substances, including aviation fuel. The State Department of Ecology uses the funds to help clean up and manage solid and hazardous waste in the State. Both HST and PPT were imposed later than December 30, 1987, and are subject to federal revenue use requirements. The FAA requires evidence that these taxes are reserved for aviation or airport purposes, as stipulated by the Amendment.

The FAA acknowledged that changes to align State and local taxes with federal law would require State legislation. The 2014 Amendment required the development of action plans to amend non-compliant laws and to establish tracking and reporting systems for aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and track systems and amend any non-compliant State statutes. Although 11 years have passed since the Amendment, actual amounts rather than estimates are still needed. The FAA's Revenue Use Policy (64 FR 7696, February 16, 1999) mandates actual data as evidence of proper allocation for aviation purposes. A timeline for implementing tracking and reporting systems is needed.

The Amendment in FY 2014 provided that State and local officials should have prepared an action plan to initiate the process to amend any non-compliant State laws and local ordinances as necessary to conform to federal law on the use of aviation fuel tax revenues. The Amendment went on to describe the requirements of the Action Plan, detailing the process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and tracking systems and amend any non-compliant State statutes.

Eleven years have elapsed, and estimates are being provided rather than actual amounts without any indication of when the reporting requirements will be attained. The FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy) (64 FR 7696, February 16, 1999) provides that estimates cannot be relied upon as documentary evidence to show the aviation fuel tax proceeds were collected and allocated for aviation purposes. The FAA will need a timeline for implementing all tracking and reporting tasks.

In correspondence dated July 12, 2024, with Scott Glenn, Division Manager of the FAA's Airport Financial Compliance Division (ACO-200), the State indicated that all proceeds collected on the HST and PPT are allocated according to State statute. HST collected is directed to be deposited proportionally in the model toxic control operating, capital, and stormwater accounts. All collections from the assessment of PPT are deposited in the Pollution Property Liability Insurance Program Trust Account, with the potential transfer of funds to the Liability Insurance Agency Underground Storage Tank Revolving Account. These funds, if not used for aviation purposes, conflict with revenue use requirements. The FAA directs stakeholders to the Aviation Fuel Tax Docket (Docket ID: FAA-2013-0988) for guidance.

The State tracks aviation appropriations from other funds that can offset the environmental tax proceeds. The FAA received State provided documentation titled *Washington State Aviation State Aviation Appropriations 2019-2023* (Attachment) as evidence of these offsets. In-kind services benefitting airports and aviation may be recognized as offsets but require FAA review and approval to confirm their aviation-related benefits.

The FAA staff from ACO-200 and the FAA's Northwest Mountain regional office recently undertook a review of in-kind costs associated with aviation fuel tax collections. This part of the review was to determine the compliance of these costs with federal revenue requirements. The detailed examination revealed several in-kind appropriations that need further clarification to ascertain their allowability.

The review process was methodical, involving a detailed analysis of various appropriations across multiple fiscal years and budgetary allocations, as summarized in Attachment A below. The appropriations were categorized based on their allowability status: Allowable, Not Allowable, or Requiring Clarification. Among the appropriations that were deemed allowable were funds allocated to programs under various sections, like Program Y and Z from the 2019-21 HB 1160 (Transportation), as well as several appropriations under the Capital and Operating budgets across different fiscal years.

However, a significant portion of the appropriations, totaling over $82 million, was identified as not allowable. These included appropriations under the 2021-22 SSB 5165 (Transportation budget) and the 2023 Supplemental ESSB 5200 (Capital), among others. These not allowable appropriations are excluded from being offset against aviation fuel taxes due to their lack of direct benefit to aviation or airport operations.

Furthermore, there were several appropriations, totaling nearly $15 million, that require additional clarification before a final determination can be made. These include appropriations such as those under the 2019-21 HB 1102 (Capital Budget) and 2021-23 ESSB 5092 (Operating Budget), where the FAA needs confirmation on specific aspects like the use of appropriations, the scope of studies, or the proportionate benefit to aviation.

For instance, the appropriation for Section 815 Program T under the 2019-21 HB 1160 requires a demonstration of its sole benefit to aviation or a substantiated aviation role based on appropriate metrics. Similarly, for several other appropriations, there is a need to confirm whether funds were used as intended or transferred to subsequent budgets, and whether the expenditures align with aviation-related criteria.

The FAA's comprehensive review underscores the importance of substantive documentation and justification for appropriations intended to be used as offsets to aviation fuel taxes. Ensuring compliance with federal requirements helps maintain transparency and accountability in the management of aviation-related finances. The next steps will involve the State furnishing the required clarifications and justifications for the identified appropriations, enabling a definitive decision on their eligibility.

While the Washington State Department of Transportation's Action Plan has met initial compliance with FAA policies concerning aviation fuel tax revenues, there remain significant areas requiring further clarification and action. The FAA seeks comprehensive data on tax collections and assurances that airport revenue use aligns with federal revenue requirements. The necessity for accurate tracking and reporting systems cannot be overstated, especially as over a decade has passed since the 2014 Amendment. The FAA is committed to working collaboratively with the State to address these issues, ensuring that all aviation fuel tax proceeds are properly allocated and that all State in kind contributions are appropriately assessed for their benefit to aviation. We appreciate your attention to these matters and kindly request that the State provide the information and timelines for compliance within 60 days.

Please do not hesitate to reach out should you have questions or require further guidance.

Sincerely,

Michael W. Helvey Digitally signed by MICHAEL W HELVEY
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Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosure

cc: Jessica Sypniewski, Acting ARP-1
William Garrison, Director, ANM Airports Division
Peter Doyle, Airport Compliance Manager, ANM

Attachment A – ***In-Kind Offsets to Aviation Fuel Tax Collections***

Appropriation	Allowable	Not Allowable	Clarify	Comment
2019-21 – HB 1160 (Transportation)				
Sec. 310 Program Y	$500,000			
Sec. 311 Program Z	$60,000			
Sec. 803 Jt. Transport.	$500,000			
Sec. 815 Program T			$500,000	Provide benefit solely for aviation or airport, or substantiate aviation role proportionately based on an appropriate metric.
2019-21 HB 1102 (Capital Budget)				
Sec. 1042 (Commerce)			$3,451,000	Confirm that the appropriation was used and not transferred to 2021 - 2023 SHB 1080.
Sec. 6003 (Commerce)			$2,000,000	Determine what conditions are remedied by the acquisition, and how the new zoning will satisfy the Runway Protection Zone design criteria.
2019-21 – HB 1109 (Operating Budget)				
Sec. 607 (Washington State University)	$1,040,000			
Sec. 1501 (State Bd for Community and Technical Colleges)	$300,000			
Sec. 1502 (University of Washington)	$250,000			
2020 Supplemental – ESSB 6248 (Capital Budget)				
Sec. 1011 (Dept. of Commerce) (from 2019-			$750,000	Confirm that appropriation was used and not transferred to 2021 - 2023 SHB 1080.

21 funding update-Sunnyside)				
2021 Supplemental – (SHB) 1080 (Capital Budget)				
Sec. 1074 (Dept. of Commerce)			$5,700,000	Confirm that appropriation was used and not transferred to 2022 Supplemental SB 5651(Capital).
2021-22 – SSB 5165 (Transportation Budget)				
Sec. 1008 Washington State Department of Transportation (WSDOT) Program Y – Rail)		$500,000		
Sec. 1009 (WSDOT Program Z – Capital)	$60,000			
Sec. 113 (Joint Legislative Audit and Review Committee)		$200,000		
2021-23 – SHB 1080 (Capital Budget)				
Sec. 1075 (Commerce)	$450,000			
Sec. 6007 (Commerce) *(from 2019-21 funding and 2020 supplemental update-Sunnyside)*	$3,701,000			
2021-23 – ESSB 5092 (Operating Budget)				
Sec. 607 (Washington State University)	$1,090,000			
Sec. 1121 (Commerce)			$300,000	Confirm the scope of the study for SeaTac.
Sec. 1220 (Health)			$125,000	Confirm the scope of the study for SeaTac.
2022 Supplemental – SB 5975 (Transportation Additive Funding)				

Sec. 203 (Commerce)	$10,000			
2022 Supplemental – SB 5651(Capital)				
Sec. 1022 Commerce)	$5,700,000			
2022 Supplemental – ESSB 5693 (Operating)				
Sec. 128 (Commerce)	$450,000			
2023 Supplemental – ESHB 1125 (Transportation)				
Sec. 205 (Transportation Commission)		$75,000		Seems to be an overall economic development funding.
2023 Supplemental – ESSB 5200 (Capital)				
Sec 1025 (Commerce)	$1,861,000	$1,000,000		
Sec. 1034 (Commerce)		$324,000		
Sec. 1079 (Military)		$80,200,000		
2023 Supplemental – ESSB 5187				
Sec. 310 (Dept. of Natural Resources)	$762,000			
Sec. 607 (WSU)	$1,000,000			
Sec. 618 (Washington State Historical Society)		$341,000		
Sec. 1114 (Commerce)			$2,000,000	Confirm the amount beneficial to aviation, as other modes of transportation are included.
Total	**$17,734,000**	**$82,640,000**	**$14,826,000**	

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

April 10, 2024

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
310 Maple Park Avenue SE
Olympia, WA 98504-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) advised the State of Washington (State) on June 8, 2022 via email that its proposed 2021 Action Plan Update addressing the use of proceeds from taxes on aviation fuel was found to be compliant. The State's submission was in response to the FAA's *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel* (79 Federal Register 66282, November 7, 2014).

As referenced in the June 8, 2022 email, the FAA is now initiating its review of the State's procedures and reporting of the proceeds from the aviation fuel tax now that the Action Plan is up and running. The review will assist the agency in determining whether the plan has been implemented consistent with the process described and the State is in compliance with federal law when using aviation fuel tax proceeds.

Our emphasis of the review will be centered on the proposed processes and methodologies submitted in the Action Plan for the State levied taxes on the sale of aviation fuel - an Aircraft Fuel Tax; State and Local Sales and Use Taxes; a Hazardous Substance Tax (HST); and a Petroleum Products Tax (PPT). For purposes of this review, these taxes are referenced as aviation fuel taxes collectively except where a tax is specifically identified.

In furtherance of the review of the State's Action Plan, please address the following:

- Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.
    - Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
        - Copies of sample revised taxpayer reports and schedules and;
        - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.
- Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:
    - The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
    - Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
    - Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.
- Provide copies of action plans for local taxing jurisdictions; the State assumed responsibility to ensure local taxing jurisdictions comply with the aviation fuel tax requirements.
    - Substantiate whether the proceeds collected from the local government taxes on aviation fuel are being used for airport purposes in local taxing jurisdictions.
- Provide the total amounts of HST and PPT collected on aviation fuel, including:
    - Detailed information of transactions in the funds, and the balances attributable to airport use;
    - Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;
    - Substantiate whether these funds are being tracked, reported, and used for airport purposes only.

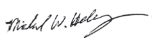
Additionally, we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

We request that you provide the information requested above within 30 days of receipt of this letter to Scott Glenn, Division Manager, Office of Airport Compliance and Management Analysis at scott.f.glenn@faa.gov.

We also remind you to timely submit updates to the FAA of any substantive changes to aviation fuel tax revenues received by the State.

We appreciate your assistance in this review. Should you have any questions, please contact Mr. Glenn at (202) 267-6491.

Sincerely,



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Michael Helvey
Director, Office of Airport Compliance

Enclosure

STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR
P.O. Box 47454 ● Olympia, Washington 98504-7454 ● (360) 534-1600 ● FAX (360) 534-1606

January 11, 2021

TO: The Honorable Christine Rolfes, Chair
The Honorable Lynda Wilson
Ways & Means Committee
Washington State Senate

The Honorable Noel Frame, Chair
The Honorable Ed Orcutt
Finance Committee
Washington State House of Representatives

The Honorable Timm Ormsby, Chair
The Honorable Drew Stokesbary
Appropriations Committee
Washington State House of epreseentatives

FROM: Vikki Smith, Director
Washington State Department of Revenue

SUBJECT: Washington Action Plan—FAA Policy Concerning Airport Revenue—2021 Update

The Department of Revenue (department) is submitting this report to the Legislature as required under Section 135(8), Chapter 357, Laws of 2020 (Engrossed Substitute Senate Bill 6168). This budget proviso requires the department to:

- Update the publication titled "Washington Action Plan—FAA Policy Concerning Airport Revenue."
- Consult with the Washington State Department of Transortation, Aviation Division, to develop and recommend to the fiscal committees of the Legislature a method of separately tracking the actual amounts collected from the hazardous substance tax (HST) and the petroleum products tax (PPT), to the extent these taxes are imposed on aviation fuel.

The Federal Aviation Administration's policy concerning the use of airport revenues requires that any state or local taxes on aviation fuel, except taxes in effect on December 30, 1987, be expended exclusively for airport purposes and aviation programs.

In addition to HST and PPT, local sales and use taxes are subject to the FAA's policy concerning the use of airport revenues. Therefore, while not required by ESSB 6168, this report also includes our recommended methodology to separately track local sales and use tax revenues collected on the sale and use of aviation fuel.

If you have any questions or need the report in an alternate format, please contact Michael Bailey, Legislative and External Affairs Liaison, Executive Division, at MichaelBa@dor.wa.gov or (360) 534-1545.

cc: Brad Hendrickson, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Keith Phillips, Executive Policy Director, Office of the Governor
Members, Senate Ways & Means Committee
Members, House Finance Committee
Members, House Appropriations Committee
Members, Senate Transportation Committee
Members, House Transportation Committee
David Schumacher, Director, Office of Financial Management
Drew Shirk, Executive Director, Legislative Affairs, Office of the Governor
David Fleckenstein, Director of Aviation, Washington State Department of Transportation
Roselyn Marcus, Assistant Director, Office of Financial Management
Ramona Nabors, Budget Assistant, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Washington Action Plan
FAA Policy concerning Airport Revenue
2021 Update

Department of Revenue Washington State

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Introduction

This report is prepared as required by Section 135(8), Chapter 357, Laws of 2020 (the 2019-2021 supplemental operating budget). This legislation required the Department of Revenue (department) to:

- Update the 2015 “Washington Action Plan – FAA Policy Concerning Airport Revenue” (see Appendix A) to reflect subsequent legislative changes to the taxation of hazardous substances.
- Develop and recommend, in consultation with Washington State Department of Transportation, Aviation Division (WSDOT), a method of separately tracking the actual amounts of hazardous substance tax (HST) and petroleum products tax (PPT) imposed on aviation fuel.

Background

The FAA's Policy and Procedures Concerning the use of Airport Revenue; Proceeds from Taxes on Aircraft fuel (FAA Policy) requires that state and local taxes imposed on aviation fuel after December 30, 1987, be used exclusively for airport purposes and aviation programs.

In 2015, the department collaborated with WSDOT to prepare a document titled, "Washington Action Plan – FAA Policy Concerning Airport Revenue" (2015 Action Plan). The 2015 Action Plan proposed a method for complying with the FAA Policy on aviation fuel tax revenue use.

Some state and local taxes apply to both aviation fuel and other products. Taxpayers report these taxes to the department on an aggregated basis. For this reason, the department does not currently collect data on the actual amount of local sales and use taxes, HST, and PPT collected on aviation fuel. The 2015 Action Plan proposed a method for estimating the amounts of those taxes collected on aviation fuel. The 2015 Action Plan was presented to the FAA by WSDOT.

In a letter dated June 28, 2017 (see Appendix B), the FAA notified WSDOT that the proposed estimation methodology in the 2015 Action Plan is not in full compliance with the aviation fuel tax revenue use requirements in the FAA Policy. As a result, the department has not implemented the 2015 Action Plan. To the department's knowledge, the FAA has not taken any action against Washington State to enforce its policy on fuel tax revenue use.

In 2019, the Legislature passed, and the Governor signed, Engrossed Substitute Senate Bill 5993 (ESSB 5993). Among other things, ESSB 5993 modified the HST as applied to petroleum products from a value-based tax to a volumetric tax, beginning July 1, 2019. During final passage of this bill, several floor amendments were offered that would have exempted aviation fuel from the HST. None of these amendments were successful.

Overview of taxes applicable to aviation fuel

In some circumstances, the sale, use, purchase, or storage of aviation fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax.
- State sales and use tax.
- Local sales and use tax.
- HST.
- PPT.

For more information on the taxes listed below, see the department's 2018 Tax Reference Manual at dor.wa.gov.

1. **Aircraft fuel tax (Chapter 82.42 RCW)**
   The aircraft fuel tax is levied by the state on each gallon of aircraft fuel sold, delivered, or used in Washington. The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon.

   The current tax rate is $0.11 per gallon (RCW 82.42.020). Distributors of aircraft fuel are

required to collect the tax and submit it to the Department of Licensing. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, because the aircraft fuel tax is already dedicated to aviation, the department believes that aircraft fuel tax revenues comply with the FAA Policy's aviation fuel tax revenue use requirements.

2. State sales and use taxes (Chapters 82.08 and 82.12 RCW)
   Washington's sales tax applies to the retail sale of tangible personal property, certain services, digital products, and extended warranties (see RCW 82.08.020 and RCW 82.04.050). Use tax applies when Washington consumers use taxable products or services within the state and did not pay sales tax on the products or services.

   Aviation fuel purchased in the state is generally subject to sales tax. However, the law provides exemptions for fuel purchased by a farmer for agricultural purposes (RCW 82.08.865) and fuel purchased by an air carrier for use in interstate or foreign air transportation (RCW 82.08.0261 and WAC 458-20-175). Air carriers that purchase aviation fuel in this state are subject to use tax on the portion of the fuel consumed in this state.

   State sales and use tax is generally reported by sellers and paid to the department. Revenues from the state sales and use tax are deposited into the state general fund and performance audits of government account.

   The state's portion of the sales and use tax rate has remained at 6.5% since 1983. Because the current state sales and use tax rate was imposed before 1987, state sales and use taxes are not subject to the FAA's aviation fuel tax revenue use requirements.

3. Local sales and use taxes (Chapter 82.14 RCW and RCW 81.104.170)
   Local governments in Washington may impose a tax only if authorized by the Legislature. Currently, the only local tax on aviation fuel is local sales and use tax. There are currently 29 different local sales and use taxes authorized under state law. The highest current aggregate rate of local sales and use tax is 4%. Combined with the state rate of 6.5%, Washington's highest current combined state and local sales and use tax rate is 10.5%. Local sales and use taxes are administered by the department. For more information on local sales and use tax, see the department's 2020 Local Tax Reference Guide at dor.wa.gov.

   We estimate that aviation fuel sales occur in approximately 107 local taxing jurisdictions that have either imposed or raised the rate on their local sales and use taxes after 1987. Under the terms of the FAA Policy, the revenues from the local sales and use taxes of these jurisdictions are subject to the policy's aviation fuel tax revenue use requirements. Because the department administers all local sales and use taxes, affected local governments will not need to submit their own action plans to the FAA.

4. Hazardous substance tax (Chapter 82.21 RCW)
   The HST is a state tax imposed on the first possession of a hazardous substance in this

state. The HST applies to:

- Petroleum products, including aviation fuel.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) listed substances.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registered pesticides.

The HST rate is as follows:

Type of product	Tax rate
• Non-petroleum products. • Petroleum products not easily measured on a per-barrel basis.	0.7% multiplied by the wholesale value of the product.
• All other petroleum products, including aviation fuel.	FY 20: $1.09 per barrel (42 gallons) FY 21: $1.13 per barrel The per-barrel rate is adjusted for inflation, effective July 1 of each year.

HST was first imposed in 1989. The revenue from the HST is deposited into toxic control accounts. For more information on the HST, see the HST page on the department's website.

Because the HST was imposed after 1987 and applies to aviation fuel, HST revenues are subject to the FAA's aviation fuel tax revenue use requirements.

5. Petroleum products tax (Chapter 82.23A RCW)
PPT is a state tax imposed on the first possession of petroleum products in this state. The tax is equal to 0.3% of the wholesale value of the petroleum product. Effective July 1, 2021, the tax rate is reduced to 0.15%. The PPT was first imposed in 1989 and is scheduled to expire July 1, 2030. Aviation fuel is a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account. For more information on the PPT, see the PPT page on the department's website.

   Like HST, the PPT was imposed after 1987 and is subject to the FAA Policy on the use of aviation fuel tax revenues.

Action plan and recommended methodology

Because local sales and use tax, HST, and PPT are not specific to aviation fuel, we do not currently require taxpayers to separately report the amount of local sales and use tax, HST, and PPT, attributable to aviation fuel. Instead, taxpayers report in the aggregate the amount of local

sales and use tax, HST, and PPT they owe. Consequently, we currently possess no data on the actual amount of local sales and use tax, HST, and PPT we collect specifically on aviation fuel. In order to obtain this information, we will have to require taxpayers who are liable for local sales and use tax, HST, or PPT, with respect to aviation fuel, to provide that information when filing their combined excise tax return.

The state will use the amounts of HST and PPT reported by taxpayers as attributable to aviation fuel to calculate the amount of funds that should be allocated to aviation purposes.

The state will also educate local jurisdictions on the FAA Policy's aviation fuel tax revenue use requirements, including the requirement to offset their use of tax revenue on aviation fuel put towards non-aviation purposes with an equal amount of spending on aviation and the types of aviation spending that qualify for the offset amount.

The department will produce a list of taxpayers who report local sales and use tax, HST, or PPT and determine which of these taxpayers are likely to distribute, use, or own aviation fuel. We will inform these taxpayers about why they are being asked to report taxes attributable to aviation fuel and provide instructions on how to do so.

The department proposes the following methodology to track the amount of local sales and use tax, HST, and PPT collected on aviation fuel:

Local sales tax

Taxpayers who report local sales tax on the sale of aviation fuel will be required to complete a worksheet along with their regular combined excise tax return. The worksheet will indicate what portion of their reported local sales tax is attributed to the sale of aviation fuel, as well as the location and local tax rate associated with those sales.

Local use tax

Similar to the process for local sales tax, taxpayers who report use tax on aviation fuel will be required to complete a worksheet along with their use tax return or combined excise tax return to specify what portion of their reported local use tax is attributed to the use of aviation fuel, as well as the location and local tax rate associated with that use.

Hazardous substance tax (HST)

Taxpayers who report HST on the possession of liquid petroleum products on a per-barrel basis will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of the reported taxable barrels are attributed to aviation fuel.

Petroleum products tax (PPT)

Similar to the process for HST, taxpayers who report PPT on the possession of petroleum products will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of reported PPT attributed to aviation fuel.

Once data is collected from these worksheets, the department will calculate the actual revenue

amounts received from local sales and use tax, HST, and PPT on aviation fuel.

Conclusion

If the FAA determines that the methodology recommended in this report complies with its policy on aviation fuel tax revenue use, we will update our electronic filing system and begin tracking revenue from taxes on aviation fuel via additional reporting requirements on combined excise tax returns as described above.

The state will track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy and provide guidance to local jurisdictions about what types of airport spending will satisfy the FAA Policy.

Appendix A

Washington Action Plan—FAA Policy Concerning Airport Revenue

Taxes applicable to aircraft fuel

In some circumstances, the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax
- State sales/use tax
- Local sales/use tax
- Hazardous substance tax
- Petroleum products tax

State taxes

Several of Washington's taxes on aircraft fuel are already compliant with, or have grandfathered status under, the FAA's *Policy and Procedures Concerning the use of Airport Revenue; Proceeds From Taxes on Aircraft fuel* (FAA Policy). Revenue from the aircraft fuel tax is already dedicated to aviation, and therefore compliant with the FAA policy. The current state sales/use tax rate was imposed before 1987 and is therefore grandfathered from the FAA Policy's revenue use restrictions.

The state also imposes a hazardous substance tax (HST) and petroleum products tax (PPT) on aircraft fuel. Both of these taxes were imposed after 1987. Under the terms of the FAA Policy, they are subject to its revenue use restrictions.

Local taxes

Local governments in Washington may only impose a tax if authorized by the Legislature. Currently, the only local tax on aircraft fuel is local sales/use tax, which is administered by the state. Therefore, there is no variation in how local sales/use tax is administered. Hundreds of local taxing jurisdictions have either imposed or raised the rate on their respective local sales/use taxes after 1987. Aircraft fuel sales are estimated to occur in approximately 107 of these jurisdictions. Under the terms of the FAA Policy, the revenues from these jurisdictions' local taxes are subject to its use restrictions. Because the state administers all local sales/use taxes, affected local governments will not be submitting a separate action plan.

Action plan

Washington possesses no data on the actual amount of local sales/use tax, HST, and PPT collected specifically on aircraft fuel. Obtaining this information would be expensive and administratively burdensome. Therefore, Washington plans to estimate the amount of local sales/use tax collected on aircraft fuel by each local jurisdiction subject to the FAA Policy's restrictions and the amount of HST and PPT collected on aircraft fuel by the state. The state will use this data to determine whether amounts the state spends on aviation programs at least equal

the amount of HST and PPT revenues collected on aircraft fuel, which are dedicated by Washington law to non-aviation purposes.

The state will inform local jurisdictions of the FAA Policy's revenue use requirements, and advise those jurisdictions to offset their use of tax revenue on aircraft fuel put towards non-aviation purposes with an equal amount of spending on aviation. The state will provide information about what types of aviation spending qualify for the offset amount and will respond to complaints from airports. The state will also track state spending on state aviation programs to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Overview of Taxes

1. **Aircraft Fuel Tax (chapter 82.42 RCW)**

The aircraft fuel tax is levied on each gallon of aircraft fuel sold, delivered, or used in Washington (RCW 82.42.020). The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon. The current tax rate is $0.11 per gallon (RCW 82.42.020). For more information on the aircraft fuel tax, see the tax reference manual.

Distributors of aircraft fuel are required to collect the tax. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, the aircraft fuel tax revenues already comply with the FAA Policy's use restrictions.

2. **State Sales and Use Taxes (chapters 82.08 and 82.12 RCW)**

The state portion of the Washington retail sales/use tax rate has remained at 6.5 percent since 1983. *See* 1983 Wash. Laws ch. 7 § 6 (1983 session law establishing the current tax rate).

The tax base is the selling price of tangible personal property and certain services purchased at retail, i.e. by consumers. The basic definition of items and transactions subject to sales tax appears in RCW 82.04.050. (NOTE: Use tax applies to taxable items used within the state if retail sales tax was not paid)

Aircraft fuel purchased in the state is generally subject to sales tax, except for such fuel purchased by a farmer for agricultural purposes (RCW 82.08.865). With respect to air carriers engaged in interstate travel, the sales/use tax on aircraft fuel is currently imposed only on fuel placed on board and consumed in this state (WAC 458-20-175). Sellers of aircraft fuel to air carriers are not required to collect the tax. Instead, an air carrier registered with the state pays the use tax directly to the state.

State sales/use tax is generally deposited in the state general fund. For more information on state sales and use tax, see the tax reference manual.

3. **Local Sales and Use Taxes (chapter 82.14 RCW)**

The revenue sources of cities, counties, and junior taxing districts are strictly controlled by the Legislature and only specifically authorized taxes can be imposed at the local level. There are currently 25 different types of local sales taxes. The maximum local sales tax rate currently levied totals 3 percent in portions of southwestern Snohomish County and in all of the

metropolitan areas of King County. Combined with the state rate of 6.5 percent, Washington's maximum sales tax rate that applies to most taxable items is now 9.5 percent. For more information on local sales and use tax, see the tax reference manual.

4. Hazardous Substance Tax (Chapter 82.21 RCW)

The hazardous substance tax (HST) is imposed on the first possession of a hazardous substance in the state. The tax is equal to 0.7 percent of the wholesale value of the substance and was first imposed in 1989. Aircraft fuel is considered a taxable hazardous substance. The revenue from the HST is deposited into toxic control accounts (RCW 82.21.030). For more information on the HST, see the tax reference manual.

5. Petroleum Products Tax (chapter 82.23A RCW)

The petroleum products tax (PPT) is imposed on the first possession of a petroleum product in the state. The tax is equal to 0.3 percent of the wholesale value of the petroleum product and was first imposed in 1989. Aircraft fuel is considered a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account (RCW 82.23A.020).

The PPT was suspended from April 1, 2010, to June 30, 2015. The tax was re-imposed effective July 1, 2015. For more information on the PPT, see the tax reference manual and special notice.

Methodology

When businesses report taxes to the state they are not required to itemize the individual items they sell, but report the gross amount for an entire category of sales (retailing, wholesaling, services, etc.) Therefore, the actual amount of local sales/use tax, HST, and PPT collected on aircraft fuel is unknown. This information would be difficult to obtain and collecting it would place a significant burden on taxpayers and government entities.

Washington proposes the following methodology to estimate the amount of local sales/use tax, HST, and PPT collected on aircraft fuel:

Local sale tax

To calculate the local sales tax collected on aircraft fuel by distributors, the state will perform the following calculation each year (beginning 2018):

- Determine the airport operators selling aircraft fuel within the boundaries of a local jurisdiction that imposed or raised its local sales and use tax after 1987.
- Determine the amount of aircraft fuel tax collected in the previous year by each affected airport operator.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the gallons sold by each affected airport operator. Multiply this amount by the average retail price per gallon of aircraft fuel, which is obtained from the FAA Aerospace Forecasts – Table 18. This provides the dollar value of aircraft fuel sold by each affected airport operator.
- Multiply the appropriate local sales tax rate by the dollar value of aircraft fuel sold by

each affected airport operator. This provides the estimated local sales tax collected by the airport operator for the local jurisdiction.

- Sum the estimated local sales tax collected by airport operators within each affected local jurisdiction. This amount is the local jurisdiction's local sales tax offset amount for the year.

Local use tax

To calculate the local use tax paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- The state will query the local use tax reported by each passenger airline that reports taxes to the state.
- Based on multiple passenger airline audits, approximately 91 percent of the local use tax reported by passenger airlines is for aircraft fuel.
- For each passenger airline, the state will multiply the airline's annual use tax payments to each local jurisdiction by 91 percent. This amount is the local jurisdiction's local use tax offset amount for the year.

For each affected local jurisdiction, the local sales tax offset amount and local use tax offset amount will be added together to determine the local jurisdiction's total offset amount for the year.

Hazardous substance tax (HST) – reported by distributors

To calculate the HST on aircraft fuel reported by distributors, the state will perform the following calculation each year:

- Determine the total aircraft fuel tax collections in the previous year.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the total gallons sold. Obtain average price per barrel from US Energy Information Administration and convert to average price per gallon. Multiply the average price per gallon by the total gallons sold. This provides an estimated wholesale dollar value of aircraft fuel possessed in the state by distributors.
- Multiply the hazardous substance tax rate by the estimated wholesale value to determine the state's offset amount for HST reported by distributors.

Hazardous substance tax – reported by airlines

To calculate the HST paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- Query the total HST reported by all passenger airlines that report taxes to the state.
- Based on multiple commercial airline audits, approximately 91 percent of the HST reported by passenger airlines is for aircraft fuel.
- Multiply the total HST reported by all passenger airlines by 91 percent. This provides the state's offset amount for HST reported by airlines.

The estimated HST reported by distributors and airlines will be added together to determine the state's total HST offset amount for the year.

Petroleum products tax (PPT)

The PPT offset amount will be calculated in the same manner as the HST.

Conclusion

Beginning in 2018, the state will begin calculating the offset amounts as described above. The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy.

The state will provide guidance about what types of airport spending will satisfy the FAA requirements for the offsets. The state will also track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Appendix B

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

June 28, 2017

Tristan K. Atkins
Director of Aviation
7702 Terminal St. SW
Tumwater, WA 98501

Dear Mr. Atkins:

Re: Letter of Acknowledgment: Washington State's Action Plan in Response to FAA Aviation Fuel Tax Policy Amendment

Thank you for your December 18, 2015 letter, regarding the "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 FR 66282).

The FAA has received your response, and understands the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax,
- State sales/use tax,
- Local sales/use tax,
- Hazardous substance tax, and/or
- Petroleum products tax.

FAA Response on Compliance:

1) Aircraft Fuel Tax
    - The FAA has determined that five cents of the aircraft fuel tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use. However, the remaining six cents of the tax is not exempt, and is subject to Federal requirements for use of airport revenue. The state has indicated that the revenue is distributed to the state aviation fund, and as such, is qualified and under review by the FAA for compliance.

2) State Sales and Use Tax
    - The FAA has determined that Washington's state sales and use tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use.
3) Local Sales and Use Tax
    - The FAA does not have enough information to determine whether or not some local sales and use taxes in Washington may qualify for grandfathered status, although the state has indicated an offset approach will be used to ensure compliance.
4) Hazardous Substance Tax (HST) and Petroleum Substance Tax (PPT)
    - The FAA has determined that neither the Hazardous Substance Tax nor the Petroleum Products Tax qualify for grandfathered status because the authorizing legislation for these taxes was not in place on December 30, 1987. They are thus subject to airport revenue use requirements, including those regarding fuel tax revenue use.
    - The planned methodology to estimate the amount of the HST and PPT reported is not in full compliance with the aviation fuel tax revenue use requirements. FAA requires an adjustment of actual proceeds to be determined through a documented reconciliation method. While FAA allows budgetary estimates for projected revenue calculations used for the offset, using an average price per gallon sold and an approximate percent of airline collection does not provide actual amounts for the offset.

Consistent with the list of supporting information posted on regulations.gov on July 17, 2015,[1] the FAA has determined that additional clarifications or adjustments are needed in order to evaluate whether the State of Washington is fully compliant with Federal requirements for aviation fuel tax revenue use and therefore is requesting more information to ensure that Washington will be in compliance with these requirements by December 8, 2017. Please ensure that all of the following are submitted:

1) For the aircraft fuel tax, please provide a full description of the use of Washington's state aeronautics account, or any other aviation fund into which tax revenues are submitted.
2) For the HST and PPT taxes, please confirm that the planned changes will provide the following information and results:
    - The amount of the offset will be greater than or equal to the total revenue from the fuel tax each year.
    - Documentation that the government body collecting the fuel tax has the authority to offset revenues as described.
    - Documentation indicating that State of Washington Department of Revenue has developed a review process by which it will track revenues from any taxes on aviation fuel by local jurisdiction, expenditures of any taxes on airports or, if applicable, offsets in equivalent or greater amounts to those earned through any taxes on aviation fuel and documentation ensuring that State of

[1] "Aviation Fuel Tax Grandfathering Action Plans," available in Docket FAA-2013-0988

Washington Department of Revenue has developed reporting and enforcement mechanisms for its review process.

We request that you provide this additional information within 60 days of receipt of this letter, along with assurance that the proposed changes will be fully implemented by December 8, 2017 to remain within the three year period provided in the FAA Policy Amendment. If you have any questions, please contact me at (202) 267-3085.

The foregoing response represents the present view of the FAA based on the information presented in Action Plan submission and does not constrain future the FAA action or opinion. This response does not constitute a final agency action or an "order issued by the Secretary of Transportation" under title 49 U.S.C., § 46110.

Sincerely,

Kevin C. Willis

Kevin C.Willis, Director
Office Airport Compliance
and Management Analysis

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

November 6, 2025

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

RE: Request for Extension to Provide Additional Information – Fuel Tax Compliance Review

Dear Director Helvey;

The State of Washington respectfully requests an extension to the 60-day deadline for submission of additional information related to your recent request concerning fuel tax compliance.

Due to the complexity of the data involved and the need to coordinate with multiple state agencies additional time is required to ensure that our response is complete and accurate. Changes in administrations both at the Federal and State levels have impacted personnel assignments since we last communicated about this issue over a year ago and we need to ensure that the appropriate personnel are adequately briefed.

For these reasons we respectfully request an additional 60 days beyond the current deadline to complete this process. The extension will allow us to provide FAA with a comprehensive and well-supported submission that reflects our ongoing commitment to full compliance and transparency.

We appreciate your consideration of this request and your continued partnership in advancing aviation in Washington State. Please let us know if you require any additional information.

Sincerely,

Ann B. Richart, AAE
Aviation Director

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, D.C. 20591

December 15, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation

Dear Ms. Richart:

Subject: Approval of Extension Request – Fuel Tax Compliance Review

I am writing to acknowledge receipt of your letter dated November 6, 2025, requesting an additional 60-day extension for the submission of additional information related to our ongoing fuel tax compliance review.

After reviewing your request and considering the complexities involved, including the necessity to coordinate with multiple state agencies and the impact of recent administrative changes, the Federal Aviation Administration (FAA) has approved your request for an extension.

The new deadline for submission will be 120 days from the date of October 21, 2025, letter, extending your original deadline to February 18, 2026. We believe this additional time will facilitate a comprehensive and accurate response, reflecting your commitment to compliance and transparency.

We appreciate your proactive approach and continued dedication to aviation excellence in Washington State. Should you need further clarification or assistance during this process, please feel free to reach out to my office directly.

Thank you for your ongoing partnership and cooperation.

Sincerely,

Michael W. Helvey
Director

Washington State
Department of Transportation

Aviation Division
PO Box 47312
Olympia, WA 98504
360-709-8015
www.wsdot.wa.gov

February 19, 2026

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Director Helvey;

The state of Washington appreciates your extension of time for us to respond to your questions about our preliminary response to your ongoing fuel tax compliance review. Unfortunately our response is not yet completed. We respectfully request additional time to provide a response. This issue has been elevated to the Office of Financial Management in Governor Ferguson's office.

Sincerely,

Ann B. Richart, AAE
Aviation Director

From: Richart, Ann
Sent: Thu, 19 Mar 2026 17:04:37 +0000
To: Cotton, Megan (GOV)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Hansen, Erik (OFM); Martine, Renee (OFM); Breaux, Steven; Woehler, Kerri
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final Report - Airport Revenue Diversion - AV2024010 - 508 compliant.pdf

Megan –

- There has not been any additional effort taken by WSDOT to collect the additional information about aviation projects funded outside of the Aeronautics Account. This was at the direction of OFM. However, it should be noted that, to date, Washington State's total aviation fuel tax liability is approximately $210 million. If we verify all the of the expenses that FAA has asked for clarification on and they all prove to be allowable expenses, we have still only "offset" a total of $32,560,000. So the bottom line is that even with the best possible responses to FAA questions they will still find Washington State in non-compliance. I would recommend that this would be an opportunity to offer FAA a proactive approach to resolving this issue rather than just answering their questions.

- Here is a citation from the Federal Register Vol. 64 No. 30 2/16/1999 listing the federal regulations relating to state aviation fuel taxes:

  > The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (December 30, 1987), narrowed the permitted uses of airport revenues to nonairport facilities that are ''substantially'' as well as directly related to actual air transportation; required local taxes on aviation fuel enacted after December 30, 1987, to be spent on the airport or, in the case of state taxes on aviation fuel, state aviation programs or noise mitigation on or off the airport; and slightly modified the grandfather provision. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered subject to the revenue-use requirements in 49 U.S.C. 47107 (b) and 47133. However, revenues from a State tax on aviation fuel may be used to support a State aviation program, and airport revenues may be used on or off the airport for a noise mitigation purpose.

  I will note these regulations are very vague as to the allowable uses of state aviation fuel tax revenues. Currently FAA is interpreting this to mean that state aviation fuel taxes may only be used on airport infrastructure projects. I believe that Washington could make some solid arguments about "state aviation programs". I also believe that FAA may be open to discussing interpretations if they believe that Washington is attempting to come into compliance. The use of state funds on the development of Sustainable Aviation Fuel was a proposal that the Legislature made during the 2026 session that I feel would be a compliant State Aviation Program. FAA has said that this use isn't compliant but I think this and similar uses should be further explored.

I've attached a copy of the Inspector General's report on this issue. This report to the FAA is what triggered the audit that we are currently involved in. This report is very accessible and provides some good background and information on the topic.

Ann

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550
https://www.youtube.com/watch?v=EvbOmaJpwVE&pp=ygUWc3RhdGUgYXZpYXRpb24gam91cm5hbA%3D%3D

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Thursday, March 19, 2026 8:30 AM
To: Richart, Ann <ann.richart@wsdot.wa.gov>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>; Martine, Renee (OFM) <renee.martine@ofm.wa.gov>; Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Ann,

We're digging into this issue, and I have a few follow up questions for you:

- The FAA October letter outlined expenditures they requested additional information. Has there been any coordination with the relevant agencies to collect the additional information requested? If so, is that information compiled?

- Can you please send me the relevant statutes that outline what activities are considered eligible by the FAA?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW

From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation

360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
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Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
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OFFICE OF INSPECTOR GENERAL • U.S. DEPARTMENT OF TRANSPORTATION •

FAA

Report AV2024010
December 13, 2023

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

U.S. Department of Transportation
Office of Inspector General

Highlights

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

Self-initiated

Federal Aviation Administration | AV2024010 | December 13, 2023

What We Looked At

Since 2014, the Federal Aviation Administration's (FAA) Airport Improvement Program has obligated more than $3.18 billion to eligible airports each fiscal year for airport development and planning. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) to define airport revenue and identify permitted and prohibited uses of that revenue. FAA amended this policy in 2014 to address revenue use for aviation fuel taxes. Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

What We Found

Since amending its Revenue Use Policy, FAA has made progress confirming whether State and local Government laws comply with the amendments. However, the Agency has not yet tested or validated if the compliant jurisdictions use the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. In addition, the Agency has not taken enforcement actions against the five jurisdictions that are not yet in compliance with the amendments. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance that encouraged the Agency to postpone enforcement. By potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Our Recommendations

We made three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion. FAA concurred with our recommendations and provided appropriate actions and completion dates. We consider all recommendations resolved but open pending completion of the planned actions.

Contents

U. S. Department of Transportation
Office of Inspector General

Memorandum

Date: December 13, 2023

Subject: ACTION: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement | Report No. AV2024010

From: Nelda Z. Smith
Assistant Inspector General for Aviation Audits

To: Federal Aviation Administrator

The Federal Aviation Administration (FAA) supports the Nation's aviation needs by providing Federal assistance through grants-in-aid to airports around the country. Since 2014, FAA's Airport Improvement Program (AIP) has obligated more than $3.18 billion to eligible airports[1] each fiscal year for airport development, planning, and noise compatibility programs. As a condition of receiving these funds, grantees are bound by the Airport and Airway Improvement Act of 1982 (AAIA), as amended, which imposes restrictions on how airport sponsors (i.e., airport operators) may use their revenue.[2] Generally, airports can only use revenue for the capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy),[3] which defined airport revenue and identified permitted and prohibited uses of that revenue. FAA amended this policy in November 2014 to address revenue use

[1] Eligible airports are public-use airports that contribute to the needs of civil aviation, national defense, and the Postal Service. They must be published in FAA's National Plan of Integrated Airport Systems.
[2] 49 U.S. Code (U.S.C.) § 47107(b)(1).
[3] 64 Fed. Reg. 7696 (February 16, 1999).

for aviation fuel taxes (Amendment).[4] Any other use inconsistent with this policy is considered unlawful revenue diversion.[5]

Previous Office of Inspector General (OIG) audits have identified weaknesses in FAA's oversight of airport sponsors, which did not prevent or detect charges for services that were not provided to airports, indirect costs improperly allocated to airports, and payments of less than fair market rent for use of airport property. For example, our audit of Los Angeles World Airports identified $7.87 million in unsupported charges.[6] Another OIG audit found $40.9 million in potential revenue diversions at five airports due to ineligible payments to airport sponsors and other organizations.[7]

Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Marshall Jackson, Program Director.

cc: The Secretary
DOT Audit Liaison, M-1
FAA Audit Liaison, AAE-001

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[4] 79 Fed. Reg. 66282-88 (November 7, 2014).

[5] A "grandfather" provision (called "lawful revenue diversion") permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws that existed before September 2, 1982, allowed such use on a limited basis. Our audit scope does not include grandfathered airports, which we examined in *FAA Needs To More Accurately Account for Airport Sponsors' Grandfathered Payments* (OIG Report No. AV2018041), April 17, 2018. There are 9 grandfathered airport sponsors that own or operate over 30 airports. OIG reports are available on our website: www.oig.dot.gov.

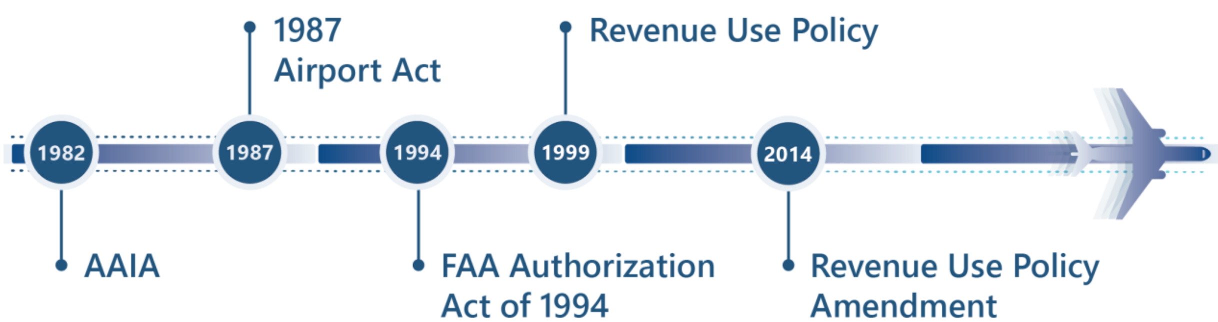
[6] *FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources* (OIG Report No. AV2014035), April 8, 2014.

[7] *Oversight of Airport Revenue* (OIG Report No. AV2003030), March 20, 2003.

Background

A number of Federal laws and FAA policies govern use of airport revenue, including taxes on aviation fuel. See the figure below for a timeline of airport revenue-related laws.

Figure. Timeline of Revenue Protection Laws



Source: OIG analysis

The AAIA[8] generally requires airport sponsors receiving Federal assistance to use airport revenue for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator. These facilities must be directly and substantially related to the actual air transportation of passengers or property or for noise mitigation purposes.

To further bolster AAIA's provisions, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act)[9] and the FAA Authorization Act of 1994.[10] The 1987 Airport Act imposed further restrictions on airport revenue use to include any local taxes on aviation fuel in effect after December 30, 1987. State and local aviation fuel taxes may only be used to support a State aviation program, noise mitigation purposes, and land disposal funds for certain airport lands, including airport noise compatibility.[11]

In 1999, as required by the FAA Authorization Act of 1994, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use

[8] Pub. L. No. 97-248 (September 3, 1982), codified at 49 U.S.C. § 47107.
[9] Pub. L. No. 100-223 (December 30, 1987), codified at 49 U.S.C. § 47133.
[10] Pub. L. No. 103-305 (August 23, 1994).
[11] 49 U.S.C. § 47133(b). However, there are some exceptions. For example, grandfathered airports may use airport revenue for otherwise impermissible expenditures—i.e., nonoperating or noncapital uses.

Policy).[12] The policy describes prohibited and permitted uses of airport revenue and outlines FAA's enforcement policies and procedures. Examples of prohibited uses of airport revenue are using airport revenues for general economic development, marketing and promotional activities unrelated to airports or airport systems, and direct or indirect payments that exceed the fair and reasonable value of services and facilities provided to the airport. The Revenue Use Policy also requires recordkeeping and reporting requirements for the use of airport revenue and that an airport sponsor maintain a self-sustaining rate structure to the extent possible.

In 2014, FAA amended the Revenue Use Policy to clarify requirements for the use of proceeds from State and local taxes on aviation fuel. The amended policy (Amendment) generally requires grantees to use all proceeds from new and existing taxes that did not qualify for grandfathering from revenue use requirements on State aviation programs or for airport-related purposes. Recognizing that many States, territories, and localities might encounter challenges meeting the requirements of the Amendment, FAA gave them a 3-year grace period, until December 8, 2017, to comply. In addition, direction in the Senate Transportation, and Housing and Urban Development Committee's report accompanying the FAA appropriation bill for fiscal year 2018 encouraged FAA to postpone enforcement of the Amendment's requirements.[13] Similarly, in fiscal year 2020, the committee encouraged the Secretary to continue working with State and local governments to develop a path forward for obtaining full compliance with the Amendment.[14] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

State and local Government taxes on aviation fuel sales can be imposed by either an airport sponsor or a non-sponsor. However, only an airport sponsor or Block Grant State[15] under the AIP provides assurance that revenues from aviation fuel taxes will be used as required by Federal regulations. For taxes imposed by non-sponsor State and local governments, FAA expects airport sponsors to inform these entities of Federal requirements on the use of aviation fuel tax revenue and to take action. FAA also expects sponsors to use their influence to

[12] 64 Fed. Reg. 7696 (Feb. 16, 1999), amended by Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel, 79 Fed. Reg. 66282, (November 7, 2014).
[13] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2018 (S. 1655), S. Rep. No. 115-138, p. 48 (July 27, 2017).
[14] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2020, p. 44 (S. 2520), S. Rep. No. 116-109 (Sept. 19, 2019).
[15] A Block Grant State receives AIP funds directly from FAA to fund certain State aeronautical agencies. As part of the State Block Grant Program these States agree to assume certain responsibilities related to administering the AIP that are otherwise performed by FAA (including project prioritization and selection), and to provide grants to smaller airports.

shape State and non-sponsor local taxation to conform to these Federal laws. In the Amendment, FAA clarified that if a non-sponsor State or local Government adopts a noncompliant tax, FAA would not take enforcement action against the airport sponsor because the sponsor is not responsible for the noncompliance. FAA reiterated that it would pursue enforcement action against a non-sponsor State or local Government that violates the Revenue Use Policy or Federal regulations. FAA's Office of Airport Compliance and Management Analysis (ACO) is responsible for ensuring that airport sponsors do not violate the Agency's amended Revenue Use Policy or other Federal revenue-use requirements. ACO comprises two groups:

- **Financial Management Analysis Group.** Enforces statutory requirements of airport revenue use at commercial service airports, oversees single audit resolution, and performs mandated revenue reviews.
- **Airport Compliance Program.** Interprets, recommends, and develops policies for, and resolves matters that involve, airport sponsors' Federal obligations. The office also adjudicates formal complaints and FAA-initiated investigations[16] and monitors airport sponsor compliance with limits on the use of airport revenue.

To assess airport adherence to the Revenue Use Policy, ACO targets conducting financial compliance reviews of four airports a year, which are identified through formal or informal complaints, hotline tips, and industry recommendations. Any airports that are not reviewed are considered for selection in future years. During site visits, ACO reviewers meet with the airport's leadership team, hold interviews with appropriate staff, examine requested documentation, and tour the airport's facilities. Then ACO drafts a report with its findings and recommendations. Once ACO resolves all recommendations and airport sponsors implement corrective action items, the final report is disseminated to the airport sponsor and made available to the general public. Since 2005, ACO has conducted 32 financial compliance reviews and identified more than $100 million in unlawful revenue diversion.

[16] See Rules of Practice for Federally Assisted Airport Enforcement Proceedings, 14 Code of Federal Regulations (C.F.R.) Part 16.

Results in Brief

FAA has made progress implementing an amendment to its Revenue Use Policy but does not have a plan to verify or enforce compliance.

Since amending its Revenue Use Policy in 2014 to explicitly include aviation fuel tax requirements, FAA has made progress confirming whether State and local Government laws comply with the amendments. Specifically, FAA has determined that 115 of 193 State and local jurisdictions have compliant laws, and that the remaining 78 jurisdictions are non-compliant, which FAA terms "qualified." However, the Agency has not yet tested or validated if the compliant jurisdictions are using the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. According to FAA officials, testing and validation have not occurred because the Agency is currently focused on working with remaining jurisdictions to align State and local laws with the Amendment. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. For example, we could not verify the Agency's compliance determinations for 10 States and 1 territory we reviewed because FAA lacks an effective document control system. Lack of documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance with the amended Revenue Use Policy. Almost 6 years after FAA's December 8, 2017, deadline, five qualified jurisdictions—California, Kentucky, Nevada, Tennessee, and Guam—have not complied with the Amendment. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. In the meantime, by potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

We are making three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion.

FAA Has Made Progress Implementing an Amendment to its Revenue Use Policy but Does Not Have a Plan To Verify or Enforce Compliance

While FAA has made progress confirming whether State and local Government laws align with the 2014 amendments to its Revenue Use Policy, the Agency has not tested or validated if jurisdictions are using the proceeds from aviation fuel tax according to the jurisdictions' approved action plan. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance.

FAA Reviewed State and Local Laws for Alignment With Its Policy but Lacks a Plan for Testing Compliance

FAA has determined that 115 jurisdictions—State and local governments—are compliant and 78 jurisdictions are qualified with the amended Revenue Use Policy. We focused our review on State governments and U.S. territories only. According to FAA, as of May 2023, 46 States and 4 U.S. territories are in compliance with the Amendment. These jurisdictions consist of airport sponsors and non-sponsors. To verify compliance, FAA required State and local governments to submit action plans detailing their processes for administrating aviation fuel taxes. Each action plan had to include the following information:

1. The process to amend any noncompliant laws to conform to Federal law on use of aviation fuel tax revenues, and restructure general revenues to adapt to the dedication of aviation fuel tax revenue to airports and State aviation programs;

2. A commitment to undertake the legislative process; and

3. The process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenue; confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal or exceeding the amounts collected as aviation fuel taxes; and the requirements to ensure the appropriations are implemented and are enforceable by State or local agencies.

We assessed FAA's compliance determinations by reviewing the action plans and corresponding documents submitted by State governments and U.S. territories. We did not identify any material issues with FAA's reviews of 36 States and 3 territories. However, we could not verify the Agency's compliance determinations for 10 States and 1 territory because FAA lacks an effective document control system as required by Federal Internal Control Standards.[17] Specifically, we identified the following issues:

- FAA only provided one document each for Alaska, Idaho, and American Samoa, which did not provide sufficient information for evaluating compliance. The document for each jurisdiction is missing details on aviation fuel tax rates, legislation establishing each tax rate or any changes to tax rates, and financial documentation showing that aviation fuel tax revenue was used as intended. Idaho was the exception, as its documentation did include aviation fuel tax rates.

- FAA did not provide pertinent correspondence to and from the State that would provide an understanding of how the Agency determined compliance for Mississippi, New Hampshire, North Dakota, Ohio, Oregon, Washington, and Vermont.

- FAA did not save or archive the initial action plan and supplemental response(s) for the State of Nebraska, although the documents are referenced in the Agency's correspondence to the State.

FAA also did not provide compliance letters for any of these 11 jurisdictions. Such letters are meant to capture the key aviation fuel tax facts that FAA reviewed to determine compliance. Letters were also missing for 16 States where we did not identify any material issues with FAA's review. Agency officials stated that they did not provide compliance letters at the beginning of their review process; rather, they updated the FAA website to reflect the compliance status. However, based on our review, FAA has not retroactively issued compliance letters. According to FAA, the Agency will issue compliance letters to jurisdictions that have not received letters by December 31, 2023. The lack of letters and above-mentioned documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment since these documents serve as records of the Agency's compliance determination.

Although FAA has confirmed that State and local laws align with the Amendment, FAA has not validated if jurisdictions are following the law through testing. According to FAA officials, this is because the Agency is currently focused on obtaining compliance from qualified jurisdictions and has not been authorized to begin enforcement action for the Amendment. Moreover, according to Agency

[17] *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

officials, testing and validation have not occurred due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. Without testing the jurisdictions' approved action plans for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations.

Four States and One U.S. Territory Are Not in Compliance With the Amended Revenue Use Policy

Almost 6 years after FAA's December 8, 2017, deadline to comply with the amended Revenue Use Policy, four States and one territory remain qualified[18] with the Amendment. Furthermore, FAA has not taken enforcement action or explained the steps it will take to move the qualified jurisdictions into compliance—even though the Revenue Use Policy outlines FAA's enforcement policies and procedures. According to Agency officials, this is due to congressional guidance in the committee reports accompanying FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement.

According to FAA, the following jurisdictions are not in compliance with the Revenue Use Policy amendment. We verified the following information from FAA by reviewing actions plans, tax legislation, and correspondence between FAA and these jurisdictions.

- **California (Non-Sponsor)** continues to divert revenue for nonairport purposes. In 2019, after FAA's repeated inquiries, the California Department of Finance submitted an action plan that identified annual tax proceeds estimated at $55 million over the next 5 years to be spent on transportation projects. State officials note that these proceeds will provide direct benefits to California's airport system, and they plan to use them as offsets against the aviation fuel tax proceeds. However, the State did not submit documentation of the actual proceeds collected from aviation fuel taxes from fiscal year 2017 to present. Moreover, the State has not given FAA a breakdown of aviation fuel tax receipts collected by local jurisdictions and airport sponsors within California.

[18] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

- **Kentucky (Non-Sponsor)** is maintaining a grandfather exemption from the Amendment because its tax legislation was enacted on or before December 30, 1987. However, the State increased its tax rate from 5 to 6 percent in 1990, after the grandfathering date. Kentucky has not given FAA any documentation about how it is using the proceeds from the 1 percent increase.

- **Nevada (Non-Sponsor)** has not responded to FAA's inquiries sent in 2017 and 2019 for clarification on issues the Agency found in the State's action plan. The last documented correspondence from the State is dated February 19, 2016. As a result, FAA cannot determine whether the excise tax or the county option tax on aviation fuel can be considered as grandfathered.

- **Tennessee (Block Grant State)** officials note that the State's business tax is a gross receipt tax on the privilege of doing business in Tennessee and is not specific to the sale, storage, or use of aviation fuel. Tennessee officials also state that the Amendment should not apply to its Environmental Assurance Fee because it is a fee rather than a tax. FAA has requested further information from the State but has not received a response.

- **Guam (Sponsor)** is maintaining a grandfather exemption from compliance with the Amendment because its tax legislation was enacted on or before December 30, 1987. The territory did not give FAA further details about its grandfathering status and recently notified the Agency that it had increased its excise tax rate on aviation fuel on January 1, 2018. Guam used the proceeds from this increase, which resulted in approximately $5.17 million in revenue, for non-aviation related purposes. The territory has asked FAA to forgive its decision not to use the tax increase proceeds as required and stated the territory would comply with the Amendment by October 2021. However, Guam remains in a qualified status although its aviation fuel tax rate increase became effective 2 years after the territory submitted its action plan to FAA.

By potentially diverting aviation fuel tax revenue to non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Other Matters

In addressing our audit objective, we initially planned to determine if airport sponsors had diverted other revenue in addition to fuel taxes from commercial

service airports. During this audit, we visited the Syracuse Hancock International Airport (SYR), where we interviewed Syracuse Regional Airport Authority (SRAA) senior officials and conducted a review of SYR for compliance with the Revenue Use Policy for fiscal year 2019. During our review, we identified recurring issues that FAA had reported in a 2014 compliance review of SRAA (see exhibit D). We subsequently reduced our commercial airport selection to just SYR due to time constraints, the volume of data, and other potential obstacles, such as data format and staff turnover at airports. Based on these considerations, we re-focused our work on aviation fuel tax requirements.

Conclusion

FAA provides billions of taxpayer dollars in Federal grants to ensure that U.S. airports remain self-sufficient and can invest in their own infrastructure. A key component for airports to stay self-sufficient is the revenue they collect, such as fuel taxes. Thus, airport revenue diversion diminishes the effectiveness and achievement of objectives of these Federal grants. While FAA has been working with jurisdictions to align State and local laws with the Amendment on aviation fuel tax revenue as directed by Congress, the Agency lacks a plan to test aviation fuel tax plans from compliant jurisdictions and enforce compliance in qualified jurisdictions. As a result, FAA is not well positioned to promote effective stewardship of the taxpayer dollars that were meant to support the Nation's airports.

Recommendations

To improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion, we recommend that the Federal Aviation Administrator:

1. Issue compliance letters to jurisdictions that FAA has determined to be in compliance with the Amendment to *Policy and Procedures Concerning the Use of Airport Revenue* (Amendment) but that have not received official notification of compliance.

2. Develop and implement a testing plan to assess whether jurisdictions are following FAA's requirements for compliance with the Amendment to the Revenue Use Policy.

3. Establish a plan of action to bring California, Kentucky, Nevada, Tennessee, and Guam into compliance with the Amendment to the Revenue Use Policy.

Agency Comments and OIG Response

We provided FAA with our draft report on October 23, 2023, and received its formal response on November 21, 2023. FAA's response is included as an appendix to this report. FAA concurred with all three of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of the planned actions.

Exhibit A. Scope and Methodology

This performance audit was conducted between June 2022 and October 2023. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion, we reviewed applicable laws, regulations, and FAA policies and procedures such as FAA's *Policy and Procedures Concerning the Use of Airport Revenue* and *Proceeds From Taxes on Aviation Fuel*. We also reviewed the following FAA guidance: Airport Compliance Manual (5190.6B Change 1), Guide for Airport Financial Reports Filed by Airport Sponsors (150/5100-19D), and Compliance Guidance Letters. Further, we obtained publicly available data about airports that diverted revenue in the past and reviewed articles on occurrences of airport revenue diversion. We also interviewed representatives from FAA's ACO, FAA's New York Airports District Office and Eastern Regional Office, and the following aviation industry trade organizations: Airlines for America, Aircraft Owners & Pilot Association, Airports Council International North America, International Air Transport Association, National Air Transportation Association, and American Association of Airport Executives.

To determine how FAA assessed compliance with aviation fuel tax revenue requirements, we reviewed action plans, correspondence, financial documentation, tax legislation, and FAA compliance letter for 46 States and 4 U.S. territories. We also reviewed actions plans, correspondence, and tax legislation for four States and one territory that have yet to comply with Federal aviation fuel tax requirements. We communicated with FAA officials from ACO to determine the Agency's plan for testing jurisdictions' approved action plans for using aviation fuel taxes and taking enforcement action for jurisdictions that have not complied with Federal aviation fuel tax requirements.

Exhibit B. Organizations Visited or Contacted

Department of Transportation

FAA Headquarters

FAA Eastern Region Office

Airport/Airport Sponsor

Syracuse Hancock International Airport, NY

Syracuse Regional Airport Authority, NY

Other Organizations

Aircraft Owners and Pilots Association

Airlines for America

Airports Council International – North America

American Association of Airport Executives

International Air Transport Association

National Air Transportation Association

Exhibit C. List of Acronyms

AAIA	Airport and Airways Improvement Act of 1982
ACO	Airport Compliance and Management Analysis
AIP	Airport Improvement Program
DOT	Department of Transportation
FAA	Federal Aviation Administration
OIG	Office of Inspector General
PILOTS	Payments in Lieu of Taxes
SRAA	Syracuse Regional Airport Authority
SYR	Syracuse Hancock International Airport

Exhibit D. Review of Syracuse Regional Airport Authority for Compliance With the Revenue Use Policy: Summary of Findings

To conduct our work, we developed a universe of high-risk airport sponsors—based on historical data, prior audit results, annual financial reports, and recommendations from FAA and industry officials—and identified five commercial service airports[19] to review that were at the highest risk of diverting revenues. We initially visited SYR where we reconciled the SRAA's trial balance to its audited financial statements and judgmentally selected financial transactions for testing to determine whether airport-generated revenues were used in accordance with Federal regulations. Our review found that SYR did not adhere to the Revenue Use Policy's requirements for the disbursement of airport funds in four areas: ineligible payments in lieu of taxes (PILOTS), periodic adjustments to cost-allocation plans, little or no documentation for replacing facility rental payments with in-kind services, and payment of marketing costs to airlines instead of the direct service providers. These areas are described in further detail below.

- **PILOTS** help local governments perform vital services—firefighting and police protection, construction of public schools and roads, and search-and-rescue operations, etc.,— but cannot exceed the value of services.[20] While three of SYR's PILOT payments concluded in 2012, SYR continued to make payments totaling more than $35,000 to local taxing jurisdictions between 2012 and 2019.
- **Cost-Allocation Plan**. Currently operated by the SRAA, SYR was previously overseen by the City of Syracuse (City). A cost-allocation plan drafted during the transition period detailed how administrative services should be divided between the City and SRAA. The Revenue Use Policy states that airport sponsors should adjust cost-allocation plans to reflect changes to allowable actual expenses in the following accounting period. We found that SRAA's cost-allocation plan for fiscal year 2019 was based on actual costs from fiscal year 2016. However, SRAA did not reconcile the allocated costs to the actual expenses. We could not determine the exact financial impact because

[19] Syracuse Hancock International Airport, Palm Springs International Airport, Shreveport Regional Airport, Phoenix Sky Harbor International Airport, and Dallas Love Field Airport.
[20] Revenue Use Policy, 2014.

the City did not provide SRAA with backup documentation for the costs allocated to SYR for 2019.

- **State Police Lease Agreement.** SYR has a police station on its premises, and a lease agreement allows the State police to provide in-kind services in lieu of rental payments to SRAA.[21] However, in 2014, ACO was unable to identify these in-kind services and recommended that SRAA develop a recordkeeping system. However, SRAA still had limited evidence to show that the recommendation had been implemented during our review. Airport officials indicated that this likely resulted from change in leadership and misunderstanding among the remaining personnel.
- **Air Carrier Incentive Program** allows airports to increase traffic by waiving or reducing landing fees, rental fees, or fuel flowage fees, in addition to other incentives. FAA recommends that airport sponsors pay any related marketing and advertising costs directly to the service provider because it reduces the risk that the sponsor will provide a direct air carrier subsidy and gives the sponsor greater control. However, FAA found that SRAA directly paid $75,000 in marketing assistance to an airline to promote a new route. We also determined that SRAA reimbursed more than $21,000 in 2019 to an airline for marketing and promotional activities. SYR officials informed us that this occurred because prior management lacked necessary financial controls.

[21] These in-kind services include: (1) assist the Department of Aviation upon request from the mayor or appropriate City official; (2) meeting with the Commissioner of Aviation four times a year; (3) assist in the event of an air disaster; (4) assist in the event of a hijacking incident; (5) perimeter security by the State Police helicopter; and (6) K-9 support as requested.

Exhibit E. Major Contributors to This Report

MARSHALL JACKSON	PROGRAM DIRECTOR
DOMINIQUE LIPSCOMB	PROJECT MANAGER
DERRICKA BROADEN	PROJECT MANAGER
MARIA DOWDS	SENIOR AUDITOR
KAZI HASSAN	SENIOR ANALYST
JANE LUSAKA	SENIOR WRITER-EDITOR
MORGAN ATHERTON	WRITER-EDITOR
CHELSEA ARTLANTICO	LEGAL COUNSEL
CELESTE VERCHOTA	LEGAL COUNSEL
SHAWN SALES	SUPERVISORY VISUAL COMMUNICATIONS SPECIALIST
GEORGE ZIPF	SUPERVISORY MATHEMATICAL STATISTICIAN

Appendix. Agency Comments

Federal Aviation Administration

Memorandum

Date: November 21, 2023

To: Nelda Z. Smith, Assistant Inspector General for Aviation Audits

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1

ERIKA S VINCENT

Digitally signed by ERIKA S VINCENT Date: 2023.11.21 14:21:06 -05'00'

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

The Federal Aviation Administration's (FAA) Airport Compliance Program ensures airport sponsors comply with the Federal obligations they assume when they accept Federal grant funds or transfer Federal property for airport purposes. The program serves to protect the public interest in civil aviation and ensure compliance with applicable Federal laws, FAA rules, and policies. In 2014, FAA required state and local governments to submit an action plan to FAA by December 8, 2017, to comply with FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628). Over the past nine years, FAA reviewed 193 action plans that outline the taxing jurisdictions' processes to amend any non-compliant laws and restructure general revenues, how the aviation fuel tax revenue would be dedicated to airports and/or State aviation programs, and a commitment to undertake the legislative process. FAA is committed to working with state and local governments to ensure compliance with the Amendment.

Upon review of OIG's draft report, FAA concurs with all three recommendations as written. We plan to implement recommendation 1 by December 31, 2023, and recommendations 2 and 3 by December 31, 2024.

We appreciate this opportunity to respond to the OIG draft report. Please contact Erika Vincent at Erika.Vincent@faa.gov if you have any questions or require additional information about these comments.

U.S. Department of Transportation
Office of Inspector General

Fraud, Waste, & Abuse Hotline

www.oig.dot.gov/hotline
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(800) 424-9071

OUR MISSION

OIG enhances DOT's programs and operations by conducting objective investigations and audits on behalf of the American public.

1200 New Jersey Ave SE
Washington, DC 20590
www.oig.dot.gov

From: Breaux, Steven
Sent: Tue, 17 Mar 2026 22:36:01 +0000
To: Cotton, Megan (GOV); Hansen, Erik (OFM)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Richart, Ann
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final WSDOT Compliance Response 12 JUL 24.pdf, FAA Letter 2025 10 21 Signed.pdf, ANM_Washington State_Letter_Fuel_Tax_SIGN 2024 04 10.pdf, 6 NOV 25 Response to FAA HQ deadline extension request.pdf, State of Washington AFT Richart Letter_Ext Req Approval_2025 12 15 Signed.pdf, 19 FEB 26 Response to FAA.pdf

Megan,

With thanks to Ann, here is a timeline of correspondence with FAA headquarters regarding aviation fuel tax compliance (relevant letters attached):

April 10, 2024	Request from FAA for information
July 12, 2024	WSDOT response to FAA
October 21, 2025	FAA request for further information and clarification
November 6, 2025	WSDOT request for more time to respond
December 15, 2025	FAA grant of additional time to respond. New deadline: 2/18/2026
February 19, 2026	WSDOT request for additional time
March 17, 2026	FAA demand for information

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Tuesday, March 17, 2026 2:24 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Steve,

Can you confirm that WSDOT requested another extension a few weeks ago?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

Washington State Department of Transportation

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Olympia, WA 98504-7300
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www.wsdot.wa.gov

July 12, 2024

Scott Glenn
Division Manager
Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Glenn;

This letter is in response to your letter of April 10, 2024, requesting information on Washington State's efforts to implement our Revenue Policy Action Plan of 2021.

Washington Department of Transportation has worked diligently with other agencies to provide the information that you requested. This preliminary response details the answers to most of your requests. We continue to work to develop the specific actions that will address all of the questions in your letter.

I will respond to your requests in the order that you presented them:

Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.

- Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
  - Copies of sample revised taxpayer reports and schedules and;
  - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.

With assistance from the Washington State Department of Licensing (which administers Washington's aircraft fuel tax) and the Aviation Division of the Washington State Department of Transportation, the Washington State Department of Revenue has identified taxpayers that could potentially owe hazardous substance tax (HST), petroleum products tax (PPT), and/or local sales and use taxes (LSUT) on aviation fuel. These taxpayers are required to complete a worksheet as an addendum to their regular combined excise tax return to indicate what portion of their reported taxes are attributable to aviation fuel. We have also included oil spill taxes on the worksheet, as we believe they may also be subject to the FAA's revenue use requirements.

Please see the *Aviation Fuel Worksheet* tab of the *FAA Report Exhibits* attachment for a blank copy of the worksheet that taxpayers must complete when filing their Combined Excise Tax Return. The *Sample Taxpayer completed Worksheet* tab contains a copy of the same worksheet as it would appear after being filled out by a taxpayer.

Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:

- The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
- Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
- Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.

On June 8, 2022, we received provisional FAA approval for our 2021 action plan and the Department of Revenue (DOR) began implementing their proposed data collection efforts. After the necessary programming and tax return changes were complete, actual data collection began with the Quarter 3-2023 tax returns. In lieu of collected data prior to Quarter 3-2023, DOR has provided estimates from 2017 through Quarter 2-2023. Attached is *FAA Estimate of Total Taxes Paid on Aviation Fuels From December 8, 2017.* This document details the methodology used to estimate the HST/PPT taxes required to be appropriated for aviation projects prior to the Taxpayer Report commencement in July 1, 2023.

Estimates from fiscal year 2017 through fiscal year 2023 (ending with Q2-2023) are attached as *FY17 through FY23 Estimated Aviation Fuel Tax Data*. Actual figures for state tax collections for Q3-2023 and Q4-2024 are as follows:

	2023 Quarter 3 (revised)		2023 Quarter 4	
Tax	Taxpayer Count	Tax Due (dollars) [1]	Taxpayer Count	Tax Due (dollars) [1]
	Preliminary [2]		Preliminary [2]	
Petroleum Products Tax	14	$388,545	23	$288,119
Hazardous Substance Tax	11	$4,086,019	16	$3,121,581
Oil Spill Taxes [3]	5	$4,591	5	$2,060
	Total Tax Due	$4,479,154	Total Tax Due	$3,411,760

Notes:

1. *Data Source: Department of Revenue, Excise Tax Data, as of March 5, 2024.*
2. *This data is preliminary and will continue to change significantly as we work with taxpayers to true up our data and educate them for future reporting. We have already removed some taxpayer reporting errors from Q3 based on more accurate reporting in Q4.*
3. *Oil Spill Taxes are 5 cents per barrel (1 cent per barrel for Response Tax and 4 cents for Administration tax).*

It will take some time to ensure that taxpayers are educated and reporting correctly using this addendum. Because data collection began relatively recently, DOR is still in the process of educating taxpayers on how and when to report, and many taxpayers are not yet providing accurate data. Due to these compliance factors, the data collected so far is incomplete and contains reporting errors – issues that are expected to improve over time as taxpayers are educated, and they adjust to the new requirements. DOR expects the collected data to match the estimates more closely as taxpayer reporting improves.

However, because the estimates involve taxes which are not specific to aviation fuel, DOR does not have any historical data regarding what portions of these taxes are attributable to aviation fuel, so their estimates rely on assumptions and incomplete data. They have provided the most comprehensive estimates they are able to provide in light of these circumstances, but still expect that the actual collection data will not match the estimates perfectly, even after taxpayer compliance improves.

Local sales and use tax (LSUT) is levied by the local taxing district and collected by the Department of Revenue on their behalf, so all collections are provided back to the local taxing district that levied the tax – including any LSUT on aviation fuel. Once again, DOR does not have data on specific amounts attributable to aviation fuel prior to the start of their data collection in Q3-2023, but here is a summary of LSUT collections on aviation fuels allocated to the fifty local government entities receiving distributions of LSUT starting Q3-2023:

- Quarter 3 2023 Total Local Sales/Use Tax from the Sale of Aviation Fuel (total accumulation with rate exclusions applied) - **$488,546**
- Quarter 4 2023 - **$1,013,230**
- Quarter 1 2024 - **$4,006,742**

The significant increases here are a result of taxpayer education, especially with large stakeholders that were not reporting accurately prior to Q1-2024.

Adjustments to both the LSUT and HST/PPT will continue as efforts to true up the collected data continue.

Washington Department of Transportation (WSDOT) tracks aviation appropriations made out of other funds which can be used to offset the HST/PPT/Oil Spill proceeds. The specific appropriations made are detailed in the Attachment *Washington State Aviation Appropriations 2019-2023.*

Provide the total amounts of HST and PPT collected on aviation fuel, including:

- Detailed information of transactions in the funds, and the balances attributable to airport use;
- Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;

whether these funds are being tracked, reported, and used for airport purposes only.

All proceeds from HST or PPT collected on aviation fuel are directed in accordance with state statute, along with all other HST and PPT proceeds. While the revenue amounts attributable to tax on aviation fuel are tracked to ensure appropriations fully offset any and all taxes on aviation fuel, the actual deposits and movement of aviation fuel revenues through these accounts are not separately tracked. The appropriations to fully fund aviation programs do not generally come out of the accounts where HST or PPT are deposited. Rather, offsetting funds will come from other accounts as appropriated by the legislature or local governing authorities.

In addition to the data DOR has provided on HST/PPT revenues, they can also provide data on overall HST/PPT deposits – however this data would not be specific to aviation fuel, so it may not be useful for your purposes. Please let me know if you would like that data regardless.

In general, HST and PPT are directed as follows:

For HST, the Motor Vehicle Fund for transportation stormwater activities and projects receives the first $50 million of these taxes each biennium. The remaining proceeds are deposited into the following accounts:

- 60% to the Model Toxics Control Operating Account (RCW 70A.305.180).
- 25% to the Model Toxics Control Capital Account (RCW 70A.305.190).
- 15% to the Model Toxics Control Stormwater Account (RCW 70A.305.200).

For PPT, the Pollution Liability Insurance Program Trust Account receives all receipts from this tax. Each biennium, if the account balance exceeds $7.5 million, the Pollution Liability Insurance Agency Underground Storage Tank Revolving Account may receive a transfer of up to $20 million (RCW 70A.345.080).

Additionally we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and

any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

There has been no new legislation specific to aviation fuel, but there have been changes to the HST and PPT rates described below. No new processes have been developed by the Department of Revenue aside from those already described above.

The state tax rate change related to aviation fuel revenue was an annual inflation adjustment to the hazardous substance tax on petroleum products. The rate is volumetric rather than value-based and is annually adjusted for inflation using the US Department of Commerce's implicit price deflator.

The per-barrel rate was $1.13 on January 11, 2021, had increased to $1.40 by the time data tracking began in Q3-2023, and increased to $1.48 on July 1, 2024.

The PPT rate has changed twice since January 11, 2021. Before July 1, 2021, the rate was 0.0030. It decreased to 0.0015 from July 1, 2021, to September 30, 2023. From October 1, 2023, forward, the rate returned to 0.0030.

PPT includes a "trigger" mechanism based on the amount of funds in the Pollution Liability Insurance Program Trust Account, which suspends the tax when an account balance threshold is met. PPT was last reinstated on January 1, 2020, and has not been suspended since. New thresholds were set in 2023 and are now as follows:

- Beginning October 1, 2023, when the balance falls below $15 million for the most recent quarter, the tax starts.
- Beginning October 1, 2023, When the balance exceeds $30 million for the previous calendar quarter, the tax stops.

There have been several local tax rate changes since January 11, 2021, that affect aviation fuel reporting. Please see, FAA Report Exhibits Attachment, *Local Rate Changes* tab for a complete list of changes.

Please let me know if you have any questions about this information or if you would like to further discuss the State of Washington's funding of aviation programs.

Sincerely,

Ann B. Richart

Ann B. Richart, AAE
Aviation Director

Enc.

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

October 21, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
Transportation Building
310 Maple Park Avenue S.E.
PO Box 47300
Olympia, Washington 78540-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) is currently assessing the Washington State Department of Transportation's (State) procedures and reporting of the proceeds of aviation fuel tax collected as outlined in the *Washington Action Plan, FAA Policy concerning Airport Revenue, 2021 Update* (Action Plan). The State's Action Plan was found to be compliant with the Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register 66282, November 7, 2014) by the FAA.

Despite this compliance, the FAA has several questions and requires further clarification. The State levies various taxes on aviation fuel sales, detailed as follows:

1. **Aircraft fuel tax (Chapter 82.42 RCW):** This tax is levied by the State on each gallon of aviation fuel sold, delivered, or used in the State. The tax rate of $0.05 per gallon was in effect on December 30, 1987, and is considered grandfathered. The current tax rate is $0.18 per gallon, with $0.13 per gallon being subject to the federal revenue requirements. The State has not provided a summary of the tax collections, and the FAA requests these figures to ensure compliance with Comment 4 of the Amendment.

2. **State sales and use taxes (Chapters 82.08 and 82.12 RCW):** These taxes apply to retail sales of tangible personal property, certain services, digital products, and extended warranties, with exceptions for agricultural purposes and aviation fuel purchased for interstate or foreign air transportation. The State's tax rate of 6.5% remains unchanged since 1983 and is considered grandfathered. The FAA requires annual collection amounts for these taxes to ensure compliance with Comment 4 of the Amendment.

3. **The Hazardous Substance Tax (HST) and Petroleum Products Tax (PPT) (Chapters 82.24 and 82.23A RCW):** These taxes are levied on the first possession in the State of hazardous substances, including aviation fuel. The State Department of Ecology uses the funds to help clean up and manage solid and hazardous waste in the State. Both HST and PPT were imposed later than December 30, 1987, and are subject to federal revenue use requirements. The FAA requires evidence that these taxes are reserved for aviation or airport purposes, as stipulated by the Amendment.

The FAA acknowledged that changes to align State and local taxes with federal law would require State legislation. The 2014 Amendment required the development of action plans to amend non-compliant laws and to establish tracking and reporting systems for aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and track systems and amend any non-compliant State statutes. Although 11 years have passed since the Amendment, actual amounts rather than estimates are still needed. The FAA's Revenue Use Policy (64 FR 7696, February 16, 1999) mandates actual data as evidence of proper allocation for aviation purposes. A timeline for implementing tracking and reporting systems is needed.

The Amendment in FY 2014 provided that State and local officials should have prepared an action plan to initiate the process to amend any non-compliant State laws and local ordinances as necessary to conform to federal law on the use of aviation fuel tax revenues. The Amendment went on to describe the requirements of the Action Plan, detailing the process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and tracking systems and amend any non-compliant State statutes.

Eleven years have elapsed, and estimates are being provided rather than actual amounts without any indication of when the reporting requirements will be attained. The FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy) (64 FR 7696, February 16, 1999) provides that estimates cannot be relied upon as documentary evidence to show the aviation fuel tax proceeds were collected and allocated for aviation purposes. The FAA will need a timeline for implementing all tracking and reporting tasks.

In correspondence dated July 12, 2024, with Scott Glenn, Division Manager of the FAA's Airport Financial Compliance Division (ACO-200), the State indicated that all proceeds collected on the HST and PPT are allocated according to State statute. HST collected is directed to be deposited proportionally in the model toxic control operating, capital, and stormwater accounts. All collections from the assessment of PPT are deposited in the Pollution Property Liability Insurance Program Trust Account, with the potential transfer of funds to the Liability Insurance Agency Underground Storage Tank Revolving Account. These funds, if not used for aviation purposes, conflict with revenue use requirements. The FAA directs stakeholders to the Aviation Fuel Tax Docket (Docket ID: FAA-2013-0988) for guidance.

The State tracks aviation appropriations from other funds that can offset the environmental tax proceeds. The FAA received State provided documentation titled *Washington State Aviation State Aviation Appropriations 2019-2023* (Attachment) as evidence of these offsets. In-kind services benefitting airports and aviation may be recognized as offsets but require FAA review and approval to confirm their aviation-related benefits.

The FAA staff from ACO-200 and the FAA's Northwest Mountain regional office recently undertook a review of in-kind costs associated with aviation fuel tax collections. This part of the review was to determine the compliance of these costs with federal revenue requirements. The detailed examination revealed several in-kind appropriations that need further clarification to ascertain their allowability.

The review process was methodical, involving a detailed analysis of various appropriations across multiple fiscal years and budgetary allocations, as summarized in Attachment A below. The appropriations were categorized based on their allowability status: Allowable, Not Allowable, or Requiring Clarification. Among the appropriations that were deemed allowable were funds allocated to programs under various sections, like Program Y and Z from the 2019-21 HB 1160 (Transportation), as well as several appropriations under the Capital and Operating budgets across different fiscal years.

However, a significant portion of the appropriations, totaling over $82 million, was identified as not allowable. These included appropriations under the 2021-22 SSB 5165 (Transportation budget) and the 2023 Supplemental ESSB 5200 (Capital), among others. These not allowable appropriations are excluded from being offset against aviation fuel taxes due to their lack of direct benefit to aviation or airport operations.

Furthermore, there were several appropriations, totaling nearly $15 million, that require additional clarification before a final determination can be made. These include appropriations such as those under the 2019-21 HB 1102 (Capital Budget) and 2021-23 ESSB 5092 (Operating Budget), where the FAA needs confirmation on specific aspects like the use of appropriations, the scope of studies, or the proportionate benefit to aviation.

For instance, the appropriation for Section 815 Program T under the 2019-21 HB 1160 requires a demonstration of its sole benefit to aviation or a substantiated aviation role based on appropriate metrics. Similarly, for several other appropriations, there is a need to confirm whether funds were used as intended or transferred to subsequent budgets, and whether the expenditures align with aviation-related criteria.

The FAA's comprehensive review underscores the importance of substantive documentation and justification for appropriations intended to be used as offsets to aviation fuel taxes. Ensuring compliance with federal requirements helps maintain transparency and accountability in the management of aviation-related finances. The next steps will involve the State furnishing the required clarifications and justifications for the identified appropriations, enabling a definitive decision on their eligibility.

While the Washington State Department of Transportation's Action Plan has met initial compliance with FAA policies concerning aviation fuel tax revenues, there remain significant areas requiring further clarification and action. The FAA seeks comprehensive data on tax collections and assurances that airport revenue use aligns with federal revenue requirements. The necessity for accurate tracking and reporting systems cannot be overstated, especially as over a decade has passed since the 2014 Amendment. The FAA is committed to working collaboratively with the State to address these issues, ensuring that all aviation fuel tax proceeds are properly allocated and that all State in kind contributions are appropriately assessed for their benefit to aviation. We appreciate your attention to these matters and kindly request that the State provide the information and timelines for compliance within 60 days.

Please do not hesitate to reach out should you have questions or require further guidance.

Sincerely,

Digitally signed by MICHAEL W HELVEY
Date: 2025.10.22 08:58:06 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosure

cc: Jessica Sypniewski, Acting ARP-1
William Garrison, Director, ANM Airports Division
Peter Doyle, Airport Compliance Manager, ANM

Attachment A – ***In-Kind Offsets to Aviation Fuel Tax Collections***

Appropriation	Allowable	Not Allowable	Clarify	Comment
2019-21 – HB 1160 (Transportation)				
Sec. 310 Program Y	$500,000			
Sec. 311 Program Z	$60,000			
Sec. 803 Jt. Transport.	$500,000			
Sec. 815 Program T			$500,000	Provide benefit solely for aviation or airport, or substantiate aviation role proportionately based on an appropriate metric.
2019-21 HB 1102 (Capital Budget)				
Sec. 1042 (Commerce)			$3,451,000	Confirm that the appropriation was used and not transferred to 2021 - 2023 SHB 1080.
Sec. 6003 (Commerce)			$2,000,000	Determine what conditions are remedied by the acquisition, and how the new zoning will satisfy the Runway Protection Zone design criteria.
2019-21 – HB 1109 (Operating Budget)				
Sec. 607 (Washington State University)	$1,040,000			
Sec. 1501 (State Bd for Community and Technical Colleges)	$300,000			
Sec. 1502 (University of Washington)	$250,000			
2020 Supplemental – ESSB 6248 (Capital Budget)				
Sec. 1011 (Dept. of Commerce) (from 2019-			$750,000	Confirm that appropriation was used and not transferred to 2021 - 2023 SHB 1080.

21 funding update-Sunnyside)				
2021 Supplemental – (SHB) 1080 (Capital Budget)				
Sec. 1074 (Dept. of Commerce)			$5,700,000	Confirm that appropriation was used and not transferred to 2022 Supplemental SB 5651(Capital).
2021-22 – SSB 5165 (Transportation Budget)				
Sec. 1008 Washington State Department of Transportation (WSDOT) Program Y – Rail)		$500,000		
Sec. 1009 (WSDOT Program Z – Capital)	$60,000			
Sec. 113 (Joint Legislative Audit and Review Committee)		$200,000		
2021-23 – SHB 1080 (Capital Budget)				
Sec. 1075 (Commerce)	$450,000			
Sec. 6007 (Commerce) *(from 2019-21 funding and 2020 supplemental update-Sunnyside)*	$3,701,000			
2021-23 – ESSB 5092 (Operating Budget)				
Sec. 607 (Washington State University)	$1,090,000			
Sec. 1121 (Commerce)			$300,000	Confirm the scope of the study for SeaTac.
Sec. 1220 (Health)			$125,000	Confirm the scope of the study for SeaTac.
2022 Supplemental – SB 5975 (Transportation Additive Funding)				

Sec. 203 (Commerce)	$10,000			
2022 Supplemental – SB 5651(Capital)				
Sec. 1022 Commerce)	$5,700,000			
2022 Supplemental – ESSB 5693 (Operating)				
Sec. 128 (Commerce)	$450,000			
2023 Supplemental – ESHB 1125 (Transportation)				
Sec. 205 (Transportation Commission)		$75,000		Seems to be an overall economic development funding.
2023 Supplemental – ESSB 5200 (Capital)				
Sec 1025 (Commerce)	$1,861,000	$1,000,000		
Sec. 1034 (Commerce)		$324,000		
Sec. 1079 (Military)		$80,200,000		
2023 Supplemental – ESSB 5187				
Sec. 310 (Dept. of Natural Resources)	$762,000			
Sec. 607 (WSU)	$1,000,000			
Sec. 618 (Washington State Historical Society)		$341,000		
Sec. 1114 (Commerce)			$2,000,000	Confirm the amount beneficial to aviation, as other modes of transportation are included.
Total	**$17,734,000**	**$82,640,000**	**$14,826,000**	

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

April 10, 2024

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
310 Maple Park Avenue SE
Olympia, WA 98504-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) advised the State of Washington (State) on June 8, 2022 via email that its proposed 2021 Action Plan Update addressing the use of proceeds from taxes on aviation fuel was found to be compliant. The State's submission was in response to the FAA's *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel* (79 Federal Register 66282, November 7, 2014).

As referenced in the June 8, 2022 email, the FAA is now initiating its review of the State's procedures and reporting of the proceeds from the aviation fuel tax now that the Action Plan is up and running. The review will assist the agency in determining whether the plan has been implemented consistent with the process described and the State is in compliance with federal law when using aviation fuel tax proceeds.

Our emphasis of the review will be centered on the proposed processes and methodologies submitted in the Action Plan for the State levied taxes on the sale of aviation fuel - an Aircraft Fuel Tax; State and Local Sales and Use Taxes; a Hazardous Substance Tax (HST); and a Petroleum Products Tax (PPT). For purposes of this review, these taxes are referenced as aviation fuel taxes collectively except where a tax is specifically identified.

In furtherance of the review of the State's Action Plan, please address the following:

- Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.
    - Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
        - Copies of sample revised taxpayer reports and schedules and;
        - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.
- Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:
    - The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
    - Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
    - Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.
- Provide copies of action plans for local taxing jurisdictions; the State assumed responsibility to ensure local taxing jurisdictions comply with the aviation fuel tax requirements.
    - Substantiate whether the proceeds collected from the local government taxes on aviation fuel are being used for airport purposes in local taxing jurisdictions.
- Provide the total amounts of HST and PPT collected on aviation fuel, including:
    - Detailed information of transactions in the funds, and the balances attributable to airport use;
    - Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;
    - Substantiate whether these funds are being tracked, reported, and used for airport purposes only.

Additionally, we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

We request that you provide the information requested above within 30 days of receipt of this letter to Scott Glenn, Division Manager, Office of Airport Compliance and Management Analysis at scott.f.glenn@faa.gov.

We also remind you to timely submit updates to the FAA of any substantive changes to aviation fuel tax revenues received by the State.

We appreciate your assistance in this review. Should you have any questions, please contact Mr. Glenn at (202) 267-6491.

Sincerely,

Digitally signed by MICHAEL W HELVEY
Date: 2024.04.10 15:13:13 -04'00'

Michael Helvey
Director, Office of Airport Compliance

Enclosure

STATE OF WASHINGTON

DEPARTMENT OF REVENUE

OFFICE OF THE DIRECTOR

P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

January 11, 2021

TO: The Honorable Christine Rolfes, Chair
The Honorable Lynda Wilson
Ways & Means Committee
Washington State Senate

The Honorable Noel Frame, Chair
The Honorable Ed Orcutt
Finance Committee
Washington State House of Representatives

The Honorable Timm Ormsby, Chair
The Honorable Drew Stokesbary
Appropriations Committee
Washington State House of epreseentatives

FROM: Vikki Smith, Director
Washington State Department of Revenue

SUBJECT: Washington Action Plan—FAA Policy Concerning Airport Revenue—2021 Update

The Department of Revenue (department) is submitting this report to the Legislature as required under Section 135(8), Chapter 357, Laws of 2020 (Engrossed Substitute Senate Bill 6168). This budget proviso requires the department to:

- Update the publication titled "Washington Action Plan—FAA Policy Concerning Airport Revenue."
- Consult with the Washington State Department of Transortation, Aviation Division, to develop and recommend to the fiscal committees of the Legislature a method of separately tracking the actual amounts collected from the hazardous substance tax (HST) and the petroleum products tax (PPT), to the extent these taxes are imposed on aviation fuel.

The Federal Aviation Administration's policy concerning the use of airport revenues requires that any state or local taxes on aviation fuel, except taxes in effect on December 30, 1987, be expended exclusively for airport purposes and aviation programs.

In addition to HST and PPT, local sales and use taxes are subject to the FAA's policy concerning the use of airport revenues. Therefore, while not required by ESSB 6168, this report also includes our recommended methodology to separately track local sales and use tax revenues collected on the sale and use of aviation fuel.

If you have any questions or need the report in an alternate format, please contact Michael Bailey, Legislative and External Affairs Liaison, Executive Division, at MichaelBa@dor.wa.gov or (360) 534-1545.

cc: Brad Hendrickson, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Keith Phillips, Executive Policy Director, Office of the Governor
Members, Senate Ways & Means Committee
Members, House Finance Committee
Members, House Appropriations Committee
Members, Senate Transportation Committee
Members, House Transportation Committee
David Schumacher, Director, Office of Financial Management
Drew Shirk, Executive Director, Legislative Affairs, Office of the Governor
David Fleckenstein, Director of Aviation, Washington State Department of Transportation
Roselyn Marcus, Assistant Director, Office of Financial Management
Ramona Nabors, Budget Assistant, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Washington Action Plan
FAA Policy concerning Airport Revenue
2021 Update

Department of Revenue Washington State

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Introduction

This report is prepared as required by Section 135(8), Chapter 357, Laws of 2020 (the 2019-2021 supplemental operating budget). This legislation required the Department of Revenue (department) to:

- Update the 2015 “Washington Action Plan – FAA Policy Concerning Airport Revenue” (see Appendix A) to reflect subsequent legislative changes to the taxation of hazardous substances.
- Develop and recommend, in consultation with Washington State Department of Transportation, Aviation Division (WSDOT), a method of separately tracking the actual amounts of hazardous substance tax (HST) and petroleum products tax (PPT) imposed on aviation fuel.

Background

The FAA's Policy and Procedures Concerning the use of Airport Revenue; Proceeds from Taxes on Aircraft fuel (FAA Policy) requires that state and local taxes imposed on aviation fuel after December 30, 1987, be used exclusively for airport purposes and aviation programs.

In 2015, the department collaborated with WSDOT to prepare a document titled, "Washington Action Plan – FAA Policy Concerning Airport Revenue" (2015 Action Plan). The 2015 Action Plan proposed a method for complying with the FAA Policy on aviation fuel tax revenue use.

Some state and local taxes apply to both aviation fuel and other products. Taxpayers report these taxes to the department on an aggregated basis. For this reason, the department does not currently collect data on the actual amount of local sales and use taxes, HST, and PPT collected on aviation fuel. The 2015 Action Plan proposed a method for estimating the amounts of those taxes collected on aviation fuel. The 2015 Action Plan was presented to the FAA by WSDOT.

In a letter dated June 28, 2017 (see Appendix B), the FAA notified WSDOT that the proposed estimation methodology in the 2015 Action Plan is not in full compliance with the aviation fuel tax revenue use requirements in the FAA Policy. As a result, the department has not implemented the 2015 Action Plan. To the department's knowledge, the FAA has not taken any action against Washington State to enforce its policy on fuel tax revenue use.

In 2019, the Legislature passed, and the Governor signed, Engrossed Substitute Senate Bill 5993 (ESSB 5993). Among other things, ESSB 5993 modified the HST as applied to petroleum products from a value-based tax to a volumetric tax, beginning July 1, 2019. During final passage of this bill, several floor amendments were offered that would have exempted aviation fuel from the HST. None of these amendments were successful.

Overview of taxes applicable to aviation fuel

In some circumstances, the sale, use, purchase, or storage of aviation fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax.
- State sales and use tax.
- Local sales and use tax.
- HST.
- PPT.

For more information on the taxes listed below, see the department's 2018 Tax Reference Manual at dor.wa.gov.

1. **Aircraft fuel tax (Chapter 82.42 RCW)**
   The aircraft fuel tax is levied by the state on each gallon of aircraft fuel sold, delivered, or used in Washington. The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon.

   The current tax rate is $0.11 per gallon (RCW 82.42.020). Distributors of aircraft fuel are

required to collect the tax and submit it to the Department of Licensing. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, because the aircraft fuel tax is already dedicated to aviation, the department believes that aircraft fuel tax revenues comply with the FAA Policy's aviation fuel tax revenue use requirements.

2. State sales and use taxes (Chapters 82.08 and 82.12 RCW)
Washington's sales tax applies to the retail sale of tangible personal property, certain services, digital products, and extended warranties (see RCW 82.08.020 and RCW 82.04.050). Use tax applies when Washington consumers use taxable products or services within the state and did not pay sales tax on the products or services.

   Aviation fuel purchased in the state is generally subject to sales tax. However, the law provides exemptions for fuel purchased by a farmer for agricultural purposes (RCW 82.08.865) and fuel purchased by an air carrier for use in interstate or foreign air transportation (RCW 82.08.0261 and WAC 458-20-175). Air carriers that purchase aviation fuel in this state are subject to use tax on the portion of the fuel consumed in this state.

   State sales and use tax is generally reported by sellers and paid to the department. Revenues from the state sales and use tax are deposited into the state general fund and performance audits of government account.

   The state's portion of the sales and use tax rate has remained at 6.5% since 1983. Because the current state sales and use tax rate was imposed before 1987, state sales and use taxes are not subject to the FAA's aviation fuel tax revenue use requirements.

3. Local sales and use taxes (Chapter 82.14 RCW and RCW 81.104.170)
Local governments in Washington may impose a tax only if authorized by the Legislature. Currently, the only local tax on aviation fuel is local sales and use tax. There are currently 29 different local sales and use taxes authorized under state law. The highest current aggregate rate of local sales and use tax is 4%. Combined with the state rate of 6.5%, Washington's highest current combined state and local sales and use tax rate is 10.5%. Local sales and use taxes are administered by the department. For more information on local sales and use tax, see the department's 2020 Local Tax Reference Guide at dor.wa.gov.

   We estimate that aviation fuel sales occur in approximately 107 local taxing jurisdictions that have either imposed or raised the rate on their local sales and use taxes after 1987. Under the terms of the FAA Policy, the revenues from the local sales and use taxes of these jurisdictions are subject to the policy's aviation fuel tax revenue use requirements. Because the department administers all local sales and use taxes, affected local governments will not need to submit their own action plans to the FAA.

4. Hazardous substance tax (Chapter 82.21 RCW)
The HST is a state tax imposed on the first possession of a hazardous substance in this

state. The HST applies to:

- Petroleum products, including aviation fuel.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) listed substances.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registered pesticides.

The HST rate is as follows:

<table>
<tr><th>Type of product</th><th>Tax rate</th></tr>
<tr><td>Non-petroleum products.
Petroleum products not easily measured on a per-barrel basis.</td><td>0.7% multiplied by the wholesale value of the product.</td></tr>
<tr><td>All other petroleum products, including aviation fuel.</td><td><table><tr><td>FY 20</td><td>$1.09 per barrel (42 gallons)</td></tr><tr><td>FY 21</td><td>$1.13 per barrel</td></tr></table>The per-barrel rate is adjusted for inflation, effective July 1 of each year.</td></tr>
</table>

HST was first imposed in 1989. The revenue from the HST is deposited into toxic control accounts. For more information on the HST, see the HST page on the department's website.

Because the HST was imposed after 1987 and applies to aviation fuel, HST revenues are subject to the FAA's aviation fuel tax revenue use requirements.

5. Petroleum products tax (Chapter 82.23A RCW)
PPT is a state tax imposed on the first possession of petroleum products in this state. The tax is equal to 0.3% of the wholesale value of the petroleum product. Effective July 1, 2021, the tax rate is reduced to 0.15%. The PPT was first imposed in 1989 and is scheduled to expire July 1, 2030. Aviation fuel is a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account. For more information on the PPT, see the PPT page on the department's website.

   Like HST, the PPT was imposed after 1987 and is subject to the FAA Policy on the use of aviation fuel tax revenues.

Action plan and recommended methodology

Because local sales and use tax, HST, and PPT are not specific to aviation fuel, we do not currently require taxpayers to separately report the amount of local sales and use tax, HST, and PPT, attributable to aviation fuel. Instead, taxpayers report in the aggregate the amount of local

sales and use tax, HST, and PPT they owe. Consequently, we currently possess no data on the actual amount of local sales and use tax, HST, and PPT we collect specifically on aviation fuel. In order to obtain this information, we will have to require taxpayers who are liable for local sales and use tax, HST, or PPT, with respect to aviation fuel, to provide that information when filing their combined excise tax return.

The state will use the amounts of HST and PPT reported by taxpayers as attributable to aviation fuel to calculate the amount of funds that should be allocated to aviation purposes.

The state will also educate local jurisdictions on the FAA Policy's aviation fuel tax revenue use requirements, including the requirement to offset their use of tax revenue on aviation fuel put towards non-aviation purposes with an equal amount of spending on aviation and the types of aviation spending that qualify for the offset amount.

The department will produce a list of taxpayers who report local sales and use tax, HST, or PPT and determine which of these taxpayers are likely to distribute, use, or own aviation fuel. We will inform these taxpayers about why they are being asked to report taxes attributable to aviation fuel and provide instructions on how to do so.

The department proposes the following methodology to track the amount of local sales and use tax, HST, and PPT collected on aviation fuel:

Local sales tax

Taxpayers who report local sales tax on the sale of aviation fuel will be required to complete a worksheet along with their regular combined excise tax return. The worksheet will indicate what portion of their reported local sales tax is attributed to the sale of aviation fuel, as well as the location and local tax rate associated with those sales.

Local use tax

Similar to the process for local sales tax, taxpayers who report use tax on aviation fuel will be required to complete a worksheet along with their use tax return or combined excise tax return to specify what portion of their reported local use tax is attributed to the use of aviation fuel, as well as the location and local tax rate associated with that use.

Hazardous substance tax (HST)

Taxpayers who report HST on the possession of liquid petroleum products on a per-barrel basis will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of the reported taxable barrels are attributed to aviation fuel.

Petroleum products tax (PPT)

Similar to the process for HST, taxpayers who report PPT on the possession of petroleum products will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of reported PPT attributed to aviation fuel.

Once data is collected from these worksheets, the department will calculate the actual revenue

amounts received from local sales and use tax, HST, and PPT on aviation fuel.

Conclusion

If the FAA determines that the methodology recommended in this report complies with its policy on aviation fuel tax revenue use, we will update our electronic filing system and begin tracking revenue from taxes on aviation fuel via additional reporting requirements on combined excise tax returns as described above.

The state will track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy and provide guidance to local jurisdictions about what types of airport spending will satisfy the FAA Policy.

Appendix A

Washington Action Plan—FAA Policy Concerning Airport Revenue

Taxes applicable to aircraft fuel

In some circumstances, the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax
- State sales/use tax
- Local sales/use tax
- Hazardous substance tax
- Petroleum products tax

State taxes

Several of Washington's taxes on aircraft fuel are already compliant with, or have grandfathered status under, the FAA's *Policy and Procedures Concerning the use of Airport Revenue; Proceeds From Taxes on Aircraft fuel* (FAA Policy). Revenue from the aircraft fuel tax is already dedicated to aviation, and therefore compliant with the FAA policy. The current state sales/use tax rate was imposed before 1987 and is therefore grandfathered from the FAA Policy's revenue use restrictions.

The state also imposes a hazardous substance tax (HST) and petroleum products tax (PPT) on aircraft fuel. Both of these taxes were imposed after 1987. Under the terms of the FAA Policy, they are subject to its revenue use restrictions.

Local taxes

Local governments in Washington may only impose a tax if authorized by the Legislature. Currently, the only local tax on aircraft fuel is local sales/use tax, which is administered by the state. Therefore, there is no variation in how local sales/use tax is administered. Hundreds of local taxing jurisdictions have either imposed or raised the rate on their respective local sales/use taxes after 1987. Aircraft fuel sales are estimated to occur in approximately 107 of these jurisdictions. Under the terms of the FAA Policy, the revenues from these jurisdictions' local taxes are subject to its use restrictions. Because the state administers all local sales/use taxes, affected local governments will not be submitting a separate action plan.

Action plan

Washington possesses no data on the actual amount of local sales/use tax, HST, and PPT collected specifically on aircraft fuel. Obtaining this information would be expensive and administratively burdensome. Therefore, Washington plans to estimate the amount of local sales/use tax collected on aircraft fuel by each local jurisdiction subject to the FAA Policy's restrictions and the amount of HST and PPT collected on aircraft fuel by the state. The state will use this data to determine whether amounts the state spends on aviation programs at least equal

the amount of HST and PPT revenues collected on aircraft fuel, which are dedicated by Washington law to non-aviation purposes.

The state will inform local jurisdictions of the FAA Policy's revenue use requirements, and advise those jurisdictions to offset their use of tax revenue on aircraft fuel put towards non-aviation purposes with an equal amount of spending on aviation. The state will provide information about what types of aviation spending qualify for the offset amount and will respond to complaints from airports. The state will also track state spending on state aviation programs to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Overview of Taxes

1. **Aircraft Fuel Tax (chapter 82.42 RCW)**

The aircraft fuel tax is levied on each gallon of aircraft fuel sold, delivered, or used in Washington (RCW 82.42.020). The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon. The current tax rate is $0.11 per gallon (RCW 82.42.020). For more information on the aircraft fuel tax, see the tax reference manual.

Distributors of aircraft fuel are required to collect the tax. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, the aircraft fuel tax revenues already comply with the FAA Policy's use restrictions.

2. **State Sales and Use Taxes (chapters 82.08 and 82.12 RCW)**

The state portion of the Washington retail sales/use tax rate has remained at 6.5 percent since 1983. *See* 1983 Wash. Laws ch. 7 § 6 (1983 session law establishing the current tax rate).

The tax base is the selling price of tangible personal property and certain services purchased at retail, i.e. by consumers. The basic definition of items and transactions subject to sales tax appears in RCW 82.04.050. (NOTE: Use tax applies to taxable items used within the state if retail sales tax was not paid)

Aircraft fuel purchased in the state is generally subject to sales tax, except for such fuel purchased by a farmer for agricultural purposes (RCW 82.08.865). With respect to air carriers engaged in interstate travel, the sales/use tax on aircraft fuel is currently imposed only on fuel placed on board and consumed in this state (WAC 458-20-175). Sellers of aircraft fuel to air carriers are not required to collect the tax. Instead, an air carrier registered with the state pays the use tax directly to the state.

State sales/use tax is generally deposited in the state general fund. For more information on state sales and use tax, see the tax reference manual.

3. **Local Sales and Use Taxes (chapter 82.14 RCW)**

The revenue sources of cities, counties, and junior taxing districts are strictly controlled by the Legislature and only specifically authorized taxes can be imposed at the local level. There are currently 25 different types of local sales taxes. The maximum local sales tax rate currently levied totals 3 percent in portions of southwestern Snohomish County and in all of the

metropolitan areas of King County. Combined with the state rate of 6.5 percent, Washington's maximum sales tax rate that applies to most taxable items is now 9.5 percent. For more information on local sales and use tax, see the tax reference manual.

4. Hazardous Substance Tax (Chapter 82.21 RCW)

The hazardous substance tax (HST) is imposed on the first possession of a hazardous substance in the state. The tax is equal to 0.7 percent of the wholesale value of the substance and was first imposed in 1989. Aircraft fuel is considered a taxable hazardous substance. The revenue from the HST is deposited into toxic control accounts (RCW 82.21.030). For more information on the HST, see the tax reference manual.

5. Petroleum Products Tax (chapter 82.23A RCW)

The petroleum products tax (PPT) is imposed on the first possession of a petroleum product in the state. The tax is equal to 0.3 percent of the wholesale value of the petroleum product and was first imposed in 1989. Aircraft fuel is considered a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account (RCW 82.23A.020).

The PPT was suspended from April 1, 2010, to June 30, 2015. The tax was re-imposed effective July 1, 2015. For more information on the PPT, see the tax reference manual and special notice.

Methodology

When businesses report taxes to the state they are not required to itemize the individual items they sell, but report the gross amount for an entire category of sales (retailing, wholesaling, services, etc.) Therefore, the actual amount of local sales/use tax, HST, and PPT collected on aircraft fuel is unknown. This information would be difficult to obtain and collecting it would place a significant burden on taxpayers and government entities.

Washington proposes the following methodology to estimate the amount of local sales/use tax, HST, and PPT collected on aircraft fuel:

Local sale tax

To calculate the local sales tax collected on aircraft fuel by distributors, the state will perform the following calculation each year (beginning 2018):

- Determine the airport operators selling aircraft fuel within the boundaries of a local jurisdiction that imposed or raised its local sales and use tax after 1987.
- Determine the amount of aircraft fuel tax collected in the previous year by each affected airport operator.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the gallons sold by each affected airport operator. Multiply this amount by the average retail price per gallon of aircraft fuel, which is obtained from the FAA Aerospace Forecasts – Table 18. This provides the dollar value of aircraft fuel sold by each affected airport operator.
- Multiply the appropriate local sales tax rate by the dollar value of aircraft fuel sold by

each affected airport operator. This provides the estimated local sales tax collected by the airport operator for the local jurisdiction.

- Sum the estimated local sales tax collected by airport operators within each affected local jurisdiction. This amount is the local jurisdiction's local sales tax offset amount for the year.

Local use tax

To calculate the local use tax paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- The state will query the local use tax reported by each passenger airline that reports taxes to the state.
- Based on multiple passenger airline audits, approximately 91 percent of the local use tax reported by passenger airlines is for aircraft fuel.
- For each passenger airline, the state will multiply the airline's annual use tax payments to each local jurisdiction by 91 percent. This amount is the local jurisdiction's local use tax offset amount for the year.

For each affected local jurisdiction, the local sales tax offset amount and local use tax offset amount will be added together to determine the local jurisdiction's total offset amount for the year.

Hazardous substance tax (HST) – reported by distributors

To calculate the HST on aircraft fuel reported by distributors, the state will perform the following calculation each year:

- Determine the total aircraft fuel tax collections in the previous year.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the total gallons sold. Obtain average price per barrel from US Energy Information Administration and convert to average price per gallon. Multiply the average price per gallon by the total gallons sold. This provides an estimated wholesale dollar value of aircraft fuel possessed in the state by distributors.
- Multiply the hazardous substance tax rate by the estimated wholesale value to determine the state's offset amount for HST reported by distributors.

Hazardous substance tax – reported by airlines

To calculate the HST paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- Query the total HST reported by all passenger airlines that report taxes to the state.
- Based on multiple commercial airline audits, approximately 91 percent of the HST reported by passenger airlines is for aircraft fuel.
- Multiply the total HST reported by all passenger airlines by 91 percent. This provides the state's offset amount for HST reported by airlines.

The estimated HST reported by distributors and airlines will be added together to determine the state's total HST offset amount for the year.

Petroleum products tax (PPT)

The PPT offset amount will be calculated in the same manner as the HST.

Conclusion

Beginning in 2018, the state will begin calculating the offset amounts as described above. The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy.

The state will provide guidance about what types of airport spending will satisfy the FAA requirements for the offsets. The state will also track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Appendix B

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

June 28, 2017

Tristan K. Atkins
Director of Aviation
7702 Terminal St. SW
Tumwater, WA 98501

Dear Mr. Atkins:

Re: Letter of Acknowledgment: Washington State's Action Plan in Response to FAA Aviation Fuel Tax Policy Amendment

Thank you for your December 18, 2015 letter, regarding the "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 FR 66282).

The FAA has received your response, and understands the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax,
- State sales/use tax,
- Local sales/use tax,
- Hazardous substance tax, and/or
- Petroleum products tax.

<u>FAA Response on Compliance:</u>

1) <u>Aircraft Fuel Tax</u>
    - The FAA has determined that five cents of the aircraft fuel tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use. However, the remaining six cents of the tax is not exempt, and is subject to Federal requirements for use of airport revenue. The state has indicated that the revenue is distributed to the state aviation fund, and as such, is qualified and under review by the FAA for compliance.

2) State Sales and Use Tax
   - The FAA has determined that Washington's state sales and use tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use.
3) Local Sales and Use Tax
   - The FAA does not have enough information to determine whether or not some local sales and use taxes in Washington may qualify for grandfathered status, although the state has indicated an offset approach will be used to ensure compliance.
4) Hazardous Substance Tax (HST) and Petroleum Substance Tax (PPT)
   - The FAA has determined that neither the Hazardous Substance Tax nor the Petroleum Products Tax qualify for grandfathered status because the authorizing legislation for these taxes was not in place on December 30, 1987. They are thus subject to airport revenue use requirements, including those regarding fuel tax revenue use.
   - The planned methodology to estimate the amount of the HST and PPT reported is not in full compliance with the aviation fuel tax revenue use requirements. FAA requires an adjustment of actual proceeds to be determined through a documented reconciliation method. While FAA allows budgetary estimates for projected revenue calculations used for the offset, using an average price per gallon sold and an approximate percent of airline collection does not provide actual amounts for the offset.

Consistent with the list of supporting information posted on regulations.gov on July 17, 2015,[1] the FAA has determined that additional clarifications or adjustments are needed in order to evaluate whether the State of Washington is fully compliant with Federal requirements for aviation fuel tax revenue use and therefore is requesting more information to ensure that Washington will be in compliance with these requirements by December 8, 2017. Please ensure that all of the following are submitted:

1) For the aircraft fuel tax, please provide a full description of the use of Washington's state aeronautics account, or any other aviation fund into which tax revenues are submitted.
2) For the HST and PPT taxes, please confirm that the planned changes will provide the following information and results:
   - The amount of the offset will be greater than or equal to the total revenue from the fuel tax each year.
   - Documentation that the government body collecting the fuel tax has the authority to offset revenues as described.
   - Documentation indicating that State of Washington Department of Revenue has developed a review process by which it will track revenues from any taxes on aviation fuel by local jurisdiction, expenditures of any taxes on airports or, if applicable, offsets in equivalent or greater amounts to those earned through any taxes on aviation fuel and documentation ensuring that State of

[1] "Aviation Fuel Tax Grandfathering Action Plans," available in Docket FAA-2013-0988

Washington Department of Revenue has developed reporting and enforcement mechanisms for its review process.

We request that you provide this additional information within 60 days of receipt of this letter, along with assurance that the proposed changes will be fully implemented by December 8, 2017 to remain within the three year period provided in the FAA Policy Amendment. If you have any questions, please contact me at (202) 267-3085.

The foregoing response represents the present view of the FAA based on the information presented in Action Plan submission and does not constrain future the FAA action or opinion. This response does not constitute a final agency action or an "order issued by the Secretary of Transportation" under title 49 U.S.C., § 46110.

Sincerely,

Kevin C. Willis

Kevin C.Willis, Director
Office Airport Compliance
and Management Analysis

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

November 6, 2025

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

RE: Request for Extension to Provide Additional Information – Fuel Tax Compliance Review

Dear Director Helvey;

The State of Washington respectfully requests an extension to the 60-day deadline for submission of additional information related to your recent request concerning fuel tax compliance.

Due to the complexity of the data involved and the need to coordinate with multiple state agencies additional time is required to ensure that our response is complete and accurate. Changes in administrations both at the Federal and State levels have impacted personnel assignments since we last communicated about this issue over a year ago and we need to ensure that the appropriate personnel are adequately briefed.

For these reasons we respectfully request an additional 60 days beyond the current deadline to complete this process. The extension will allow us to provide FAA with a comprehensive and well-supported submission that reflects our ongoing commitment to full compliance and transparency.

We appreciate your consideration of this request and your continued partnership in advancing aviation in Washington State. Please let us know if you require any additional information.

Sincerely,

Ann B. Richart, AAE
Aviation Director

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, D.C. 20591

December 15, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation

Dear Ms. Richart:

Subject: Approval of Extension Request – Fuel Tax Compliance Review

I am writing to acknowledge receipt of your letter dated November 6, 2025, requesting an additional 60-day extension for the submission of additional information related to our ongoing fuel tax compliance review.

After reviewing your request and considering the complexities involved, including the necessity to coordinate with multiple state agencies and the impact of recent administrative changes, the Federal Aviation Administration (FAA) has approved your request for an extension.

The new deadline for submission will be 120 days from the date of October 21, 2025, letter, extending your original deadline to February 18, 2026. We believe this additional time will facilitate a comprehensive and accurate response, reflecting your commitment to compliance and transparency.

We appreciate your proactive approach and continued dedication to aviation excellence in Washington State. Should you need further clarification or assistance during this process, please feel free to reach out to my office directly.

Thank you for your ongoing partnership and cooperation.

Sincerely,

Michael W. Helvey

Michael W. Helvey
Director

Washington State
Department of Transportation

Aviation Division
PO Box 47312
Olympia, WA 98504
360-709-8015
www.wsdot.wa.gov

February 19, 2026

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Director Helvey;

The state of Washington appreciates your extension of time for us to respond to your questions about our preliminary response to your ongoing fuel tax compliance review. Unfortunately our response is not yet completed. We respectfully request additional time to provide a response. This issue has been elevated to the Office of Financial Management in Governor Ferguson's office.

Sincerely,

Ann B. Richart, AAE
Aviation Director

From: Richart, Ann
Sent: Thu, 19 Mar 2026 17:04:37 +0000
To: Cotton, Megan (GOV)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Hansen, Erik (OFM); Martine, Renee (OFM); Breaux, Steven; Woehler, Kerri
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final Report - Airport Revenue Diversion - AV2024010 - 508 compliant.pdf

Megan –

- There has not been any additional effort taken by WSDOT to collect the additional information about aviation projects funded outside of the Aeronautics Account. This was at the direction of OFM. However, it should be noted that, to date, Washington State's total aviation fuel tax liability is approximately $210 million. If we verify all the of the expenses that FAA has asked for clarification on and they all prove to be allowable expenses, we have still only "offset" a total of $32,560,000. So the bottom line is that even with the best possible responses to FAA questions they will still find Washington State in non-compliance. I would recommend that this would be an opportunity to offer FAA a proactive approach to resolving this issue rather than just answering their questions.

- Here is a citation from the Federal Register Vol. 64 No. 30 2/16/1999 listing the federal regulations relating to state aviation fuel taxes:

  > The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (December 30, 1987), narrowed the permitted uses of airport revenues to nonairport facilities that are ''substantially'' as well as directly related to actual air transportation; required local taxes on aviation fuel enacted after December 30, 1987, to be spent on the airport or, in the case of state taxes on aviation fuel, state aviation programs or noise mitigation on or off the airport; and slightly modified the grandfather provision. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered subject to the revenue-use requirements in 49 U.S.C. 47107 (b) and 47133. However, revenues from a State tax on aviation fuel may be used to support a State aviation program, and airport revenues may be used on or off the airport for a noise mitigation purpose.

  I will note these regulations are very vague as to the allowable uses of state aviation fuel tax revenues. Currently FAA is interpreting this to mean that state aviation fuel taxes may only be used on airport infrastructure projects. I believe that Washington could make some solid arguments about "state aviation programs". I also believe that FAA may be open to discussing interpretations if they believe that Washington is attempting to come into compliance. The use of state funds on the development of Sustainable Aviation Fuel was a proposal that the Legislature made during the 2026 session that I feel would be a compliant State Aviation Program. FAA has said that this use isn't compliant but I think this and similar uses should be further explored.

I've attached a copy of the Inspector General's report on this issue. This report to the FAA is what triggered the audit that we are currently involved in. This report is very accessible and provides some good background and information on the topic.

Ann

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550
https://www.youtube.com/watch?v=EvbOmaJpwVE&pp=ygUWc3RhdGUgYXZpYXRpb24gam91cm5hbA%3D%3D

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Thursday, March 19, 2026 8:30 AM
To: Richart, Ann <ann.richart@wsdot.wa.gov>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>; Martine, Renee (OFM) <renee.martine@ofm.wa.gov>; Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Ann,

We're digging into this issue, and I have a few follow up questions for you:

- The FAA October letter outlined expenditures they requested additional information. Has there been any coordination with the relevant agencies to collect the additional information requested? If so, is that information compiled?

- Can you please send me the relevant statutes that outline what activities are considered eligible by the FAA?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW

From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation

360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

FAA

Report AV2024010
December 13, 2023

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

U.S. Department of Transportation
Office of Inspector General

Highlights

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

Self-initiated

Federal Aviation Administration | AV2024010 | December 13, 2023

What We Looked At

Since 2014, the Federal Aviation Administration's (FAA) Airport Improvement Program has obligated more than $3.18 billion to eligible airports each fiscal year for airport development and planning. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) to define airport revenue and identify permitted and prohibited uses of that revenue. FAA amended this policy in 2014 to address revenue use for aviation fuel taxes. Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

What We Found

Since amending its Revenue Use Policy, FAA has made progress confirming whether State and local Government laws comply with the amendments. However, the Agency has not yet tested or validated if the compliant jurisdictions use the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. In addition, the Agency has not taken enforcement actions against the five jurisdictions that are not yet in compliance with the amendments. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance that encouraged the Agency to postpone enforcement. By potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Our Recommendations

We made three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion. FAA concurred with our recommendations and provided appropriate actions and completion dates. We consider all recommendations resolved but open pending completion of the planned actions.

All OIG audit reports are available on our website at www.oig.dot.gov.

For inquiries about this report, please contact our Office of Government and Public Affairs at (202) 366-8751.

Contents

U. S. Department of Transportation
Office of Inspector General

Memorandum

Date: December 13, 2023

Subject: ACTION: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement | Report No. AV2024010

From: Nelda Z. Smith
Assistant Inspector General for Aviation Audits

To: Federal Aviation Administrator

The Federal Aviation Administration (FAA) supports the Nation's aviation needs by providing Federal assistance through grants-in-aid to airports around the country. Since 2014, FAA's Airport Improvement Program (AIP) has obligated more than $3.18 billion to eligible airports[1] each fiscal year for airport development, planning, and noise compatibility programs. As a condition of receiving these funds, grantees are bound by the Airport and Airway Improvement Act of 1982 (AAIA), as amended, which imposes restrictions on how airport sponsors (i.e., airport operators) may use their revenue.[2] Generally, airports can only use revenue for the capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy),[3] which defined airport revenue and identified permitted and prohibited uses of that revenue. FAA amended this policy in November 2014 to address revenue use

[1] Eligible airports are public-use airports that contribute to the needs of civil aviation, national defense, and the Postal Service. They must be published in FAA's National Plan of Integrated Airport Systems.
[2] 49 U.S. Code (U.S.C.) § 47107(b)(1).
[3] 64 Fed. Reg. 7696 (February 16, 1999).

for aviation fuel taxes (Amendment).[4] Any other use inconsistent with this policy is considered unlawful revenue diversion.[5]

Previous Office of Inspector General (OIG) audits have identified weaknesses in FAA's oversight of airport sponsors, which did not prevent or detect charges for services that were not provided to airports, indirect costs improperly allocated to airports, and payments of less than fair market rent for use of airport property. For example, our audit of Los Angeles World Airports identified $7.87 million in unsupported charges.[6] Another OIG audit found $40.9 million in potential revenue diversions at five airports due to ineligible payments to airport sponsors and other organizations.[7]

Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Marshall Jackson, Program Director.

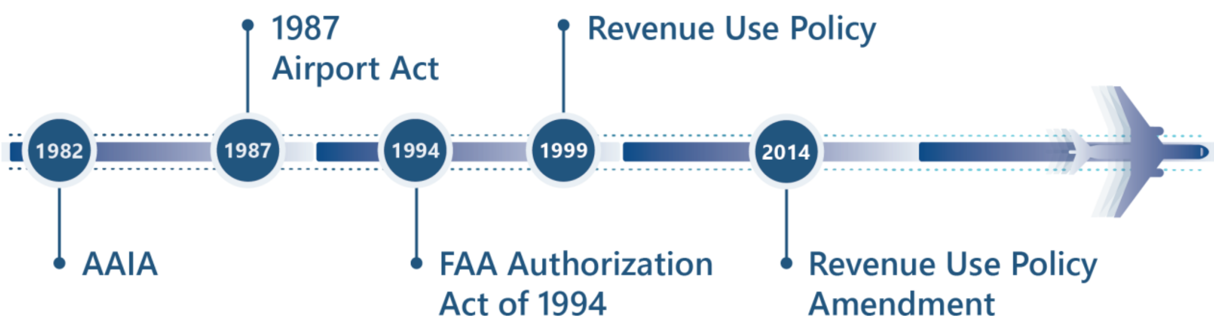
cc: The Secretary
DOT Audit Liaison, M-1
FAA Audit Liaison, AAE-001

[4] 79 Fed. Reg. 66282-88 (November 7, 2014).
[5] A "grandfather" provision (called "lawful revenue diversion") permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws that existed before September 2, 1982, allowed such use on a limited basis. Our audit scope does not include grandfathered airports, which we examined in *FAA Needs To More Accurately Account for Airport Sponsors' Grandfathered Payments* (OIG Report No. AV2018041), April 17, 2018. There are 9 grandfathered airport sponsors that own or operate over 30 airports. OIG reports are available on our website: www.oig.dot.gov.
[6] *FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources* (OIG Report No. AV2014035), April 8, 2014.
[7] *Oversight of Airport Revenue* (OIG Report No. AV2003030), March 20, 2003.

Background

A number of Federal laws and FAA policies govern use of airport revenue, including taxes on aviation fuel. See the figure below for a timeline of airport revenue-related laws.

Figure. Timeline of Revenue Protection Laws



Source: OIG analysis

The AAIA[8] generally requires airport sponsors receiving Federal assistance to use airport revenue for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator. These facilities must be directly and substantially related to the actual air transportation of passengers or property or for noise mitigation purposes.

To further bolster AAIA's provisions, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act)[9] and the FAA Authorization Act of 1994.[10] The 1987 Airport Act imposed further restrictions on airport revenue use to include any local taxes on aviation fuel in effect after December 30, 1987. State and local aviation fuel taxes may only be used to support a State aviation program, noise mitigation purposes, and land disposal funds for certain airport lands, including airport noise compatibility.[11]

In 1999, as required by the FAA Authorization Act of 1994, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use

[8] Pub. L. No. 97-248 (September 3, 1982), codified at 49 U.S.C. § 47107.
[9] Pub. L. No. 100-223 (December 30, 1987), codified at 49 U.S.C. § 47133.
[10] Pub. L. No. 103-305 (August 23, 1994).
[11] 49 U.S.C. § 47133(b). However, there are some exceptions. For example, grandfathered airports may use airport revenue for otherwise impermissible expenditures—i.e., nonoperating or noncapital uses.

Policy).[12] The policy describes prohibited and permitted uses of airport revenue and outlines FAA's enforcement policies and procedures. Examples of prohibited uses of airport revenue are using airport revenues for general economic development, marketing and promotional activities unrelated to airports or airport systems, and direct or indirect payments that exceed the fair and reasonable value of services and facilities provided to the airport. The Revenue Use Policy also requires recordkeeping and reporting requirements for the use of airport revenue and that an airport sponsor maintain a self-sustaining rate structure to the extent possible.

In 2014, FAA amended the Revenue Use Policy to clarify requirements for the use of proceeds from State and local taxes on aviation fuel. The amended policy (Amendment) generally requires grantees to use all proceeds from new and existing taxes that did not qualify for grandfathering from revenue use requirements on State aviation programs or for airport-related purposes. Recognizing that many States, territories, and localities might encounter challenges meeting the requirements of the Amendment, FAA gave them a 3-year grace period, until December 8, 2017, to comply. In addition, direction in the Senate Transportation, and Housing and Urban Development Committee's report accompanying the FAA appropriation bill for fiscal year 2018 encouraged FAA to postpone enforcement of the Amendment's requirements.[13] Similarly, in fiscal year 2020, the committee encouraged the Secretary to continue working with State and local governments to develop a path forward for obtaining full compliance with the Amendment.[14] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

State and local Government taxes on aviation fuel sales can be imposed by either an airport sponsor or a non-sponsor. However, only an airport sponsor or Block Grant State[15] under the AIP provides assurance that revenues from aviation fuel taxes will be used as required by Federal regulations. For taxes imposed by non-sponsor State and local governments, FAA expects airport sponsors to inform these entities of Federal requirements on the use of aviation fuel tax revenue and to take action. FAA also expects sponsors to use their influence to

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[12] 64 Fed. Reg. 7696 (Feb. 16, 1999), amended by Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel, 79 Fed. Reg. 66282, (November 7, 2014).
[13] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2018 (S. 1655), S. Rep. No. 115-138, p. 48 (July 27, 2017).
[14] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2020, p. 44 (S. 2520), S. Rep. No. 116-109 (Sept. 19, 2019).
[15] A Block Grant State receives AIP funds directly from FAA to fund certain State aeronautical agencies. As part of the State Block Grant Program these States agree to assume certain responsibilities related to administering the AIP that are otherwise performed by FAA (including project prioritization and selection), and to provide grants to smaller airports.

shape State and non-sponsor local taxation to conform to these Federal laws. In the Amendment, FAA clarified that if a non-sponsor State or local Government adopts a noncompliant tax, FAA would not take enforcement action against the airport sponsor because the sponsor is not responsible for the noncompliance. FAA reiterated that it would pursue enforcement action against a non-sponsor State or local Government that violates the Revenue Use Policy or Federal regulations. FAA's Office of Airport Compliance and Management Analysis (ACO) is responsible for ensuring that airport sponsors do not violate the Agency's amended Revenue Use Policy or other Federal revenue-use requirements. ACO comprises two groups:

- **Financial Management Analysis Group.** Enforces statutory requirements of airport revenue use at commercial service airports, oversees single audit resolution, and performs mandated revenue reviews.
- **Airport Compliance Program.** Interprets, recommends, and develops policies for, and resolves matters that involve, airport sponsors' Federal obligations. The office also adjudicates formal complaints and FAA-initiated investigations[16] and monitors airport sponsor compliance with limits on the use of airport revenue.

To assess airport adherence to the Revenue Use Policy, ACO targets conducting financial compliance reviews of four airports a year, which are identified through formal or informal complaints, hotline tips, and industry recommendations. Any airports that are not reviewed are considered for selection in future years. During site visits, ACO reviewers meet with the airport's leadership team, hold interviews with appropriate staff, examine requested documentation, and tour the airport's facilities. Then ACO drafts a report with its findings and recommendations. Once ACO resolves all recommendations and airport sponsors implement corrective action items, the final report is disseminated to the airport sponsor and made available to the general public. Since 2005, ACO has conducted 32 financial compliance reviews and identified more than $100 million in unlawful revenue diversion.

[16] See Rules of Practice for Federally Assisted Airport Enforcement Proceedings, 14 Code of Federal Regulations (C.F.R.) Part 16.

Results in Brief

FAA has made progress implementing an amendment to its Revenue Use Policy but does not have a plan to verify or enforce compliance.

Since amending its Revenue Use Policy in 2014 to explicitly include aviation fuel tax requirements, FAA has made progress confirming whether State and local Government laws comply with the amendments. Specifically, FAA has determined that 115 of 193 State and local jurisdictions have compliant laws, and that the remaining 78 jurisdictions are non-compliant, which FAA terms "qualified." However, the Agency has not yet tested or validated if the compliant jurisdictions are using the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. According to FAA officials, testing and validation have not occurred because the Agency is currently focused on working with remaining jurisdictions to align State and local laws with the Amendment. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. For example, we could not verify the Agency's compliance determinations for 10 States and 1 territory we reviewed because FAA lacks an effective document control system. Lack of documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance with the amended Revenue Use Policy. Almost 6 years after FAA's December 8, 2017, deadline, five qualified jurisdictions—California, Kentucky, Nevada, Tennessee, and Guam—have not complied with the Amendment. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. In the meantime, by potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

We are making three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion.

FAA Has Made Progress Implementing an Amendment to its Revenue Use Policy but Does Not Have a Plan To Verify or Enforce Compliance

While FAA has made progress confirming whether State and local Government laws align with the 2014 amendments to its Revenue Use Policy, the Agency has not tested or validated if jurisdictions are using the proceeds from aviation fuel tax according to the jurisdictions' approved action plan. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance.

FAA Reviewed State and Local Laws for Alignment With Its Policy but Lacks a Plan for Testing Compliance

FAA has determined that 115 jurisdictions—State and local governments—are compliant and 78 jurisdictions are qualified with the amended Revenue Use Policy. We focused our review on State governments and U.S. territories only. According to FAA, as of May 2023, 46 States and 4 U.S. territories are in compliance with the Amendment. These jurisdictions consist of airport sponsors and non-sponsors. To verify compliance, FAA required State and local governments to submit action plans detailing their processes for administrating aviation fuel taxes. Each action plan had to include the following information:

1. The process to amend any noncompliant laws to conform to Federal law on use of aviation fuel tax revenues, and restructure general revenues to adapt to the dedication of aviation fuel tax revenue to airports and State aviation programs;

2. A commitment to undertake the legislative process; and

3. The process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenue; confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal or exceeding the amounts collected as aviation fuel taxes; and the requirements to ensure the appropriations are implemented and are enforceable by State or local agencies.

We assessed FAA's compliance determinations by reviewing the action plans and corresponding documents submitted by State governments and U.S. territories. We did not identify any material issues with FAA's reviews of 36 States and 3 territories. However, we could not verify the Agency's compliance determinations for 10 States and 1 territory because FAA lacks an effective document control system as required by Federal Internal Control Standards.[17] Specifically, we identified the following issues:

- FAA only provided one document each for Alaska, Idaho, and American Samoa, which did not provide sufficient information for evaluating compliance. The document for each jurisdiction is missing details on aviation fuel tax rates, legislation establishing each tax rate or any changes to tax rates, and financial documentation showing that aviation fuel tax revenue was used as intended. Idaho was the exception, as its documentation did include aviation fuel tax rates.
- FAA did not provide pertinent correspondence to and from the State that would provide an understanding of how the Agency determined compliance for Mississippi, New Hampshire, North Dakota, Ohio, Oregon, Washington, and Vermont.
- FAA did not save or archive the initial action plan and supplemental response(s) for the State of Nebraska, although the documents are referenced in the Agency's correspondence to the State.

FAA also did not provide compliance letters for any of these 11 jurisdictions. Such letters are meant to capture the key aviation fuel tax facts that FAA reviewed to determine compliance. Letters were also missing for 16 States where we did not identify any material issues with FAA's review. Agency officials stated that they did not provide compliance letters at the beginning of their review process; rather, they updated the FAA website to reflect the compliance status. However, based on our review, FAA has not retroactively issued compliance letters. According to FAA, the Agency will issue compliance letters to jurisdictions that have not received letters by December 31, 2023. The lack of letters and above-mentioned documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment since these documents serve as records of the Agency's compliance determination.

Although FAA has confirmed that State and local laws align with the Amendment, FAA has not validated if jurisdictions are following the law through testing. According to FAA officials, this is because the Agency is currently focused on obtaining compliance from qualified jurisdictions and has not been authorized to begin enforcement action for the Amendment. Moreover, according to Agency

[17] *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

officials, testing and validation have not occurred due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. Without testing the jurisdictions' approved action plans for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations.

Four States and One U.S. Territory Are Not in Compliance With the Amended Revenue Use Policy

Almost 6 years after FAA's December 8, 2017, deadline to comply with the amended Revenue Use Policy, four States and one territory remain qualified[18] with the Amendment. Furthermore, FAA has not taken enforcement action or explained the steps it will take to move the qualified jurisdictions into compliance—even though the Revenue Use Policy outlines FAA's enforcement policies and procedures. According to Agency officials, this is due to congressional guidance in the committee reports accompanying FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement.

According to FAA, the following jurisdictions are not in compliance with the Revenue Use Policy amendment. We verified the following information from FAA by reviewing actions plans, tax legislation, and correspondence between FAA and these jurisdictions.

- **California (Non-Sponsor)** continues to divert revenue for nonairport purposes. In 2019, after FAA's repeated inquiries, the California Department of Finance submitted an action plan that identified annual tax proceeds estimated at $55 million over the next 5 years to be spent on transportation projects. State officials note that these proceeds will provide direct benefits to California's airport system, and they plan to use them as offsets against the aviation fuel tax proceeds. However, the State did not submit documentation of the actual proceeds collected from aviation fuel taxes from fiscal year 2017 to present. Moreover, the State has not given FAA a breakdown of aviation fuel tax receipts collected by local jurisdictions and airport sponsors within California.

[18] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

- **Kentucky (Non-Sponsor)** is maintaining a grandfather exemption from the Amendment because its tax legislation was enacted on or before December 30, 1987. However, the State increased its tax rate from 5 to 6 percent in 1990, after the grandfathering date. Kentucky has not given FAA any documentation about how it is using the proceeds from the 1 percent increase.

- **Nevada (Non-Sponsor)** has not responded to FAA's inquiries sent in 2017 and 2019 for clarification on issues the Agency found in the State's action plan. The last documented correspondence from the State is dated February 19, 2016. As a result, FAA cannot determine whether the excise tax or the county option tax on aviation fuel can be considered as grandfathered.

- **Tennessee (Block Grant State)** officials note that the State's business tax is a gross receipt tax on the privilege of doing business in Tennessee and is not specific to the sale, storage, or use of aviation fuel. Tennessee officials also state that the Amendment should not apply to its Environmental Assurance Fee because it is a fee rather than a tax. FAA has requested further information from the State but has not received a response.

- **Guam (Sponsor)** is maintaining a grandfather exemption from compliance with the Amendment because its tax legislation was enacted on or before December 30, 1987. The territory did not give FAA further details about its grandfathering status and recently notified the Agency that it had increased its excise tax rate on aviation fuel on January 1, 2018. Guam used the proceeds from this increase, which resulted in approximately $5.17 million in revenue, for non-aviation related purposes. The territory has asked FAA to forgive its decision not to use the tax increase proceeds as required and stated the territory would comply with the Amendment by October 2021. However, Guam remains in a qualified status although its aviation fuel tax rate increase became effective 2 years after the territory submitted its action plan to FAA.

By potentially diverting aviation fuel tax revenue to non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Other Matters

In addressing our audit objective, we initially planned to determine if airport sponsors had diverted other revenue in addition to fuel taxes from commercial

service airports. During this audit, we visited the Syracuse Hancock International Airport (SYR), where we interviewed Syracuse Regional Airport Authority (SRAA) senior officials and conducted a review of SYR for compliance with the Revenue Use Policy for fiscal year 2019. During our review, we identified recurring issues that FAA had reported in a 2014 compliance review of SRAA (see exhibit D). We subsequently reduced our commercial airport selection to just SYR due to time constraints, the volume of data, and other potential obstacles, such as data format and staff turnover at airports. Based on these considerations, we re-focused our work on aviation fuel tax requirements.

Conclusion

FAA provides billions of taxpayer dollars in Federal grants to ensure that U.S. airports remain self-sufficient and can invest in their own infrastructure. A key component for airports to stay self-sufficient is the revenue they collect, such as fuel taxes. Thus, airport revenue diversion diminishes the effectiveness and achievement of objectives of these Federal grants. While FAA has been working with jurisdictions to align State and local laws with the Amendment on aviation fuel tax revenue as directed by Congress, the Agency lacks a plan to test aviation fuel tax plans from compliant jurisdictions and enforce compliance in qualified jurisdictions. As a result, FAA is not well positioned to promote effective stewardship of the taxpayer dollars that were meant to support the Nation's airports.

Recommendations

To improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion, we recommend that the Federal Aviation Administrator:

1. Issue compliance letters to jurisdictions that FAA has determined to be in compliance with the Amendment to *Policy and Procedures Concerning the Use of Airport Revenue* (Amendment) but that have not received official notification of compliance.

2. Develop and implement a testing plan to assess whether jurisdictions are following FAA's requirements for compliance with the Amendment to the Revenue Use Policy.

3. Establish a plan of action to bring California, Kentucky, Nevada, Tennessee, and Guam into compliance with the Amendment to the Revenue Use Policy.

Agency Comments and OIG Response

We provided FAA with our draft report on October 23, 2023, and received its formal response on November 21, 2023. FAA's response is included as an appendix to this report. FAA concurred with all three of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of the planned actions.

Exhibit A. Scope and Methodology

This performance audit was conducted between June 2022 and October 2023. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion, we reviewed applicable laws, regulations, and FAA policies and procedures such as FAA's *Policy and Procedures Concerning the Use of Airport Revenue* and *Proceeds From Taxes on Aviation Fuel*. We also reviewed the following FAA guidance: Airport Compliance Manual (5190.6B Change 1), Guide for Airport Financial Reports Filed by Airport Sponsors (150/5100-19D), and Compliance Guidance Letters. Further, we obtained publicly available data about airports that diverted revenue in the past and reviewed articles on occurrences of airport revenue diversion. We also interviewed representatives from FAA's ACO, FAA's New York Airports District Office and Eastern Regional Office, and the following aviation industry trade organizations: Airlines for America, Aircraft Owners & Pilot Association, Airports Council International North America, International Air Transport Association, National Air Transportation Association, and American Association of Airport Executives.

To determine how FAA assessed compliance with aviation fuel tax revenue requirements, we reviewed action plans, correspondence, financial documentation, tax legislation, and FAA compliance letter for 46 States and 4 U.S. territories. We also reviewed actions plans, correspondence, and tax legislation for four States and one territory that have yet to comply with Federal aviation fuel tax requirements. We communicated with FAA officials from ACO to determine the Agency's plan for testing jurisdictions' approved action plans for using aviation fuel taxes and taking enforcement action for jurisdictions that have not complied with Federal aviation fuel tax requirements.

Exhibit B. Organizations Visited or Contacted

Department of Transportation

FAA Headquarters

FAA Eastern Region Office

Airport/Airport Sponsor

Syracuse Hancock International Airport, NY

Syracuse Regional Airport Authority, NY

Other Organizations

Aircraft Owners and Pilots Association

Airlines for America

Airports Council International – North America

American Association of Airport Executives

International Air Transport Association

National Air Transportation Association

Exhibit C. List of Acronyms

AAIA	Airport and Airways Improvement Act of 1982
ACO	Airport Compliance and Management Analysis
AIP	Airport Improvement Program
DOT	Department of Transportation
FAA	Federal Aviation Administration
OIG	Office of Inspector General
PILOTS	Payments in Lieu of Taxes
SRAA	Syracuse Regional Airport Authority
SYR	Syracuse Hancock International Airport

Exhibit D. Review of Syracuse Regional Airport Authority for Compliance With the Revenue Use Policy: Summary of Findings

To conduct our work, we developed a universe of high-risk airport sponsors—based on historical data, prior audit results, annual financial reports, and recommendations from FAA and industry officials—and identified five commercial service airports[19] to review that were at the highest risk of diverting revenues. We initially visited SYR where we reconciled the SRAA's trial balance to its audited financial statements and judgmentally selected financial transactions for testing to determine whether airport-generated revenues were used in accordance with Federal regulations. Our review found that SYR did not adhere to the Revenue Use Policy's requirements for the disbursement of airport funds in four areas: ineligible payments in lieu of taxes (PILOTS), periodic adjustments to cost-allocation plans, little or no documentation for replacing facility rental payments with in-kind services, and payment of marketing costs to airlines instead of the direct service providers. These areas are described in further detail below.

- **PILOTS** help local governments perform vital services—firefighting and police protection, construction of public schools and roads, and search-and-rescue operations, etc.,— but cannot exceed the value of services.[20] While three of SYR's PILOT payments concluded in 2012, SYR continued to make payments totaling more than $35,000 to local taxing jurisdictions between 2012 and 2019.
- **Cost-Allocation Plan**. Currently operated by the SRAA, SYR was previously overseen by the City of Syracuse (City). A cost-allocation plan drafted during the transition period detailed how administrative services should be divided between the City and SRAA. The Revenue Use Policy states that airport sponsors should adjust cost-allocation plans to reflect changes to allowable actual expenses in the following accounting period. We found that SRAA's cost-allocation plan for fiscal year 2019 was based on actual costs from fiscal year 2016. However, SRAA did not reconcile the allocated costs to the actual expenses. We could not determine the exact financial impact because

[19] Syracuse Hancock International Airport, Palm Springs International Airport, Shreveport Regional Airport, Phoenix Sky Harbor International Airport, and Dallas Love Field Airport.
[20] Revenue Use Policy, 2014.

the City did not provide SRAA with backup documentation for the costs allocated to SYR for 2019.

- **State Police Lease Agreement.** SYR has a police station on its premises, and a lease agreement allows the State police to provide in-kind services in lieu of rental payments to SRAA.[21] However, in 2014, ACO was unable to identify these in-kind services and recommended that SRAA develop a recordkeeping system. However, SRAA still had limited evidence to show that the recommendation had been implemented during our review. Airport officials indicated that this likely resulted from change in leadership and misunderstanding among the remaining personnel.

- **Air Carrier Incentive Program** allows airports to increase traffic by waiving or reducing landing fees, rental fees, or fuel flowage fees, in addition to other incentives. FAA recommends that airport sponsors pay any related marketing and advertising costs directly to the service provider because it reduces the risk that the sponsor will provide a direct air carrier subsidy and gives the sponsor greater control. However, FAA found that SRAA directly paid $75,000 in marketing assistance to an airline to promote a new route. We also determined that SRAA reimbursed more than $21,000 in 2019 to an airline for marketing and promotional activities. SYR officials informed us that this occurred because prior management lacked necessary financial controls.

---

[21] These in-kind services include: (1) assist the Department of Aviation upon request from the mayor or appropriate City official; (2) meeting with the Commissioner of Aviation four times a year; (3) assist in the event of an air disaster; (4) assist in the event of a hijacking incident; (5) perimeter security by the State Police helicopter; and (6) K-9 support as requested.

Exhibit E. Major Contributors to This Report

MARSHALL **JACKSON**	PROGRAM DIRECTOR
DOMINIQUE **LIPSCOMB**	PROJECT MANAGER
DERRICKA **BROADEN**	PROJECT MANAGER
MARIA **DOWDS**	SENIOR AUDITOR
KAZI **HASSAN**	SENIOR ANALYST
JANE **LUSAKA**	SENIOR WRITER-EDITOR
MORGAN **ATHERTON**	WRITER-EDITOR
CHELSEA **ARTLANTICO**	LEGAL COUNSEL
CELESTE **VERCHOTA**	LEGAL COUNSEL
SHAWN **SALES**	SUPERVISORY VISUAL COMMUNICATIONS SPECIALIST
GEORGE **ZIPF**	SUPERVISORY MATHEMATICAL STATISTICIAN

Appendix. Agency Comments

Federal Aviation Administration

Memorandum

Date: November 21, 2023

To: Nelda Z. Smith, Assistant Inspector General for Aviation Audits

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1

ERIKA S VINCENT

Digitally signed by ERIKA S VINCENT Date: 2023.11.21 14:21:06 -05'00'

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

The Federal Aviation Administration's (FAA) Airport Compliance Program ensures airport sponsors comply with the Federal obligations they assume when they accept Federal grant funds or transfer Federal property for airport purposes. The program serves to protect the public interest in civil aviation and ensure compliance with applicable Federal laws, FAA rules, and policies. In 2014, FAA required state and local governments to submit an action plan to FAA by December 8, 2017, to comply with FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628). Over the past nine years, FAA reviewed 193 action plans that outline the taxing jurisdictions' processes to amend any non-compliant laws and restructure general revenues, how the aviation fuel tax revenue would be dedicated to airports and/or State aviation programs, and a commitment to undertake the legislative process. FAA is committed to working with state and local governments to ensure compliance with the Amendment.

Upon review of OIG's draft report, FAA concurs with all three recommendations as written. We plan to implement recommendation 1 by December 31, 2023, and recommendations 2 and 3 by December 31, 2024.

We appreciate this opportunity to respond to the OIG draft report. Please contact Erika Vincent at Erika.Vincent@faa.gov if you have any questions or require additional information about these comments.

U.S. Department of Transportation
Office of Inspector General

Fraud, Waste, & Abuse Hotline

www.oig.dot.gov/hotline
hotline@oig.dot.gov
(800) 424-9071

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Washington, DC 20590
www.oig.dot.gov

From: Breaux, Steven
Sent: Tue, 17 Mar 2026 22:36:01 +0000
To: Cotton, Megan (GOV); Hansen, Erik (OFM)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Richart, Ann
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final WSDOT Compliance Response 12 JUL 24.pdf, FAA Letter 2025 10 21 Signed.pdf, ANM_Washington State_Letter_Fuel_Tax_SIGN 2024 04 10.pdf, 6 NOV 25 Response to FAA HQ deadline extension request.pdf, State of Washington AFT Richart Letter_Ext Req Approval_2025 12 15 Signed.pdf, 19 FEB 26 Response to FAA.pdf

Megan,

With thanks to Ann, here is a timeline of correspondence with FAA headquarters regarding aviation fuel tax compliance (relevant letters attached):

April 10, 2024	Request from FAA for information
July 12, 2024	WSDOT response to FAA
October 21, 2025	FAA request for further information and clarification
November 6, 2025	WSDOT request for more time to respond
December 15, 2025	FAA grant of additional time to respond. New deadline: 2/18/2026
February 19, 2026	WSDOT request for additional time
March 17, 2026	FAA demand for information

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Tuesday, March 17, 2026 2:24 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Steve,

Can you confirm that WSDOT requested another extension a few weeks ago?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

Washington State Department of Transportation

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July 12, 2024

Scott Glenn
Division Manager
Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Glenn;

This letter is in response to your letter of April 10, 2024, requesting information on Washington State's efforts to implement our Revenue Policy Action Plan of 2021.

Washington Department of Transportation has worked diligently with other agencies to provide the information that you requested. This preliminary response details the answers to most of your requests. We continue to work to develop the specific actions that will address all of the questions in your letter.

I will respond to your requests in the order that you presented them:

Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.

- Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
  - Copies of sample revised taxpayer reports and schedules and;
  - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.

With assistance from the Washington State Department of Licensing (which administers Washington's aircraft fuel tax) and the Aviation Division of the Washington State Department of Transportation, the Washington State Department of Revenue has identified taxpayers that could potentially owe hazardous substance tax (HST), petroleum products tax (PPT), and/or local sales and use taxes (LSUT) on aviation fuel. These taxpayers are required to complete a worksheet as an addendum to their regular combined excise tax return to indicate what portion of their reported taxes are attributable to aviation fuel. We have also included oil spill taxes on the worksheet, as we believe they may also be subject to the FAA's revenue use requirements.

Please see the *Aviation Fuel Worksheet* tab of the *FAA Report Exhibits* attachment for a blank copy of the worksheet that taxpayers must complete when filing their Combined Excise Tax Return. The *Sample Taxpayer completed Worksheet* tab contains a copy of the same worksheet as it would appear after being filled out by a taxpayer.

Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:

- The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
- Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
- Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.

On June 8, 2022, we received provisional FAA approval for our 2021 action plan and the Department of Revenue (DOR) began implementing their proposed data collection efforts. After the necessary programming and tax return changes were complete, actual data collection began with the Quarter 3-2023 tax returns. In lieu of collected data prior to Quarter 3-2023, DOR has provided estimates from 2017 through Quarter 2-2023. Attached is *FAA Estimate of Total Taxes Paid on Aviation Fuels From December 8, 2017.* This document details the methodology used to estimate the HST/PPT taxes required to be appropriated for aviation projects prior to the Taxpayer Report commencement in July 1, 2023.

Estimates from fiscal year 2017 through fiscal year 2023 (ending with Q2-2023) are attached as *FY17 through FY23 Estimated Aviation Fuel Tax Data*. Actual figures for state tax collections for Q3-2023 and Q4-2024 are as follows:

	2023 Quarter 3 (revised)		2023 Quarter 4	
Tax	Taxpayer Count	Tax Due (dollars) [1]	Taxpayer Count	Tax Due (dollars) [1]
	Preliminary [2]		*Preliminary* [2]	
Petroleum Products Tax	14	$388,545	23	$288,119
Hazardous Substance Tax	11	$4,086,019	16	$3,121,581
Oil Spill Taxes [3]	5	$4,591	5	$2,060
	Total Tax Due	$4,479,154	Total Tax Due	$3,411,760

Notes:

1. *Data Source: Department of Revenue, Excise Tax Data, as of March 5, 2024.*
2. *This data is preliminary and will continue to change significantly as we work with taxpayers to true up our data and educate them for future reporting. We have already removed some taxpayer reporting errors from Q3 based on more accurate reporting in Q4.*
3. *Oil Spill Taxes are 5 cents per barrel (1 cent per barrel for Response Tax and 4 cents for Administration tax).*

It will take some time to ensure that taxpayers are educated and reporting correctly using this addendum. Because data collection began relatively recently, DOR is still in the process of educating taxpayers on how and when to report, and many taxpayers are not yet providing accurate data. Due to these compliance factors, the data collected so far is incomplete and contains reporting errors – issues that are expected to improve over time as taxpayers are educated, and they adjust to the new requirements. DOR expects the collected data to match the estimates more closely as taxpayer reporting improves.

However, because the estimates involve taxes which are not specific to aviation fuel, DOR does not have any historical data regarding what portions of these taxes are attributable to aviation fuel, so their estimates rely on assumptions and incomplete data. They have provided the most comprehensive estimates they are able to provide in light of these circumstances, but still expect that the actual collection data will not match the estimates perfectly, even after taxpayer compliance improves.

Local sales and use tax (LSUT) is levied by the local taxing district and collected by the Department of Revenue on their behalf, so all collections are provided back to the local taxing district that levied the tax – including any LSUT on aviation fuel. Once again, DOR does not have data on specific amounts attributable to aviation fuel prior to the start of their data collection in Q3-2023, but here is a summary of LSUT collections on aviation fuels allocated to the fifty local government entities receiving distributions of LSUT starting Q3-2023:

- Quarter 3 2023 Total Local Sales/Use Tax from the Sale of Aviation Fuel (total accumulation with rate exclusions applied) - **$488,546**
- Quarter 4 2023 - **$1,013,230**
- Quarter 1 2024 - **$4,006,742**

The significant increases here are a result of taxpayer education, especially with large stakeholders that were not reporting accurately prior to Q1-2024.

Adjustments to both the LSUT and HST/PPT will continue as efforts to true up the collected data continue.

Washington Department of Transportation (WSDOT) tracks aviation appropriations made out of other funds which can be used to offset the HST/PPT/Oil Spill proceeds. The specific appropriations made are detailed in the Attachment *Washington State Aviation Appropriations 2019-2023.*

Provide the total amounts of HST and PPT collected on aviation fuel, including:

- Detailed information of transactions in the funds, and the balances attributable to airport use;
- Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;

whether these funds are being tracked, reported, and used for airport purposes only.

All proceeds from HST or PPT collected on aviation fuel are directed in accordance with state statute, along with all other HST and PPT proceeds. While the revenue amounts attributable to tax on aviation fuel are tracked to ensure appropriations fully offset any and all taxes on aviation fuel, the actual deposits and movement of aviation fuel revenues through these accounts are not separately tracked. The appropriations to fully fund aviation programs do not generally come out of the accounts where HST or PPT are deposited. Rather, offsetting funds will come from other accounts as appropriated by the legislature or local governing authorities.

In addition to the data DOR has provided on HST/PPT revenues, they can also provide data on overall HST/PPT deposits – however this data would not be specific to aviation fuel, so it may not be useful for your purposes. Please let me know if you would like that data regardless.

In general, HST and PPT are directed as follows:

For HST, the Motor Vehicle Fund for transportation stormwater activities and projects receives the first $50 million of these taxes each biennium. The remaining proceeds are deposited into the following accounts:

- 60% to the Model Toxics Control Operating Account (RCW 70A.305.180).
- 25% to the Model Toxics Control Capital Account (RCW 70A.305.190).
- 15% to the Model Toxics Control Stormwater Account (RCW 70A.305.200).

For PPT, the Pollution Liability Insurance Program Trust Account receives all receipts from this tax. Each biennium, if the account balance exceeds $7.5 million, the Pollution Liability Insurance Agency Underground Storage Tank Revolving Account may receive a transfer of up to $20 million (RCW 70A.345.080).

Additionally we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and

any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

There has been no new legislation specific to aviation fuel, but there have been changes to the HST and PPT rates described below. No new processes have been developed by the Department of Revenue aside from those already described above.

The state tax rate change related to aviation fuel revenue was an annual inflation adjustment to the hazardous substance tax on petroleum products. The rate is volumetric rather than value-based and is annually adjusted for inflation using the US Department of Commerce's implicit price deflator.

The per-barrel rate was $1.13 on January 11, 2021, had increased to $1.40 by the time data tracking began in Q3-2023, and increased to $1.48 on July 1, 2024.

The PPT rate has changed twice since January 11, 2021. Before July 1, 2021, the rate was 0.0030. It decreased to 0.0015 from July 1, 2021, to September 30, 2023. From October 1, 2023, forward, the rate returned to 0.0030.

PPT includes a "trigger" mechanism based on the amount of funds in the Pollution Liability Insurance Program Trust Account, which suspends the tax when an account balance threshold is met. PPT was last reinstated on January 1, 2020, and has not been suspended since. New thresholds were set in 2023 and are now as follows:

- Beginning October 1, 2023, when the balance falls below $15 million for the most recent quarter, the tax starts.
- Beginning October 1, 2023, When the balance exceeds $30 million for the previous calendar quarter, the tax stops.

There have been several local tax rate changes since January 11, 2021, that affect aviation fuel reporting. Please see, FAA Report Exhibits Attachment, *Local Rate Changes* tab for a complete list of changes.

Please let me know if you have any questions about this information or if you would like to further discuss the State of Washington's funding of aviation programs.

Sincerely,

Ann B. Richart

Ann B. Richart, AAE
Aviation Director

Enc.

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

October 21, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
Transportation Building
310 Maple Park Avenue S.E.
PO Box 47300
Olympia, Washington 78540-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) is currently assessing the Washington State Department of Transportation's (State) procedures and reporting of the proceeds of aviation fuel tax collected as outlined in the *Washington Action Plan, FAA Policy concerning Airport Revenue, 2021 Update* (Action Plan). The State's Action Plan was found to be compliant with the Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register 66282, November 7, 2014) by the FAA.

Despite this compliance, the FAA has several questions and requires further clarification. The State levies various taxes on aviation fuel sales, detailed as follows:

1. **Aircraft fuel tax (Chapter 82.42 RCW):** This tax is levied by the State on each gallon of aviation fuel sold, delivered, or used in the State. The tax rate of $0.05 per gallon was in effect on December 30, 1987, and is considered grandfathered. The current tax rate is $0.18 per gallon, with $0.13 per gallon being subject to the federal revenue requirements. The State has not provided a summary of the tax collections, and the FAA requests these figures to ensure compliance with Comment 4 of the Amendment.

2. **State sales and use taxes (Chapters 82.08 and 82.12 RCW):** These taxes apply to retail sales of tangible personal property, certain services, digital products, and extended warranties, with exceptions for agricultural purposes and aviation fuel purchased for interstate or foreign air transportation. The State's tax rate of 6.5% remains unchanged since 1983 and is considered grandfathered. The FAA requires annual collection amounts for these taxes to ensure compliance with Comment 4 of the Amendment.

3. **The Hazardous Substance Tax (HST) and Petroleum Products Tax (PPT) (Chapters 82.24 and 82.23A RCW):** These taxes are levied on the first possession in the State of hazardous substances, including aviation fuel. The State Department of Ecology uses the funds to help clean up and manage solid and hazardous waste in the State. Both HST and PPT were imposed later than December 30, 1987, and are subject to federal revenue use requirements. The FAA requires evidence that these taxes are reserved for aviation or airport purposes, as stipulated by the Amendment.

The FAA acknowledged that changes to align State and local taxes with federal law would require State legislation. The 2014 Amendment required the development of action plans to amend non-compliant laws and to establish tracking and reporting systems for aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and track systems and amend any non-compliant State statutes. Although 11 years have passed since the Amendment, actual amounts rather than estimates are still needed. The FAA's Revenue Use Policy (64 FR 7696, February 16, 1999) mandates actual data as evidence of proper allocation for aviation purposes. A timeline for implementing tracking and reporting systems is needed.

The Amendment in FY 2014 provided that State and local officials should have prepared an action plan to initiate the process to amend any non-compliant State laws and local ordinances as necessary to conform to federal law on the use of aviation fuel tax revenues. The Amendment went on to describe the requirements of the Action Plan, detailing the process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenues. The Amendment gave State and local governments three years after the 2014 enactment to develop reporting and tracking systems and amend any non-compliant State statutes.

Eleven years have elapsed, and estimates are being provided rather than actual amounts without any indication of when the reporting requirements will be attained. The FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy) (64 FR 7696, February 16, 1999) provides that estimates cannot be relied upon as documentary evidence to show the aviation fuel tax proceeds were collected and allocated for aviation purposes. The FAA will need a timeline for implementing all tracking and reporting tasks.

In correspondence dated July 12, 2024, with Scott Glenn, Division Manager of the FAA's Airport Financial Compliance Division (ACO-200), the State indicated that all proceeds collected on the HST and PPT are allocated according to State statute. HST collected is directed to be deposited proportionally in the model toxic control operating, capital, and stormwater accounts. All collections from the assessment of PPT are deposited in the Pollution Property Liability Insurance Program Trust Account, with the potential transfer of funds to the Liability Insurance Agency Underground Storage Tank Revolving Account. These funds, if not used for aviation purposes, conflict with revenue use requirements. The FAA directs stakeholders to the Aviation Fuel Tax Docket (Docket ID: FAA-2013-0988) for guidance.

The State tracks aviation appropriations from other funds that can offset the environmental tax proceeds. The FAA received State provided documentation titled *Washington State Aviation State Aviation Appropriations 2019-2023* (Attachment) as evidence of these offsets. In-kind services benefitting airports and aviation may be recognized as offsets but require FAA review and approval to confirm their aviation-related benefits.

The FAA staff from ACO-200 and the FAA's Northwest Mountain regional office recently undertook a review of in-kind costs associated with aviation fuel tax collections. This part of the review was to determine the compliance of these costs with federal revenue requirements. The detailed examination revealed several in-kind appropriations that need further clarification to ascertain their allowability.

The review process was methodical, involving a detailed analysis of various appropriations across multiple fiscal years and budgetary allocations, as summarized in Attachment A below. The appropriations were categorized based on their allowability status: Allowable, Not Allowable, or Requiring Clarification. Among the appropriations that were deemed allowable were funds allocated to programs under various sections, like Program Y and Z from the 2019-21 HB 1160 (Transportation), as well as several appropriations under the Capital and Operating budgets across different fiscal years.

However, a significant portion of the appropriations, totaling over $82 million, was identified as not allowable. These included appropriations under the 2021-22 SSB 5165 (Transportation budget) and the 2023 Supplemental ESSB 5200 (Capital), among others. These not allowable appropriations are excluded from being offset against aviation fuel taxes due to their lack of direct benefit to aviation or airport operations.

Furthermore, there were several appropriations, totaling nearly $15 million, that require additional clarification before a final determination can be made. These include appropriations such as those under the 2019-21 HB 1102 (Capital Budget) and 2021-23 ESSB 5092 (Operating Budget), where the FAA needs confirmation on specific aspects like the use of appropriations, the scope of studies, or the proportionate benefit to aviation.

For instance, the appropriation for Section 815 Program T under the 2019-21 HB 1160 requires a demonstration of its sole benefit to aviation or a substantiated aviation role based on appropriate metrics. Similarly, for several other appropriations, there is a need to confirm whether funds were used as intended or transferred to subsequent budgets, and whether the expenditures align with aviation-related criteria.

The FAA's comprehensive review underscores the importance of substantive documentation and justification for appropriations intended to be used as offsets to aviation fuel taxes. Ensuring compliance with federal requirements helps maintain transparency and accountability in the management of aviation-related finances. The next steps will involve the State furnishing the required clarifications and justifications for the identified appropriations, enabling a definitive decision on their eligibility.

While the Washington State Department of Transportation's Action Plan has met initial compliance with FAA policies concerning aviation fuel tax revenues, there remain significant areas requiring further clarification and action. The FAA seeks comprehensive data on tax collections and assurances that airport revenue use aligns with federal revenue requirements. The necessity for accurate tracking and reporting systems cannot be overstated, especially as over a decade has passed since the 2014 Amendment. The FAA is committed to working collaboratively with the State to address these issues, ensuring that all aviation fuel tax proceeds are properly allocated and that all State in kind contributions are appropriately assessed for their benefit to aviation. We appreciate your attention to these matters and kindly request that the State provide the information and timelines for compliance within 60 days.

Please do not hesitate to reach out should you have questions or require further guidance.

Sincerely,

Digitally signed by MICHAEL W HELVEY
Date: 2025.10.22 08:58:06 -04'00'

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis

Enclosure

cc: Jessica Sypniewski, Acting ARP-1
William Garrison, Director, ANM Airports Division
Peter Doyle, Airport Compliance Manager, ANM

Attachment A – *In-Kind Offsets to Aviation Fuel Tax Collections*

Appropriation	Allowable	Not Allowable	Clarify	Comment
2019-21 – HB 1160 (Transportation)				
Sec. 310 Program Y	$500,000			
Sec. 311 Program Z	$60,000			
Sec. 803 Jt. Transport.	$500,000			
Sec. 815 Program T			$500,000	Provide benefit solely for aviation or airport, or substantiate aviation role proportionately based on an appropriate metric.
2019-21 HB 1102 (Capital Budget)				
Sec. 1042 (Commerce)			$3,451,000	Confirm that the appropriation was used and not transferred to 2021 - 2023 SHB 1080.
Sec. 6003 (Commerce)			$2,000,000	Determine what conditions are remedied by the acquisition, and how the new zoning will satisfy the Runway Protection Zone design criteria.
2019-21 – HB 1109 (Operating Budget)				
Sec. 607 (Washington State University)	$1,040,000			
Sec. 1501 (State Bd for Community and Technical Colleges)	$300,000			
Sec. 1502 (University of Washington)	$250,000			
2020 Supplemental – ESSB 6248 (Capital Budget)				
Sec. 1011 (Dept. of Commerce) (from 2019-			$750,000	Confirm that appropriation was used and not transferred to 2021 - 2023 SHB 1080.

21 funding update-Sunnyside)				
2021 Supplemental – (SHB) 1080 (Capital Budget)				
Sec. 1074 (Dept. of Commerce)			$5,700,000	Confirm that appropriation was used and not transferred to 2022 Supplemental SB 5651(Capital).
2021-22 – SSB 5165 (Transportation Budget)				
Sec. 1008 Washington State Department of Transportation (WSDOT) Program Y – Rail)		$500,000		
Sec. 1009 (WSDOT Program Z – Capital)	$60,000			
Sec. 113 (Joint Legislative Audit and Review Committee)		$200,000		
2021-23 – SHB 1080 (Capital Budget)				
Sec. 1075 (Commerce)	$450,000			
Sec. 6007 (Commerce) *(from 2019-21 funding and 2020 supplemental update-Sunnyside)*	$3,701,000			
2021-23 – ESSB 5092 (Operating Budget)				
Sec. 607 (Washington State University)	$1,090,000			
Sec. 1121 (Commerce)			$300,000	Confirm the scope of the study for SeaTac.
Sec. 1220 (Health)			$125,000	Confirm the scope of the study for SeaTac.
2022 Supplemental – SB 5975 (Transportation Additive Funding)				

Sec. 203 (Commerce)	$10,000			
2022 Supplemental – SB 5651(Capital)				
Sec. 1022 Commerce)	$5,700,000			
2022 Supplemental – ESSB 5693 (Operating)				
Sec. 128 (Commerce)	$450,000			
2023 Supplemental – ESHB 1125 (Transportation)				
Sec. 205 (Transportation Commission)		$75,000		Seems to be an overall economic development funding.
2023 Supplemental – ESSB 5200 (Capital)				
Sec 1025 (Commerce)	$1,861,000	$1,000,000		
Sec. 1034 (Commerce)		$324,000		
Sec. 1079 (Military)		$80,200,000		
2023 Supplemental – ESSB 5187				
Sec. 310 (Dept. of Natural Resources)	$762,000			
Sec. 607 (WSU)	$1,000,000			
Sec. 618 (Washington State Historical Society)		$341,000		
Sec. 1114 (Commerce)			$2,000,000	Confirm the amount beneficial to aviation, as other modes of transportation are included.
Total	**$17,734,000**	**$82,640,000**	**$14,826,000**	

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

April 10, 2024

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
310 Maple Park Avenue SE
Olympia, WA 98504-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) advised the State of Washington (State) on June 8, 2022 via email that its proposed 2021 Action Plan Update addressing the use of proceeds from taxes on aviation fuel was found to be compliant. The State's submission was in response to the FAA's *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel* (79 Federal Register 66282, November 7, 2014).

As referenced in the June 8, 2022 email, the FAA is now initiating its review of the State's procedures and reporting of the proceeds from the aviation fuel tax now that the Action Plan is up and running. The review will assist the agency in determining whether the plan has been implemented consistent with the process described and the State is in compliance with federal law when using aviation fuel tax proceeds.

Our emphasis of the review will be centered on the proposed processes and methodologies submitted in the Action Plan for the State levied taxes on the sale of aviation fuel - an Aircraft Fuel Tax; State and Local Sales and Use Taxes; a Hazardous Substance Tax (HST); and a Petroleum Products Tax (PPT). For purposes of this review, these taxes are referenced as aviation fuel taxes collectively except where a tax is specifically identified.

In furtherance of the review of the State's Action Plan, please address the following:

- Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.
    - Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
        - Copies of sample revised taxpayer reports and schedules and;
        - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.
- Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:
    - The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
    - Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
    - Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.
- Provide copies of action plans for local taxing jurisdictions; the State assumed responsibility to ensure local taxing jurisdictions comply with the aviation fuel tax requirements.
    - Substantiate whether the proceeds collected from the local government taxes on aviation fuel are being used for airport purposes in local taxing jurisdictions.
- Provide the total amounts of HST and PPT collected on aviation fuel, including:
    - Detailed information of transactions in the funds, and the balances attributable to airport use;
    - Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;
    - Substantiate whether these funds are being tracked, reported, and used for airport purposes only.

Additionally, we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

We request that you provide the information requested above within 30 days of receipt of this letter to Scott Glenn, Division Manager, Office of Airport Compliance and Management Analysis at scott.f.glenn@faa.gov.

We also remind you to timely submit updates to the FAA of any substantive changes to aviation fuel tax revenues received by the State.

We appreciate your assistance in this review. Should you have any questions, please contact Mr. Glenn at (202) 267-6491.

Sincerely,

Digitally signed by
MICHAEL W HELVEY
Date: 2024.04.10
15:13:13 -04'00'

Michael Helvey
Director, Office of Airport Compliance

Enclosure

STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR
P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

January 11, 2021

TO: The Honorable Christine Rolfes, Chair
The Honorable Lynda Wilson
Ways & Means Committee
Washington State Senate

The Honorable Noel Frame, Chair
The Honorable Ed Orcutt
Finance Committee
Washington State House of Representatives

The Honorable Timm Ormsby, Chair
The Honorable Drew Stokesbary
Appropriations Committee
Washington State House of epreseentatives

FROM: Vikki Smith, Director
Washington State Department of Revenue

SUBJECT: Washington Action Plan—FAA Policy Concerning Airport Revenue—2021 Update

The Department of Revenue (department) is submitting this report to the Legislature as required under Section 135(8), Chapter 357, Laws of 2020 (Engrossed Substitute Senate Bill 6168). This budget proviso requires the department to:

- Update the publication titled "Washington Action Plan—FAA Policy Concerning Airport Revenue."
- Consult with the Washington State Department of Transortation, Aviation Division, to develop and recommend to the fiscal committees of the Legislature a method of separately tracking the actual amounts collected from the hazardous substance tax (HST) and the petroleum products tax (PPT), to the extent these taxes are imposed on aviation fuel.

The Federal Aviation Administration's policy concerning the use of airport revenues requires that any state or local taxes on aviation fuel, except taxes in effect on December 30, 1987, be expended exclusively for airport purposes and aviation programs.

In addition to HST and PPT, local sales and use taxes are subject to the FAA's policy concerning the use of airport revenues. Therefore, while not required by ESSB 6168, this report also includes our recommended methodology to separately track local sales and use tax revenues collected on the sale and use of aviation fuel.

If you have any questions or need the report in an alternate format, please contact Michael Bailey, Legislative and External Affairs Liaison, Executive Division, at MichaelBa@dor.wa.gov or (360) 534-1545.

cc: Brad Hendrickson, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Keith Phillips, Executive Policy Director, Office of the Governor
Members, Senate Ways & Means Committee
Members, House Finance Committee
Members, House Appropriations Committee
Members, Senate Transportation Committee
Members, House Transportation Committee
David Schumacher, Director, Office of Financial Management
Drew Shirk, Executive Director, Legislative Affairs, Office of the Governor
David Fleckenstein, Director of Aviation, Washington State Department of Transportation
Roselyn Marcus, Assistant Director, Office of Financial Management
Ramona Nabors, Budget Assistant, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Washington Action Plan
FAA Policy concerning Airport Revenue
2021 Update

Department of Revenue Washington State

TABLE OF CONTENTS

Introduction

This report is prepared as required by Section 135(8), Chapter 357, Laws of 2020 (the 2019-2021 supplemental operating budget). This legislation required the Department of Revenue (department) to:

- Update the 2015 “Washington Action Plan – FAA Policy Concerning Airport Revenue” (see Appendix A) to reflect subsequent legislative changes to the taxation of hazardous substances.
- Develop and recommend, in consultation with Washington State Department of Transportation, Aviation Division (WSDOT), a method of separately tracking the actual amounts of hazardous substance tax (HST) and petroleum products tax (PPT) imposed on aviation fuel.

Background

The FAA's Policy and Procedures Concerning the use of Airport Revenue; Proceeds from Taxes on Aircraft fuel (FAA Policy) requires that state and local taxes imposed on aviation fuel after December 30, 1987, be used exclusively for airport purposes and aviation programs.

In 2015, the department collaborated with WSDOT to prepare a document titled, "Washington Action Plan – FAA Policy Concerning Airport Revenue" (2015 Action Plan). The 2015 Action Plan proposed a method for complying with the FAA Policy on aviation fuel tax revenue use.

Some state and local taxes apply to both aviation fuel and other products. Taxpayers report these taxes to the department on an aggregated basis. For this reason, the department does not currently collect data on the actual amount of local sales and use taxes, HST, and PPT collected on aviation fuel. The 2015 Action Plan proposed a method for estimating the amounts of those taxes collected on aviation fuel. The 2015 Action Plan was presented to the FAA by WSDOT.

In a letter dated June 28, 2017 (see Appendix B), the FAA notified WSDOT that the proposed estimation methodology in the 2015 Action Plan is not in full compliance with the aviation fuel tax revenue use requirements in the FAA Policy. As a result, the department has not implemented the 2015 Action Plan. To the department's knowledge, the FAA has not taken any action against Washington State to enforce its policy on fuel tax revenue use.

In 2019, the Legislature passed, and the Governor signed, Engrossed Substitute Senate Bill 5993 (ESSB 5993). Among other things, ESSB 5993 modified the HST as applied to petroleum products from a value-based tax to a volumetric tax, beginning July 1, 2019. During final passage of this bill, several floor amendments were offered that would have exempted aviation fuel from the HST. None of these amendments were successful.

Overview of taxes applicable to aviation fuel

In some circumstances, the sale, use, purchase, or storage of aviation fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax.
- State sales and use tax.
- Local sales and use tax.
- HST.
- PPT.

For more information on the taxes listed below, see the department's 2018 Tax Reference Manual at dor.wa.gov.

1. **Aircraft fuel tax (Chapter 82.42 RCW)**
   The aircraft fuel tax is levied by the state on each gallon of aircraft fuel sold, delivered, or used in Washington. The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon.

   The current tax rate is $0.11 per gallon (RCW 82.42.020). Distributors of aircraft fuel are

required to collect the tax and submit it to the Department of Licensing. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, because the aircraft fuel tax is already dedicated to aviation, the department believes that aircraft fuel tax revenues comply with the FAA Policy's aviation fuel tax revenue use requirements.

2. State sales and use taxes (Chapters 82.08 and 82.12 RCW)
   Washington's sales tax applies to the retail sale of tangible personal property, certain services, digital products, and extended warranties (see RCW 82.08.020 and RCW 82.04.050). Use tax applies when Washington consumers use taxable products or services within the state and did not pay sales tax on the products or services.

   Aviation fuel purchased in the state is generally subject to sales tax. However, the law provides exemptions for fuel purchased by a farmer for agricultural purposes (RCW 82.08.865) and fuel purchased by an air carrier for use in interstate or foreign air transportation (RCW 82.08.0261 and WAC 458-20-175). Air carriers that purchase aviation fuel in this state are subject to use tax on the portion of the fuel consumed in this state.

   State sales and use tax is generally reported by sellers and paid to the department. Revenues from the state sales and use tax are deposited into the state general fund and performance audits of government account.

   The state's portion of the sales and use tax rate has remained at 6.5% since 1983. Because the current state sales and use tax rate was imposed before 1987, state sales and use taxes are not subject to the FAA's aviation fuel tax revenue use requirements.

3. Local sales and use taxes (Chapter 82.14 RCW and RCW 81.104.170)
   Local governments in Washington may impose a tax only if authorized by the Legislature. Currently, the only local tax on aviation fuel is local sales and use tax. There are currently 29 different local sales and use taxes authorized under state law. The highest current aggregate rate of local sales and use tax is 4%. Combined with the state rate of 6.5%, Washington's highest current combined state and local sales and use tax rate is 10.5%. Local sales and use taxes are administered by the department. For more information on local sales and use tax, see the department's 2020 Local Tax Reference Guide at dor.wa.gov.

   We estimate that aviation fuel sales occur in approximately 107 local taxing jurisdictions that have either imposed or raised the rate on their local sales and use taxes after 1987. Under the terms of the FAA Policy, the revenues from the local sales and use taxes of these jurisdictions are subject to the policy's aviation fuel tax revenue use requirements. Because the department administers all local sales and use taxes, affected local governments will not need to submit their own action plans to the FAA.

4. Hazardous substance tax (Chapter 82.21 RCW)
   The HST is a state tax imposed on the first possession of a hazardous substance in this

state. The HST applies to:

- Petroleum products, including aviation fuel.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) listed substances.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registered pesticides.

The HST rate is as follows:

<table>
<tr><th>Type of product</th><th colspan="2">Tax rate</th></tr>
<tr><td>• Non-petroleum products.
• Petroleum products not easily measured on a per-barrel basis.</td><td colspan="2">0.7% multiplied by the wholesale value of the product.</td></tr>
<tr><td rowspan="3">• All other petroleum products, including aviation fuel.</td><td>FY 20</td><td>$1.09 per barrel (42 gallons)</td></tr>
<tr><td>FY 21</td><td>$1.13 per barrel</td></tr>
<tr><td colspan="2">The per-barrel rate is adjusted for inflation, effective July 1 of each year.</td></tr>
</table>

HST was first imposed in 1989. The revenue from the HST is deposited into toxic control accounts. For more information on the HST, see the HST page on the department's website.

Because the HST was imposed after 1987 and applies to aviation fuel, HST revenues are subject to the FAA's aviation fuel tax revenue use requirements.

5. **Petroleum products tax (Chapter 82.23A RCW)**
   PPT is a state tax imposed on the first possession of petroleum products in this state. The tax is equal to 0.3% of the wholesale value of the petroleum product. Effective July 1, 2021, the tax rate is reduced to 0.15%. The PPT was first imposed in 1989 and is scheduled to expire July 1, 2030. Aviation fuel is a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account. For more information on the PPT, see the PPT page on the department's website.

   Like HST, the PPT was imposed after 1987 and is subject to the FAA Policy on the use of aviation fuel tax revenues.

Action plan and recommended methodology

Because local sales and use tax, HST, and PPT are not specific to aviation fuel, we do not currently require taxpayers to separately report the amount of local sales and use tax, HST, and PPT, attributable to aviation fuel. Instead, taxpayers report in the aggregate the amount of local

sales and use tax, HST, and PPT they owe. Consequently, we currently possess no data on the actual amount of local sales and use tax, HST, and PPT we collect specifically on aviation fuel. In order to obtain this information, we will have to require taxpayers who are liable for local sales and use tax, HST, or PPT, with respect to aviation fuel, to provide that information when filing their combined excise tax return.

The state will use the amounts of HST and PPT reported by taxpayers as attributable to aviation fuel to calculate the amount of funds that should be allocated to aviation purposes.

The state will also educate local jurisdictions on the FAA Policy's aviation fuel tax revenue use requirements, including the requirement to offset their use of tax revenue on aviation fuel put towards non-aviation purposes with an equal amount of spending on aviation and the types of aviation spending that qualify for the offset amount.

The department will produce a list of taxpayers who report local sales and use tax, HST, or PPT and determine which of these taxpayers are likely to distribute, use, or own aviation fuel. We will inform these taxpayers about why they are being asked to report taxes attributable to aviation fuel and provide instructions on how to do so.

The department proposes the following methodology to track the amount of local sales and use tax, HST, and PPT collected on aviation fuel:

Local sales tax

Taxpayers who report local sales tax on the sale of aviation fuel will be required to complete a worksheet along with their regular combined excise tax return. The worksheet will indicate what portion of their reported local sales tax is attributed to the sale of aviation fuel, as well as the location and local tax rate associated with those sales.

Local use tax

Similar to the process for local sales tax, taxpayers who report use tax on aviation fuel will be required to complete a worksheet along with their use tax return or combined excise tax return to specify what portion of their reported local use tax is attributed to the use of aviation fuel, as well as the location and local tax rate associated with that use.

Hazardous substance tax (HST)

Taxpayers who report HST on the possession of liquid petroleum products on a per-barrel basis will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of the reported taxable barrels are attributed to aviation fuel.

Petroleum products tax (PPT)

Similar to the process for HST, taxpayers who report PPT on the possession of petroleum products will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of reported PPT attributed to aviation fuel.

Once data is collected from these worksheets, the department will calculate the actual revenue

amounts received from local sales and use tax, HST, and PPT on aviation fuel.

Conclusion

If the FAA determines that the methodology recommended in this report complies with its policy on aviation fuel tax revenue use, we will update our electronic filing system and begin tracking revenue from taxes on aviation fuel via additional reporting requirements on combined excise tax returns as described above.

The state will track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy and provide guidance to local jurisdictions about what types of airport spending will satisfy the FAA Policy.

Appendix A

Washington Action Plan—FAA Policy Concerning Airport Revenue

Taxes applicable to aircraft fuel

In some circumstances, the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax
- State sales/use tax
- Local sales/use tax
- Hazardous substance tax
- Petroleum products tax

State taxes

Several of Washington's taxes on aircraft fuel are already compliant with, or have grandfathered status under, the FAA's *Policy and Procedures Concerning the use of Airport Revenue; Proceeds From Taxes on Aircraft fuel* (FAA Policy). Revenue from the aircraft fuel tax is already dedicated to aviation, and therefore compliant with the FAA policy. The current state sales/use tax rate was imposed before 1987 and is therefore grandfathered from the FAA Policy's revenue use restrictions.

The state also imposes a hazardous substance tax (HST) and petroleum products tax (PPT) on aircraft fuel. Both of these taxes were imposed after 1987. Under the terms of the FAA Policy, they are subject to its revenue use restrictions.

Local taxes

Local governments in Washington may only impose a tax if authorized by the Legislature. Currently, the only local tax on aircraft fuel is local sales/use tax, which is administered by the state. Therefore, there is no variation in how local sales/use tax is administered. Hundreds of local taxing jurisdictions have either imposed or raised the rate on their respective local sales/use taxes after 1987. Aircraft fuel sales are estimated to occur in approximately 107 of these jurisdictions. Under the terms of the FAA Policy, the revenues from these jurisdictions' local taxes are subject to its use restrictions. Because the state administers all local sales/use taxes, affected local governments will not be submitting a separate action plan.

Action plan

Washington possesses no data on the actual amount of local sales/use tax, HST, and PPT collected specifically on aircraft fuel. Obtaining this information would be expensive and administratively burdensome. Therefore, Washington plans to estimate the amount of local sales/use tax collected on aircraft fuel by each local jurisdiction subject to the FAA Policy's restrictions and the amount of HST and PPT collected on aircraft fuel by the state. The state will use this data to determine whether amounts the state spends on aviation programs at least equal

the amount of HST and PPT revenues collected on aircraft fuel, which are dedicated by Washington law to non-aviation purposes.

The state will inform local jurisdictions of the FAA Policy's revenue use requirements, and advise those jurisdictions to offset their use of tax revenue on aircraft fuel put towards non-aviation purposes with an equal amount of spending on aviation. The state will provide information about what types of aviation spending qualify for the offset amount and will respond to complaints from airports. The state will also track state spending on state aviation programs to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Overview of Taxes

1. **Aircraft Fuel Tax (chapter 82.42 RCW)**

The aircraft fuel tax is levied on each gallon of aircraft fuel sold, delivered, or used in Washington (RCW 82.42.020). The tax was established in 1967. On December 30, 1987, the tax rate was $0.05 per gallon. The current tax rate is $0.11 per gallon (RCW 82.42.020). For more information on the aircraft fuel tax, see the tax reference manual.

Distributors of aircraft fuel are required to collect the tax. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, the aircraft fuel tax revenues already comply with the FAA Policy's use restrictions.

2. **State Sales and Use Taxes (chapters 82.08 and 82.12 RCW)**

The state portion of the Washington retail sales/use tax rate has remained at 6.5 percent since 1983. *See* 1983 Wash. Laws ch. 7 § 6 (1983 session law establishing the current tax rate).

The tax base is the selling price of tangible personal property and certain services purchased at retail, i.e. by consumers. The basic definition of items and transactions subject to sales tax appears in RCW 82.04.050. (NOTE: Use tax applies to taxable items used within the state if retail sales tax was not paid)

Aircraft fuel purchased in the state is generally subject to sales tax, except for such fuel purchased by a farmer for agricultural purposes (RCW 82.08.865). With respect to air carriers engaged in interstate travel, the sales/use tax on aircraft fuel is currently imposed only on fuel placed on board and consumed in this state (WAC 458-20-175). Sellers of aircraft fuel to air carriers are not required to collect the tax. Instead, an air carrier registered with the state pays the use tax directly to the state.

State sales/use tax is generally deposited in the state general fund. For more information on state sales and use tax, see the tax reference manual.

3. **Local Sales and Use Taxes (chapter 82.14 RCW)**

The revenue sources of cities, counties, and junior taxing districts are strictly controlled by the Legislature and only specifically authorized taxes can be imposed at the local level. There are currently 25 different types of local sales taxes. The maximum local sales tax rate currently levied totals 3 percent in portions of southwestern Snohomish County and in all of the

metropolitan areas of King County. Combined with the state rate of 6.5 percent, Washington's maximum sales tax rate that applies to most taxable items is now 9.5 percent. For more information on local sales and use tax, see the tax reference manual.

4. Hazardous Substance Tax (Chapter 82.21 RCW)

The hazardous substance tax (HST) is imposed on the first possession of a hazardous substance in the state. The tax is equal to 0.7 percent of the wholesale value of the substance and was first imposed in 1989. Aircraft fuel is considered a taxable hazardous substance. The revenue from the HST is deposited into toxic control accounts (RCW 82.21.030). For more information on the HST, see the tax reference manual.

5. Petroleum Products Tax (chapter 82.23A RCW)

The petroleum products tax (PPT) is imposed on the first possession of a petroleum product in the state. The tax is equal to 0.3 percent of the wholesale value of the petroleum product and was first imposed in 1989. Aircraft fuel is considered a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account (RCW 82.23A.020).

The PPT was suspended from April 1, 2010, to June 30, 2015. The tax was re-imposed effective July 1, 2015. For more information on the PPT, see the tax reference manual and special notice.

Methodology

When businesses report taxes to the state they are not required to itemize the individual items they sell, but report the gross amount for an entire category of sales (retailing, wholesaling, services, etc.) Therefore, the actual amount of local sales/use tax, HST, and PPT collected on aircraft fuel is unknown. This information would be difficult to obtain and collecting it would place a significant burden on taxpayers and government entities.

Washington proposes the following methodology to estimate the amount of local sales/use tax, HST, and PPT collected on aircraft fuel:

Local sale tax

To calculate the local sales tax collected on aircraft fuel by distributors, the state will perform the following calculation each year (beginning 2018):

- Determine the airport operators selling aircraft fuel within the boundaries of a local jurisdiction that imposed or raised its local sales and use tax after 1987.
- Determine the amount of aircraft fuel tax collected in the previous year by each affected airport operator.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the gallons sold by each affected airport operator. Multiply this amount by the average retail price per gallon of aircraft fuel, which is obtained from the FAA Aerospace Forecasts – Table 18. This provides the dollar value of aircraft fuel sold by each affected airport operator.
- Multiply the appropriate local sales tax rate by the dollar value of aircraft fuel sold by

each affected airport operator. This provides the estimated local sales tax collected by the airport operator for the local jurisdiction.

- Sum the estimated local sales tax collected by airport operators within each affected local jurisdiction. This amount is the local jurisdiction's local sales tax offset amount for the year.

Local use tax

To calculate the local use tax paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- The state will query the local use tax reported by each passenger airline that reports taxes to the state.
- Based on multiple passenger airline audits, approximately 91 percent of the local use tax reported by passenger airlines is for aircraft fuel.
- For each passenger airline, the state will multiply the airline's annual use tax payments to each local jurisdiction by 91 percent. This amount is the local jurisdiction's local use tax offset amount for the year.

For each affected local jurisdiction, the local sales tax offset amount and local use tax offset amount will be added together to determine the local jurisdiction's total offset amount for the year.

Hazardous substance tax (HST) – reported by distributors

To calculate the HST on aircraft fuel reported by distributors, the state will perform the following calculation each year:

- Determine the total aircraft fuel tax collections in the previous year.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the total gallons sold. Obtain average price per barrel from US Energy Information Administration and convert to average price per gallon. Multiply the average price per gallon by the total gallons sold. This provides an estimated wholesale dollar value of aircraft fuel possessed in the state by distributors.
- Multiply the hazardous substance tax rate by the estimated wholesale value to determine the state's offset amount for HST reported by distributors.

Hazardous substance tax – reported by airlines

To calculate the HST paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- Query the total HST reported by all passenger airlines that report taxes to the state.
- Based on multiple commercial airline audits, approximately 91 percent of the HST reported by passenger airlines is for aircraft fuel.
- Multiply the total HST reported by all passenger airlines by 91 percent. This provides the state's offset amount for HST reported by airlines.

The estimated HST reported by distributors and airlines will be added together to determine the state's total HST offset amount for the year.

Petroleum products tax (PPT)

The PPT offset amount will be calculated in the same manner as the HST.

Conclusion

Beginning in 2018, the state will begin calculating the offset amounts as described above. The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy.

The state will provide guidance about what types of airport spending will satisfy the FAA requirements for the offsets. The state will also track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Appendix B

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

June 28, 2017

Tristan K. Atkins
Director of Aviation
7702 Terminal St. SW
Tumwater, WA 98501

Dear Mr. Atkins:

Re: Letter of Acknowledgment: Washington State's Action Plan in Response to FAA Aviation Fuel Tax Policy Amendment

Thank you for your December 18, 2015 letter, regarding the "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 FR 66282).

The FAA has received your response, and understands the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax,
- State sales/use tax,
- Local sales/use tax,
- Hazardous substance tax, and/or
- Petroleum products tax.

<u>FAA Response on Compliance:</u>

1) <u>Aircraft Fuel Tax</u>
    - The FAA has determined that five cents of the aircraft fuel tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use. However, the remaining six cents of the tax is not exempt, and is subject to Federal requirements for use of airport revenue. The state has indicated that the revenue is distributed to the state aviation fund, and as such, is qualified and under review by the FAA for compliance.

2) State Sales and Use Tax
   - The FAA has determined that Washington's state sales and use tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use.
3) Local Sales and Use Tax
   - The FAA does not have enough information to determine whether or not some local sales and use taxes in Washington may qualify for grandfathered status, although the state has indicated an offset approach will be used to ensure compliance.
4) Hazardous Substance Tax (HST) and Petroleum Substance Tax (PPT)
   - The FAA has determined that neither the Hazardous Substance Tax nor the Petroleum Products Tax qualify for grandfathered status because the authorizing legislation for these taxes was not in place on December 30, 1987. They are thus subject to airport revenue use requirements, including those regarding fuel tax revenue use.
   - The planned methodology to estimate the amount of the HST and PPT reported is not in full compliance with the aviation fuel tax revenue use requirements. FAA requires an adjustment of actual proceeds to be determined through a documented reconciliation method. While FAA allows budgetary estimates for projected revenue calculations used for the offset, using an average price per gallon sold and an approximate percent of airline collection does not provide actual amounts for the offset.

Consistent with the list of supporting information posted on regulations.gov on July 17, 2015,[1] the FAA has determined that additional clarifications or adjustments are needed in order to evaluate whether the State of Washington is fully compliant with Federal requirements for aviation fuel tax revenue use and therefore is requesting more information to ensure that Washington will be in compliance with these requirements by December 8, 2017. Please ensure that all of the following are submitted:

1) For the aircraft fuel tax, please provide a full description of the use of Washington's state aeronautics account, or any other aviation fund into which tax revenues are submitted.
2) For the HST and PPT taxes, please confirm that the planned changes will provide the following information and results:
   - The amount of the offset will be greater than or equal to the total revenue from the fuel tax each year.
   - Documentation that the government body collecting the fuel tax has the authority to offset revenues as described.
   - Documentation indicating that State of Washington Department of Revenue has developed a review process by which it will track revenues from any taxes on aviation fuel by local jurisdiction, expenditures of any taxes on airports or, if applicable, offsets in equivalent or greater amounts to those earned through any taxes on aviation fuel and documentation ensuring that State of

[1] "Aviation Fuel Tax Grandfathering Action Plans," available in Docket FAA-2013-0988

Washington Department of Revenue has developed reporting and enforcement mechanisms for its review process.

We request that you provide this additional information within 60 days of receipt of this letter, along with assurance that the proposed changes will be fully implemented by December 8, 2017 to remain within the three year period provided in the FAA Policy Amendment. If you have any questions, please contact me at (202) 267-3085.

The foregoing response represents the present view of the FAA based on the information presented in Action Plan submission and does not constrain future the FAA action or opinion. This response does not constitute a final agency action or an "order issued by the Secretary of Transportation" under title 49 U.S.C., § 46110.

Sincerely,

Kevin C.Willis, Director
Office Airport Compliance
and Management Analysis

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

November 6, 2025

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

RE: Request for Extension to Provide Additional Information – Fuel Tax Compliance Review

Dear Director Helvey;

The State of Washington respectfully requests an extension to the 60-day deadline for submission of additional information related to your recent request concerning fuel tax compliance.

Due to the complexity of the data involved and the need to coordinate with multiple state agencies additional time is required to ensure that our response is complete and accurate. Changes in administrations both at the Federal and State levels have impacted personnel assignments since we last communicated about this issue over a year ago and we need to ensure that the appropriate personnel are adequately briefed.

For these reasons we respectfully request an additional 60 days beyond the current deadline to complete this process. The extension will allow us to provide FAA with a comprehensive and well-supported submission that reflects our ongoing commitment to full compliance and transparency.

We appreciate your consideration of this request and your continued partnership in advancing aviation in Washington State. Please let us know if you require any additional information.

Sincerely,

Ann B. Richart, AAE
Aviation Director

U.S. Department
of Transportation
Federal Aviation Administration

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, D.C. 20591

December 15, 2025

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation

Dear Ms. Richart:

Subject: Approval of Extension Request – Fuel Tax Compliance Review

I am writing to acknowledge receipt of your letter dated November 6, 2025, requesting an additional 60-day extension for the submission of additional information related to our ongoing fuel tax compliance review.

After reviewing your request and considering the complexities involved, including the necessity to coordinate with multiple state agencies and the impact of recent administrative changes, the Federal Aviation Administration (FAA) has approved your request for an extension.

The new deadline for submission will be 120 days from the date of October 21, 2025, letter, extending your original deadline to February 18, 2026. We believe this additional time will facilitate a comprehensive and accurate response, reflecting your commitment to compliance and transparency.

We appreciate your proactive approach and continued dedication to aviation excellence in Washington State. Should you need further clarification or assistance during this process, please feel free to reach out to my office directly.

Thank you for your ongoing partnership and cooperation.

Sincerely,

Michael W. Helvey

Michael W. Helvey
Director

Washington State Department of Transportation

Aviation Division
PO Box 47312
Olympia, WA 98504
360-709-8015
www.wsdot.wa.gov

February 19, 2026

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Director Helvey;

The state of Washington appreciates your extension of time for us to respond to your questions about our preliminary response to your ongoing fuel tax compliance review. Unfortunately our response is not yet completed. We respectfully request additional time to provide a response. This issue has been elevated to the Office of Financial Management in Governor Ferguson's office.

Sincerely,

Ann B. Richart, AAE
Aviation Director

Sent: Thu, 19 Mar 2026 15:47:52 +0000
To: Cotton, Megan (GOV)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Hansen, Erik (OFM); Martine, Renee (OFM); Breaux, Steven; Woehler, Kerri
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final Report - Airport Revenue Diversion - AV2024010 - 508 compliant.pdf

Megan –

- There has not been any additional effort taken by WSDOT to collect the additional information about aviation projects funded outside of the Aeronautics Account. This was at the direction of OFM. However, it should be noted that, to date, Washington State's total aviation fuel tax liability is approximately $210 million. If we verify all the of the expenses that FAA has asked for clarification on and they all prove to be allowable expenses, we have still only "offset" a total of $32,560,000. So the bottom line is that even with the best possible responses to FAA questions they will still find Washington State in non-compliance. I would recommend that this would be an opportunity to offer FAA a proactive approach to resolving this issue rather than just answering their questions.

- Here is a citation from the Federal Register Vol. 64 No. 30 2/16/1999 listing the federal regulations relating to state aviation fuel taxes:

  > The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (December 30, 1987), narrowed the permitted uses of airport revenues to nonairport facilities that are ''substantially'' as well as directly related to actual air transportation; required local taxes on aviation fuel enacted after December 30, 1987, to be spent on the airport or, in the case of state taxes on aviation fuel, state aviation programs or noise mitigation on or off the airport; and slightly modified the grandfather provision. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered subject to the revenue-use requirements in 49 U.S.C. 47107 (b) and 47133. However, revenues from a State tax on aviation fuel may be used to support a State aviation program, and airport revenues may be used on or off the airport for a noise mitigation purpose.

  I will note these regulations are very vague as to the allowable uses of state aviation fuel tax revenues. Currently FAA is interpreting this to mean that state aviation fuel taxes may only be used on airport infrastructure projects. I believe that Washington could make some solid arguments about "state aviation programs". I also believe that FAA may be open to discussing interpretations if they believe that Washington is attempting to come into compliance. The use of state funds on the development of Sustainable Aviation Fuel was a proposal that the Legislature made during the 2026 session that I feel would be a compliant State Aviation Program. FAA has said that this use isn't compliant but I think this and similar uses should be further explored.

I've attached a copy of the Inspector General's report on this issue. This report to the FAA is what triggered the audit that we are currently involved in. This report is very accessible and provides some good background and information on the topic.

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Thursday, March 19, 2026 8:30 AM
To: Richart, Ann <ann.richart@wsdot.wa.gov>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>; Martine, Renee (OFM) <renee.martine@ofm.wa.gov>; Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Ann,

We're digging into this issue, and I have a few follow up questions for you:

- The FAA October letter outlined expenditures they requested additional information. Has there been any coordination with the relevant agencies to collect the additional information requested? If so, is that information compiled?

- Can you please send me the relevant statutes that outline what activities are considered eligible by the FAA?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

OFFICE OF GOVERNOR
BOB FERGUSON

From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

____

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>

Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

OFFICE OF INSPECTOR GENERAL
U.S. DEPARTMENT OF TRANSPORTATION

FAA

Report AV2024010
December 13, 2023

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

Self-initiated

Federal Aviation Administration | AV2024010 | December 13, 2023

What We Looked At

Since 2014, the Federal Aviation Administration's (FAA) Airport Improvement Program has obligated more than $3.18 billion to eligible airports each fiscal year for airport development and planning. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) to define airport revenue and identify permitted and prohibited uses of that revenue. FAA amended this policy in 2014 to address revenue use for aviation fuel taxes. Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

What We Found

Since amending its Revenue Use Policy, FAA has made progress confirming whether State and local Government laws comply with the amendments. However, the Agency has not yet tested or validated if the compliant jurisdictions use the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. In addition, the Agency has not taken enforcement actions against the five jurisdictions that are not yet in compliance with the amendments. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance that encouraged the Agency to postpone enforcement. By potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Our Recommendations

We made three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion. FAA concurred with our recommendations and provided appropriate actions and completion dates. We consider all recommendations resolved but open pending completion of the planned actions.

Contents

U. S. Department of Transportation
Office of Inspector General

Memorandum

Date: December 13, 2023

Subject: ACTION: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement | Report No. AV2024010

From: Nelda Z. Smith
Assistant Inspector General for Aviation Audits

To: Federal Aviation Administrator

The Federal Aviation Administration (FAA) supports the Nation's aviation needs by providing Federal assistance through grants-in-aid to airports around the country. Since 2014, FAA's Airport Improvement Program (AIP) has obligated more than $3.18 billion to eligible airports[1] each fiscal year for airport development, planning, and noise compatibility programs. As a condition of receiving these funds, grantees are bound by the Airport and Airway Improvement Act of 1982 (AAIA), as amended, which imposes restrictions on how airport sponsors (i.e., airport operators) may use their revenue.[2] Generally, airports can only use revenue for the capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy),[3] which defined airport revenue and identified permitted and prohibited uses of that revenue. FAA amended this policy in November 2014 to address revenue use

[1] Eligible airports are public-use airports that contribute to the needs of civil aviation, national defense, and the Postal Service. They must be published in FAA's National Plan of Integrated Airport Systems.
[2] 49 U.S. Code (U.S.C.) § 47107(b)(1).
[3] 64 Fed. Reg. 7696 (February 16, 1999).

for aviation fuel taxes (Amendment).[4] Any other use inconsistent with this policy is considered unlawful revenue diversion.[5]

Previous Office of Inspector General (OIG) audits have identified weaknesses in FAA's oversight of airport sponsors, which did not prevent or detect charges for services that were not provided to airports, indirect costs improperly allocated to airports, and payments of less than fair market rent for use of airport property. For example, our audit of Los Angeles World Airports identified $7.87 million in unsupported charges.[6] Another OIG audit found $40.9 million in potential revenue diversions at five airports due to ineligible payments to airport sponsors and other organizations.[7]

Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Marshall Jackson, Program Director.

cc: The Secretary
DOT Audit Liaison, M-1
FAA Audit Liaison, AAE-001

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[4] 79 Fed. Reg. 66282-88 (November 7, 2014).

[5] A "grandfather" provision (called "lawful revenue diversion") permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws that existed before September 2, 1982, allowed such use on a limited basis. Our audit scope does not include grandfathered airports, which we examined in *FAA Needs To More Accurately Account for Airport Sponsors' Grandfathered Payments* (OIG Report No. AV2018041), April 17, 2018. There are 9 grandfathered airport sponsors that own or operate over 30 airports. OIG reports are available on our website: www.oig.dot.gov.

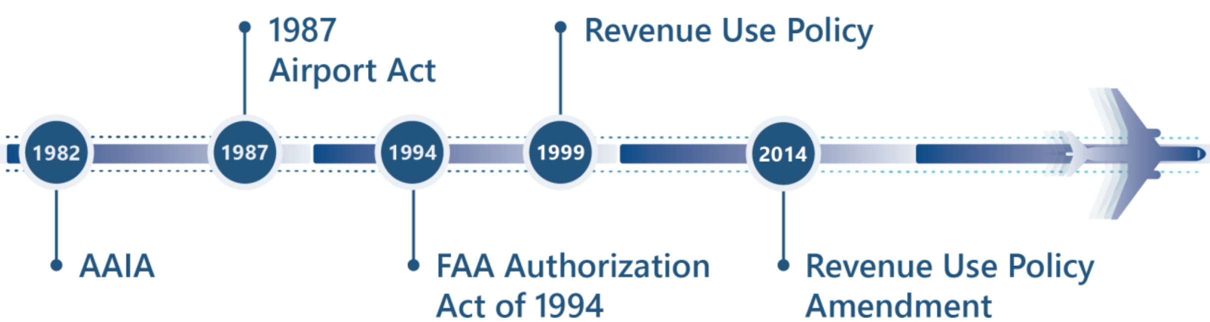
[6] *FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources* (OIG Report No. AV2014035), April 8, 2014.

[7] *Oversight of Airport Revenue* (OIG Report No. AV2003030), March 20, 2003.

Background

A number of Federal laws and FAA policies govern use of airport revenue, including taxes on aviation fuel. See the figure below for a timeline of airport revenue-related laws.

Figure. Timeline of Revenue Protection Laws



Source: OIG analysis

The AAIA[8] generally requires airport sponsors receiving Federal assistance to use airport revenue for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator. These facilities must be directly and substantially related to the actual air transportation of passengers or property or for noise mitigation purposes.

To further bolster AAIA's provisions, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act)[9] and the FAA Authorization Act of 1994.[10] The 1987 Airport Act imposed further restrictions on airport revenue use to include any local taxes on aviation fuel in effect after December 30, 1987. State and local aviation fuel taxes may only be used to support a State aviation program, noise mitigation purposes, and land disposal funds for certain airport lands, including airport noise compatibility.[11]

In 1999, as required by the FAA Authorization Act of 1994, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use

[8] Pub. L. No. 97-248 (September 3, 1982), codified at 49 U.S.C. § 47107.
[9] Pub. L. No. 100-223 (December 30, 1987), codified at 49 U.S.C. § 47133.
[10] Pub. L. No. 103-305 (August 23, 1994).
[11] 49 U.S.C. § 47133(b). However, there are some exceptions. For example, grandfathered airports may use airport revenue for otherwise impermissible expenditures—i.e., nonoperating or noncapital uses.

Policy).[12] The policy describes prohibited and permitted uses of airport revenue and outlines FAA's enforcement policies and procedures. Examples of prohibited uses of airport revenue are using airport revenues for general economic development, marketing and promotional activities unrelated to airports or airport systems, and direct or indirect payments that exceed the fair and reasonable value of services and facilities provided to the airport. The Revenue Use Policy also requires recordkeeping and reporting requirements for the use of airport revenue and that an airport sponsor maintain a self-sustaining rate structure to the extent possible.

In 2014, FAA amended the Revenue Use Policy to clarify requirements for the use of proceeds from State and local taxes on aviation fuel. The amended policy (Amendment) generally requires grantees to use all proceeds from new and existing taxes that did not qualify for grandfathering from revenue use requirements on State aviation programs or for airport-related purposes. Recognizing that many States, territories, and localities might encounter challenges meeting the requirements of the Amendment, FAA gave them a 3-year grace period, until December 8, 2017, to comply. In addition, direction in the Senate Transportation, and Housing and Urban Development Committee's report accompanying the FAA appropriation bill for fiscal year 2018 encouraged FAA to postpone enforcement of the Amendment's requirements.[13] Similarly, in fiscal year 2020, the committee encouraged the Secretary to continue working with State and local governments to develop a path forward for obtaining full compliance with the Amendment.[14] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

State and local Government taxes on aviation fuel sales can be imposed by either an airport sponsor or a non-sponsor. However, only an airport sponsor or Block Grant State[15] under the AIP provides assurance that revenues from aviation fuel taxes will be used as required by Federal regulations. For taxes imposed by non-sponsor State and local governments, FAA expects airport sponsors to inform these entities of Federal requirements on the use of aviation fuel tax revenue and to take action. FAA also expects sponsors to use their influence to

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[12] 64 Fed. Reg. 7696 (Feb. 16, 1999), amended by Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel, 79 Fed. Reg. 66282, (November 7, 2014).

[13] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2018 (S. 1655), S. Rep. No. 115-138, p. 48 (July 27, 2017).

[14] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2020, p. 44 (S. 2520), S. Rep. No. 116-109 (Sept. 19, 2019).

[15] A Block Grant State receives AIP funds directly from FAA to fund certain State aeronautical agencies. As part of the State Block Grant Program these States agree to assume certain responsibilities related to administering the AIP that are otherwise performed by FAA (including project prioritization and selection), and to provide grants to smaller airports.

shape State and non-sponsor local taxation to conform to these Federal laws. In the Amendment, FAA clarified that if a non-sponsor State or local Government adopts a noncompliant tax, FAA would not take enforcement action against the airport sponsor because the sponsor is not responsible for the noncompliance. FAA reiterated that it would pursue enforcement action against a non-sponsor State or local Government that violates the Revenue Use Policy or Federal regulations. FAA's Office of Airport Compliance and Management Analysis (ACO) is responsible for ensuring that airport sponsors do not violate the Agency's amended Revenue Use Policy or other Federal revenue-use requirements. ACO comprises two groups:

- **Financial Management Analysis Group.** Enforces statutory requirements of airport revenue use at commercial service airports, oversees single audit resolution, and performs mandated revenue reviews.
- **Airport Compliance Program.** Interprets, recommends, and develops policies for, and resolves matters that involve, airport sponsors' Federal obligations. The office also adjudicates formal complaints and FAA-initiated investigations[16] and monitors airport sponsor compliance with limits on the use of airport revenue.

To assess airport adherence to the Revenue Use Policy, ACO targets conducting financial compliance reviews of four airports a year, which are identified through formal or informal complaints, hotline tips, and industry recommendations. Any airports that are not reviewed are considered for selection in future years. During site visits, ACO reviewers meet with the airport's leadership team, hold interviews with appropriate staff, examine requested documentation, and tour the airport's facilities. Then ACO drafts a report with its findings and recommendations. Once ACO resolves all recommendations and airport sponsors implement corrective action items, the final report is disseminated to the airport sponsor and made available to the general public. Since 2005, ACO has conducted 32 financial compliance reviews and identified more than $100 million in unlawful revenue diversion.

[16] See Rules of Practice for Federally Assisted Airport Enforcement Proceedings, 14 Code of Federal Regulations (C.F.R.) Part 16.

Results in Brief

FAA has made progress implementing an amendment to its Revenue Use Policy but does not have a plan to verify or enforce compliance.

Since amending its Revenue Use Policy in 2014 to explicitly include aviation fuel tax requirements, FAA has made progress confirming whether State and local Government laws comply with the amendments. Specifically, FAA has determined that 115 of 193 State and local jurisdictions have compliant laws, and that the remaining 78 jurisdictions are non-compliant, which FAA terms "qualified." However, the Agency has not yet tested or validated if the compliant jurisdictions are using the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. According to FAA officials, testing and validation have not occurred because the Agency is currently focused on working with remaining jurisdictions to align State and local laws with the Amendment. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. For example, we could not verify the Agency's compliance determinations for 10 States and 1 territory we reviewed because FAA lacks an effective document control system. Lack of documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance with the amended Revenue Use Policy. Almost 6 years after FAA's December 8, 2017, deadline, five qualified jurisdictions—California, Kentucky, Nevada, Tennessee, and Guam—have not complied with the Amendment. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. In the meantime, by potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

We are making three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion.

FAA Has Made Progress Implementing an Amendment to its Revenue Use Policy but Does Not Have a Plan To Verify or Enforce Compliance

While FAA has made progress confirming whether State and local Government laws align with the 2014 amendments to its Revenue Use Policy, the Agency has not tested or validated if jurisdictions are using the proceeds from aviation fuel tax according to the jurisdictions' approved action plan. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance.

FAA Reviewed State and Local Laws for Alignment With Its Policy but Lacks a Plan for Testing Compliance

FAA has determined that 115 jurisdictions—State and local governments—are compliant and 78 jurisdictions are qualified with the amended Revenue Use Policy. We focused our review on State governments and U.S. territories only. According to FAA, as of May 2023, 46 States and 4 U.S. territories are in compliance with the Amendment. These jurisdictions consist of airport sponsors and non-sponsors. To verify compliance, FAA required State and local governments to submit action plans detailing their processes for administrating aviation fuel taxes. Each action plan had to include the following information:

1. The process to amend any noncompliant laws to conform to Federal law on use of aviation fuel tax revenues, and restructure general revenues to adapt to the dedication of aviation fuel tax revenue to airports and State aviation programs;

2. A commitment to undertake the legislative process; and

3. The process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenue; confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal or exceeding the amounts collected as aviation fuel taxes; and the requirements to ensure the appropriations are implemented and are enforceable by State or local agencies.

We assessed FAA's compliance determinations by reviewing the action plans and corresponding documents submitted by State governments and U.S. territories. We did not identify any material issues with FAA's reviews of 36 States and 3 territories. However, we could not verify the Agency's compliance determinations for 10 States and 1 territory because FAA lacks an effective document control system as required by Federal Internal Control Standards.[17] Specifically, we identified the following issues:

- FAA only provided one document each for Alaska, Idaho, and American Samoa, which did not provide sufficient information for evaluating compliance. The document for each jurisdiction is missing details on aviation fuel tax rates, legislation establishing each tax rate or any changes to tax rates, and financial documentation showing that aviation fuel tax revenue was used as intended. Idaho was the exception, as its documentation did include aviation fuel tax rates.

- FAA did not provide pertinent correspondence to and from the State that would provide an understanding of how the Agency determined compliance for Mississippi, New Hampshire, North Dakota, Ohio, Oregon, Washington, and Vermont.

- FAA did not save or archive the initial action plan and supplemental response(s) for the State of Nebraska, although the documents are referenced in the Agency's correspondence to the State.

FAA also did not provide compliance letters for any of these 11 jurisdictions. Such letters are meant to capture the key aviation fuel tax facts that FAA reviewed to determine compliance. Letters were also missing for 16 States where we did not identify any material issues with FAA's review. Agency officials stated that they did not provide compliance letters at the beginning of their review process; rather, they updated the FAA website to reflect the compliance status. However, based on our review, FAA has not retroactively issued compliance letters. According to FAA, the Agency will issue compliance letters to jurisdictions that have not received letters by December 31, 2023. The lack of letters and above-mentioned documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment since these documents serve as records of the Agency's compliance determination.

Although FAA has confirmed that State and local laws align with the Amendment, FAA has not validated if jurisdictions are following the law through testing. According to FAA officials, this is because the Agency is currently focused on obtaining compliance from qualified jurisdictions and has not been authorized to begin enforcement action for the Amendment. Moreover, according to Agency

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[17] *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

officials, testing and validation have not occurred due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. Without testing the jurisdictions' approved action plans for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations.

Four States and One U.S. Territory Are Not in Compliance With the Amended Revenue Use Policy

Almost 6 years after FAA's December 8, 2017, deadline to comply with the amended Revenue Use Policy, four States and one territory remain qualified[18] with the Amendment. Furthermore, FAA has not taken enforcement action or explained the steps it will take to move the qualified jurisdictions into compliance—even though the Revenue Use Policy outlines FAA's enforcement policies and procedures. According to Agency officials, this is due to congressional guidance in the committee reports accompanying FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement.

According to FAA, the following jurisdictions are not in compliance with the Revenue Use Policy amendment. We verified the following information from FAA by reviewing actions plans, tax legislation, and correspondence between FAA and these jurisdictions.

- **California (Non-Sponsor)** continues to divert revenue for nonairport purposes. In 2019, after FAA's repeated inquiries, the California Department of Finance submitted an action plan that identified annual tax proceeds estimated at $55 million over the next 5 years to be spent on transportation projects. State officials note that these proceeds will provide direct benefits to California's airport system, and they plan to use them as offsets against the aviation fuel tax proceeds. However, the State did not submit documentation of the actual proceeds collected from aviation fuel taxes from fiscal year 2017 to present. Moreover, the State has not given FAA a breakdown of aviation fuel tax receipts collected by local jurisdictions and airport sponsors within California.

[18] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

- **Kentucky (Non-Sponsor)** is maintaining a grandfather exemption from the Amendment because its tax legislation was enacted on or before December 30, 1987. However, the State increased its tax rate from 5 to 6 percent in 1990, after the grandfathering date. Kentucky has not given FAA any documentation about how it is using the proceeds from the 1 percent increase.

- **Nevada (Non-Sponsor)** has not responded to FAA's inquiries sent in 2017 and 2019 for clarification on issues the Agency found in the State's action plan. The last documented correspondence from the State is dated February 19, 2016. As a result, FAA cannot determine whether the excise tax or the county option tax on aviation fuel can be considered as grandfathered.

- **Tennessee (Block Grant State)** officials note that the State's business tax is a gross receipt tax on the privilege of doing business in Tennessee and is not specific to the sale, storage, or use of aviation fuel. Tennessee officials also state that the Amendment should not apply to its Environmental Assurance Fee because it is a fee rather than a tax. FAA has requested further information from the State but has not received a response.

- **Guam (Sponsor)** is maintaining a grandfather exemption from compliance with the Amendment because its tax legislation was enacted on or before December 30, 1987. The territory did not give FAA further details about its grandfathering status and recently notified the Agency that it had increased its excise tax rate on aviation fuel on January 1, 2018. Guam used the proceeds from this increase, which resulted in approximately $5.17 million in revenue, for non-aviation related purposes. The territory has asked FAA to forgive its decision not to use the tax increase proceeds as required and stated the territory would comply with the Amendment by October 2021. However, Guam remains in a qualified status although its aviation fuel tax rate increase became effective 2 years after the territory submitted its action plan to FAA.

By potentially diverting aviation fuel tax revenue to non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Other Matters

In addressing our audit objective, we initially planned to determine if airport sponsors had diverted other revenue in addition to fuel taxes from commercial

service airports. During this audit, we visited the Syracuse Hancock International Airport (SYR), where we interviewed Syracuse Regional Airport Authority (SRAA) senior officials and conducted a review of SYR for compliance with the Revenue Use Policy for fiscal year 2019. During our review, we identified recurring issues that FAA had reported in a 2014 compliance review of SRAA (see exhibit D). We subsequently reduced our commercial airport selection to just SYR due to time constraints, the volume of data, and other potential obstacles, such as data format and staff turnover at airports. Based on these considerations, we re-focused our work on aviation fuel tax requirements.

Conclusion

FAA provides billions of taxpayer dollars in Federal grants to ensure that U.S. airports remain self-sufficient and can invest in their own infrastructure. A key component for airports to stay self-sufficient is the revenue they collect, such as fuel taxes. Thus, airport revenue diversion diminishes the effectiveness and achievement of objectives of these Federal grants. While FAA has been working with jurisdictions to align State and local laws with the Amendment on aviation fuel tax revenue as directed by Congress, the Agency lacks a plan to test aviation fuel tax plans from compliant jurisdictions and enforce compliance in qualified jurisdictions. As a result, FAA is not well positioned to promote effective stewardship of the taxpayer dollars that were meant to support the Nation's airports.

Recommendations

To improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion, we recommend that the Federal Aviation Administrator:

1. Issue compliance letters to jurisdictions that FAA has determined to be in compliance with the Amendment to *Policy and Procedures Concerning the Use of Airport Revenue* (Amendment) but that have not received official notification of compliance.

2. Develop and implement a testing plan to assess whether jurisdictions are following FAA's requirements for compliance with the Amendment to the Revenue Use Policy.

3. Establish a plan of action to bring California, Kentucky, Nevada, Tennessee, and Guam into compliance with the Amendment to the Revenue Use Policy.

Agency Comments and OIG Response

We provided FAA with our draft report on October 23, 2023, and received its formal response on November 21, 2023. FAA's response is included as an appendix to this report. FAA concurred with all three of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of the planned actions.

Exhibit A. Scope and Methodology

This performance audit was conducted between June 2022 and October 2023. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion, we reviewed applicable laws, regulations, and FAA policies and procedures such as FAA's *Policy and Procedures Concerning the Use of Airport Revenue* and *Proceeds From Taxes on Aviation Fuel*. We also reviewed the following FAA guidance: Airport Compliance Manual (5190.6B Change 1), Guide for Airport Financial Reports Filed by Airport Sponsors (150/5100-19D), and Compliance Guidance Letters. Further, we obtained publicly available data about airports that diverted revenue in the past and reviewed articles on occurrences of airport revenue diversion. We also interviewed representatives from FAA's ACO, FAA's New York Airports District Office and Eastern Regional Office, and the following aviation industry trade organizations: Airlines for America, Aircraft Owners & Pilot Association, Airports Council International North America, International Air Transport Association, National Air Transportation Association, and American Association of Airport Executives.

To determine how FAA assessed compliance with aviation fuel tax revenue requirements, we reviewed action plans, correspondence, financial documentation, tax legislation, and FAA compliance letter for 46 States and 4 U.S. territories. We also reviewed actions plans, correspondence, and tax legislation for four States and one territory that have yet to comply with Federal aviation fuel tax requirements. We communicated with FAA officials from ACO to determine the Agency's plan for testing jurisdictions' approved action plans for using aviation fuel taxes and taking enforcement action for jurisdictions that have not complied with Federal aviation fuel tax requirements.

Exhibit B. Organizations Visited or Contacted

Department of Transportation

FAA Headquarters

FAA Eastern Region Office

Airport/Airport Sponsor

Syracuse Hancock International Airport, NY

Syracuse Regional Airport Authority, NY

Other Organizations

Aircraft Owners and Pilots Association

Airlines for America

Airports Council International – North America

American Association of Airport Executives

International Air Transport Association

National Air Transportation Association

Exhibit C. List of Acronyms

AAIA	Airport and Airways Improvement Act of 1982
ACO	Airport Compliance and Management Analysis
AIP	Airport Improvement Program
DOT	Department of Transportation
FAA	Federal Aviation Administration
OIG	Office of Inspector General
PILOTS	Payments in Lieu of Taxes
SRAA	Syracuse Regional Airport Authority
SYR	Syracuse Hancock International Airport

Exhibit D. Review of Syracuse Regional Airport Authority for Compliance With the Revenue Use Policy: Summary of Findings

To conduct our work, we developed a universe of high-risk airport sponsors—based on historical data, prior audit results, annual financial reports, and recommendations from FAA and industry officials—and identified five commercial service airports[19] to review that were at the highest risk of diverting revenues. We initially visited SYR where we reconciled the SRAA's trial balance to its audited financial statements and judgmentally selected financial transactions for testing to determine whether airport-generated revenues were used in accordance with Federal regulations. Our review found that SYR did not adhere to the Revenue Use Policy's requirements for the disbursement of airport funds in four areas: ineligible payments in lieu of taxes (PILOTS), periodic adjustments to cost-allocation plans, little or no documentation for replacing facility rental payments with in-kind services, and payment of marketing costs to airlines instead of the direct service providers. These areas are described in further detail below.

- **PILOTS** help local governments perform vital services—firefighting and police protection, construction of public schools and roads, and search-and-rescue operations, etc.,— but cannot exceed the value of services.[20] While three of SYR's PILOT payments concluded in 2012, SYR continued to make payments totaling more than $35,000 to local taxing jurisdictions between 2012 and 2019.
- **Cost-Allocation Plan**. Currently operated by the SRAA, SYR was previously overseen by the City of Syracuse (City). A cost-allocation plan drafted during the transition period detailed how administrative services should be divided between the City and SRAA. The Revenue Use Policy states that airport sponsors should adjust cost-allocation plans to reflect changes to allowable actual expenses in the following accounting period. We found that SRAA's cost-allocation plan for fiscal year 2019 was based on actual costs from fiscal year 2016. However, SRAA did not reconcile the allocated costs to the actual expenses. We could not determine the exact financial impact because

[19] Syracuse Hancock International Airport, Palm Springs International Airport, Shreveport Regional Airport, Phoenix Sky Harbor International Airport, and Dallas Love Field Airport.
[20] Revenue Use Policy, 2014.

the City did not provide SRAA with backup documentation for the costs allocated to SYR for 2019.

- **State Police Lease Agreement.** SYR has a police station on its premises, and a lease agreement allows the State police to provide in-kind services in lieu of rental payments to SRAA.[21] However, in 2014, ACO was unable to identify these in-kind services and recommended that SRAA develop a recordkeeping system. However, SRAA still had limited evidence to show that the recommendation had been implemented during our review. Airport officials indicated that this likely resulted from change in leadership and misunderstanding among the remaining personnel.
- **Air Carrier Incentive Program** allows airports to increase traffic by waiving or reducing landing fees, rental fees, or fuel flowage fees, in addition to other incentives. FAA recommends that airport sponsors pay any related marketing and advertising costs directly to the service provider because it reduces the risk that the sponsor will provide a direct air carrier subsidy and gives the sponsor greater control. However, FAA found that SRAA directly paid $75,000 in marketing assistance to an airline to promote a new route. We also determined that SRAA reimbursed more than $21,000 in 2019 to an airline for marketing and promotional activities. SYR officials informed us that this occurred because prior management lacked necessary financial controls.

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[21] These in-kind services include: (1) assist the Department of Aviation upon request from the mayor or appropriate City official; (2) meeting with the Commissioner of Aviation four times a year; (3) assist in the event of an air disaster; (4) assist in the event of a hijacking incident; (5) perimeter security by the State Police helicopter; and (6) K-9 support as requested.

Exhibit E. Major Contributors to This Report

MARSHALL JACKSON	PROGRAM DIRECTOR
DOMINIQUE LIPSCOMB	PROJECT MANAGER
DERRICKA BROADEN	PROJECT MANAGER
MARIA DOWDS	SENIOR AUDITOR
KAZI HASSAN	SENIOR ANALYST
JANE LUSAKA	SENIOR WRITER-EDITOR
MORGAN ATHERTON	WRITER-EDITOR
CHELSEA ARTLANTICO	LEGAL COUNSEL
CELESTE VERCHOTA	LEGAL COUNSEL
SHAWN SALES	SUPERVISORY VISUAL COMMUNICATIONS SPECIALIST
GEORGE ZIPF	SUPERVISORY MATHEMATICAL STATISTICIAN

Appendix. Agency Comments

Federal Aviation Administration

Memorandum

Date: November 21, 2023

To: Nelda Z. Smith, Assistant Inspector General for Aviation Audits

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1

ERIKA S VINCENT

Digitally signed by ERIKA S VINCENT
Date: 2023.11.21 14:21:06 -05'00'

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

The Federal Aviation Administration's (FAA) Airport Compliance Program ensures airport sponsors comply with the Federal obligations they assume when they accept Federal grant funds or transfer Federal property for airport purposes. The program serves to protect the public interest in civil aviation and ensure compliance with applicable Federal laws, FAA rules, and policies. In 2014, FAA required state and local governments to submit an action plan to FAA by December 8, 2017, to comply with FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628). Over the past nine years, FAA reviewed 193 action plans that outline the taxing jurisdictions' processes to amend any non-compliant laws and restructure general revenues, how the aviation fuel tax revenue would be dedicated to airports and/or State aviation programs, and a commitment to undertake the legislative process. FAA is committed to working with state and local governments to ensure compliance with the Amendment.

Upon review of OIG's draft report, FAA concurs with all three recommendations as written. We plan to implement recommendation 1 by December 31, 2023, and recommendations 2 and 3 by December 31, 2024.

We appreciate this opportunity to respond to the OIG draft report. Please contact Erika Vincent at Erika.Vincent@faa.gov if you have any questions or require additional information about these comments.

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Office of Inspector General

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Washington, DC 20590
www.oig.dot.gov

From: Richart, Ann
Sent: Thu, 19 Mar 2026 17:04:37 +0000
To: Cotton, Megan (GOV)
Cc: Armstrong, Kate (DOR); Perschbacher, Beau (GOV); Ewing, Steve (DOR); Woehler, Kerri; Hansen, Erik (OFM); Martine, Renee (OFM); Breaux, Steven; Woehler, Kerri
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline
Attachments: Final Report - Airport Revenue Diversion - AV2024010 - 508 compliant.pdf

Megan –

- There has not been any additional effort taken by WSDOT to collect the additional information about aviation projects funded outside of the Aeronautics Account. This was at the direction of OFM. However, it should be noted that, to date, Washington State's total aviation fuel tax liability is approximately $210 million. If we verify all the of the expenses that FAA has asked for clarification on and they all prove to be allowable expenses, we have still only "offset" a total of $32,560,000. So the bottom line is that even with the best possible responses to FAA questions they will still find Washington State in non-compliance. I would recommend that this would be an opportunity to offer FAA a proactive approach to resolving this issue rather than just answering their questions.

- Here is a citation from the Federal Register Vol. 64 No. 30 2/16/1999 listing the federal regulations relating to state aviation fuel taxes:

  > The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (December 30, 1987), narrowed the permitted uses of airport revenues to nonairport facilities that are ''substantially'' as well as directly related to actual air transportation; required local taxes on aviation fuel enacted after December 30, 1987, to be spent on the airport or, in the case of state taxes on aviation fuel, state aviation programs or noise mitigation on or off the airport; and slightly modified the grandfather provision. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered subject to the revenue-use requirements in 49 U.S.C. 47107 (b) and 47133. However, revenues from a State tax on aviation fuel may be used to support a State aviation program, and airport revenues may be used on or off the airport for a noise mitigation purpose.

  I will note these regulations are very vague as to the allowable uses of state aviation fuel tax revenues. Currently FAA is interpreting this to mean that state aviation fuel taxes may only be used on airport infrastructure projects. I believe that Washington could make some solid arguments about "state aviation programs". I also believe that FAA may be open to discussing interpretations if they believe that Washington is attempting to come into compliance. The use of state funds on the development of Sustainable Aviation Fuel was a proposal that the Legislature made during the 2026 session that I feel would be a compliant State Aviation Program. FAA has said that this use isn't compliant but I think this and similar uses should be further explored.

I've attached a copy of the Inspector General's report on this issue. This report to the FAA is what triggered the audit that we are currently involved in. This report is very accessible and provides some good background and information on the topic.

Ann

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550
https://www.youtube.com/watch?v=EvbOmaJpwVE&pp=ygUWc3RhdGUgYXZpYXRpb24gam91cm5hbA%3D%3D

From: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>
Sent: Thursday, March 19, 2026 8:30 AM
To: Richart, Ann <ann.richart@wsdot.wa.gov>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>; Martine, Renee (OFM) <renee.martine@ofm.wa.gov>; Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: RE: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Hi Ann,

We're digging into this issue, and I have a few follow up questions for you:

- The FAA October letter outlined expenditures they requested additional information. Has there been any coordination with the relevant agencies to collect the additional information requested? If so, is that information compiled?

- Can you please send me the relevant statutes that outline what activities are considered eligible by the FAA?

Best,

Megan Cotton (she/her)
Senior Policy Advisor - Transportation
Cell: 360.890.0743
www.governor.wa.gov | megan.cotton@gov.wa.gov

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BOB FERGUSON

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From: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 1:02 PM
To: Cotton, Megan (GOV) <Megan.Cotton@GOV.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>
Cc: Armstrong, Kate (DOR) <KateA@DOR.WA.GOV>; Perschbacher, Beau (GOV) <Beau.Perschbacher@GOV.wa.gov>; Ewing, Steve (DOR) <SteveE2@DOR.WA.GOV>; Woehler, Kerri <kerri.woehler@wsdot.wa.gov>; Richart, Ann <ann.richart@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

External Email

Erik and Megan,

Please see the attached letter from the FAA to Secretary Meredith and Acting DOR Director Ryser regarding 'FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal Revenue Use Requirements,' which notes that if "*the FAA does not receive the requested information within 10 days of receipt of this letter, the Department* [USDOT/FAA] *will proceed with appropriate compliance and enforcement actions*."

WSDOT Aviation Director Ann Richart, M2D2 Assistant Secretary Kerri Woehler, and I would appreciate guidance since WSDOT does not have the ability to provide the requested information.

SPB

STEVEN P. BREAUX (he/him/his)
Director of Legislative Relations
Washington State Department of Transportation
Steven.Breaux@wsdot.wa.gov

From: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 12:15 PM
To: Breaux, Steven <steven.breaux@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Kerri Woehler *(she/her)*
Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation

360.480.1962

From: Richart, Ann <ann.richart@wsdot.wa.gov>
Sent: Tuesday, March 17, 2026 9:02 AM
To: Woehler, Kerri <kerri.woehler@wsdot.wa.gov>
Subject: FW: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

FYI

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Tuesday, March 17, 2026 8:03 AM
To: Ryser, John (DOR) <JohnR@DOR.WA.GOV>; Meredith, Julie <julie.meredith@wsdot.wa.gov>
Cc: Richart, Ann <ann.richart@wsdot.wa.gov>; 9-ARP-Airport-Financial-Review (FAA) <FinancialCompliance@faa.gov>; Athavale, Jyoti (FAA) <Jyoti.Athavale@faa.gov>; Glenn, Scott F (FAA) <Scott.F.Glenn@faa.gov>; Helvey, Michael (FAA) <michael.helvey@faa.gov>
Subject: [EXTERNAL] Washington State Letter - Missed 2/18/26 Deadline

Please see the FAA Review of Washington State Aviation Fuel Taxes and Compliance with Federal
Revenue Use Requirements.

v/r

Danielle Hinnant
Executive Assistant
Office of Airport Compliance (ACO)
U.S. Department of Transportation
danielle.s-ctr.hinnant@faa.gov

OFFICE OF INSPECTOR GENERAL
U.S. DEPARTMENT OF TRANSPORTATION

FAA

Report AV2024010
December 13, 2023

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

Self-initiated

Federal Aviation Administration | AV2024010 | December 13, 2023

What We Looked At

Since 2014, the Federal Aviation Administration's (FAA) Airport Improvement Program has obligated more than $3.18 billion to eligible airports each fiscal year for airport development and planning. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) to define airport revenue and identify permitted and prohibited uses of that revenue. FAA amended this policy in 2014 to address revenue use for aviation fuel taxes. Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

What We Found

Since amending its Revenue Use Policy, FAA has made progress confirming whether State and local Government laws comply with the amendments. However, the Agency has not yet tested or validated if the compliant jurisdictions use the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. In addition, the Agency has not taken enforcement actions against the five jurisdictions that are not yet in compliance with the amendments. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance that encouraged the Agency to postpone enforcement. By potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Our Recommendations

We made three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion. FAA concurred with our recommendations and provided appropriate actions and completion dates. We consider all recommendations resolved but open pending completion of the planned actions.

Contents

Memorandum

Date: December 13, 2023

Subject: ACTION: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement | Report No. AV2024010

From: Nelda Z. Smith
Assistant Inspector General for Aviation Audits

To: Federal Aviation Administrator

The Federal Aviation Administration (FAA) supports the Nation's aviation needs by providing Federal assistance through grants-in-aid to airports around the country. Since 2014, FAA's Airport Improvement Program (AIP) has obligated more than $3.18 billion to eligible airports[1] each fiscal year for airport development, planning, and noise compatibility programs. As a condition of receiving these funds, grantees are bound by the Airport and Airway Improvement Act of 1982 (AAIA), as amended, which imposes restrictions on how airport sponsors (i.e., airport operators) may use their revenue.[2] Generally, airports can only use revenue for the capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy),[3] which defined airport revenue and identified permitted and prohibited uses of that revenue. FAA amended this policy in November 2014 to address revenue use

[1] Eligible airports are public-use airports that contribute to the needs of civil aviation, national defense, and the Postal Service. They must be published in FAA's National Plan of Integrated Airport Systems.
[2] 49 U.S. Code (U.S.C.) § 47107(b)(1).
[3] 64 Fed. Reg. 7696 (February 16, 1999).

for aviation fuel taxes (Amendment).[4] Any other use inconsistent with this policy is considered unlawful revenue diversion.[5]

Previous Office of Inspector General (OIG) audits have identified weaknesses in FAA's oversight of airport sponsors, which did not prevent or detect charges for services that were not provided to airports, indirect costs improperly allocated to airports, and payments of less than fair market rent for use of airport property. For example, our audit of Los Angeles World Airports identified $7.87 million in unsupported charges.[6] Another OIG audit found $40.9 million in potential revenue diversions at five airports due to ineligible payments to airport sponsors and other organizations.[7]

Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Marshall Jackson, Program Director.

cc: The Secretary
DOT Audit Liaison, M-1
FAA Audit Liaison, AAE-001

[4] 79 Fed. Reg. 66282-88 (November 7, 2014).

[5] A "grandfather" provision (called "lawful revenue diversion") permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws that existed before September 2, 1982, allowed such use on a limited basis. Our audit scope does not include grandfathered airports, which we examined in *FAA Needs To More Accurately Account for Airport Sponsors' Grandfathered Payments* (OIG Report No. AV2018041), April 17, 2018. There are 9 grandfathered airport sponsors that own or operate over 30 airports. OIG reports are available on our website: www.oig.dot.gov.

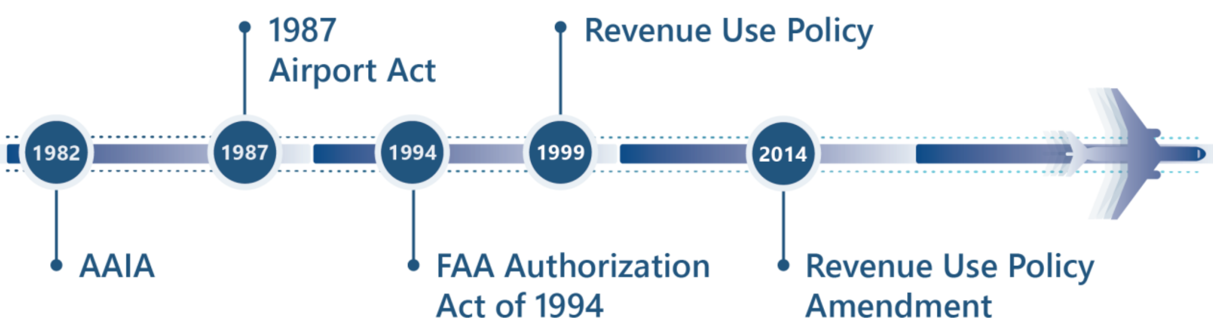
[6] *FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources* (OIG Report No. AV2014035), April 8, 2014.

[7] *Oversight of Airport Revenue* (OIG Report No. AV2003030), March 20, 2003.

Background

A number of Federal laws and FAA policies govern use of airport revenue, including taxes on aviation fuel. See the figure below for a timeline of airport revenue-related laws.

Figure. Timeline of Revenue Protection Laws



Source: OIG analysis

The AAIA[8] generally requires airport sponsors receiving Federal assistance to use airport revenue for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator. These facilities must be directly and substantially related to the actual air transportation of passengers or property or for noise mitigation purposes.

To further bolster AAIA's provisions, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act)[9] and the FAA Authorization Act of 1994.[10] The 1987 Airport Act imposed further restrictions on airport revenue use to include any local taxes on aviation fuel in effect after December 30, 1987. State and local aviation fuel taxes may only be used to support a State aviation program, noise mitigation purposes, and land disposal funds for certain airport lands, including airport noise compatibility.[11]

In 1999, as required by the FAA Authorization Act of 1994, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use

[8] Pub. L. No. 97-248 (September 3, 1982), codified at 49 U.S.C. § 47107.
[9] Pub. L. No. 100-223 (December 30, 1987), codified at 49 U.S.C. § 47133.
[10] Pub. L. No. 103-305 (August 23, 1994).
[11] 49 U.S.C. § 47133(b). However, there are some exceptions. For example, grandfathered airports may use airport revenue for otherwise impermissible expenditures—i.e., nonoperating or noncapital uses.

Policy).[12] The policy describes prohibited and permitted uses of airport revenue and outlines FAA's enforcement policies and procedures. Examples of prohibited uses of airport revenue are using airport revenues for general economic development, marketing and promotional activities unrelated to airports or airport systems, and direct or indirect payments that exceed the fair and reasonable value of services and facilities provided to the airport. The Revenue Use Policy also requires recordkeeping and reporting requirements for the use of airport revenue and that an airport sponsor maintain a self-sustaining rate structure to the extent possible.

In 2014, FAA amended the Revenue Use Policy to clarify requirements for the use of proceeds from State and local taxes on aviation fuel. The amended policy (Amendment) generally requires grantees to use all proceeds from new and existing taxes that did not qualify for grandfathering from revenue use requirements on State aviation programs or for airport-related purposes. Recognizing that many States, territories, and localities might encounter challenges meeting the requirements of the Amendment, FAA gave them a 3-year grace period, until December 8, 2017, to comply. In addition, direction in the Senate Transportation, and Housing and Urban Development Committee's report accompanying the FAA appropriation bill for fiscal year 2018 encouraged FAA to postpone enforcement of the Amendment's requirements.[13] Similarly, in fiscal year 2020, the committee encouraged the Secretary to continue working with State and local governments to develop a path forward for obtaining full compliance with the Amendment.[14] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

State and local Government taxes on aviation fuel sales can be imposed by either an airport sponsor or a non-sponsor. However, only an airport sponsor or Block Grant State[15] under the AIP provides assurance that revenues from aviation fuel taxes will be used as required by Federal regulations. For taxes imposed by non-sponsor State and local governments, FAA expects airport sponsors to inform these entities of Federal requirements on the use of aviation fuel tax revenue and to take action. FAA also expects sponsors to use their influence to

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[12] 64 Fed. Reg. 7696 (Feb. 16, 1999), amended by Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel, 79 Fed. Reg. 66282, (November 7, 2014).
[13] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2018 (S. 1655), S. Rep. No. 115-138, p. 48 (July 27, 2017).
[14] Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2020, p. 44 (S. 2520), S. Rep. No. 116-109 (Sept. 19, 2019).
[15] A Block Grant State receives AIP funds directly from FAA to fund certain State aeronautical agencies. As part of the State Block Grant Program these States agree to assume certain responsibilities related to administering the AIP that are otherwise performed by FAA (including project prioritization and selection), and to provide grants to smaller airports.

shape State and non-sponsor local taxation to conform to these Federal laws. In the Amendment, FAA clarified that if a non-sponsor State or local Government adopts a noncompliant tax, FAA would not take enforcement action against the airport sponsor because the sponsor is not responsible for the noncompliance. FAA reiterated that it would pursue enforcement action against a non-sponsor State or local Government that violates the Revenue Use Policy or Federal regulations. FAA's Office of Airport Compliance and Management Analysis (ACO) is responsible for ensuring that airport sponsors do not violate the Agency's amended Revenue Use Policy or other Federal revenue-use requirements. ACO comprises two groups:

- **Financial Management Analysis Group.** Enforces statutory requirements of airport revenue use at commercial service airports, oversees single audit resolution, and performs mandated revenue reviews.
- **Airport Compliance Program.** Interprets, recommends, and develops policies for, and resolves matters that involve, airport sponsors' Federal obligations. The office also adjudicates formal complaints and FAA-initiated investigations[16] and monitors airport sponsor compliance with limits on the use of airport revenue.

To assess airport adherence to the Revenue Use Policy, ACO targets conducting financial compliance reviews of four airports a year, which are identified through formal or informal complaints, hotline tips, and industry recommendations. Any airports that are not reviewed are considered for selection in future years. During site visits, ACO reviewers meet with the airport's leadership team, hold interviews with appropriate staff, examine requested documentation, and tour the airport's facilities. Then ACO drafts a report with its findings and recommendations. Once ACO resolves all recommendations and airport sponsors implement corrective action items, the final report is disseminated to the airport sponsor and made available to the general public. Since 2005, ACO has conducted 32 financial compliance reviews and identified more than $100 million in unlawful revenue diversion.

[16] See Rules of Practice for Federally Assisted Airport Enforcement Proceedings, 14 Code of Federal Regulations (C.F.R.) Part 16.

Results in Brief

FAA has made progress implementing an amendment to its Revenue Use Policy but does not have a plan to verify or enforce compliance.

Since amending its Revenue Use Policy in 2014 to explicitly include aviation fuel tax requirements, FAA has made progress confirming whether State and local Government laws comply with the amendments. Specifically, FAA has determined that 115 of 193 State and local jurisdictions have compliant laws, and that the remaining 78 jurisdictions are non-compliant, which FAA terms "qualified." However, the Agency has not yet tested or validated if the compliant jurisdictions are using the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. According to FAA officials, testing and validation have not occurred because the Agency is currently focused on working with remaining jurisdictions to align State and local laws with the Amendment. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. For example, we could not verify the Agency's compliance determinations for 10 States and 1 territory we reviewed because FAA lacks an effective document control system. Lack of documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance with the amended Revenue Use Policy. Almost 6 years after FAA's December 8, 2017, deadline, five qualified jurisdictions—California, Kentucky, Nevada, Tennessee, and Guam—have not complied with the Amendment. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. In the meantime, by potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

We are making three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion.

FAA Has Made Progress Implementing an Amendment to its Revenue Use Policy but Does Not Have a Plan To Verify or Enforce Compliance

While FAA has made progress confirming whether State and local Government laws align with the 2014 amendments to its Revenue Use Policy, the Agency has not tested or validated if jurisdictions are using the proceeds from aviation fuel tax according to the jurisdictions' approved action plan. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance.

FAA Reviewed State and Local Laws for Alignment With Its Policy but Lacks a Plan for Testing Compliance

FAA has determined that 115 jurisdictions—State and local governments—are compliant and 78 jurisdictions are qualified with the amended Revenue Use Policy. We focused our review on State governments and U.S. territories only. According to FAA, as of May 2023, 46 States and 4 U.S. territories are in compliance with the Amendment. These jurisdictions consist of airport sponsors and non-sponsors. To verify compliance, FAA required State and local governments to submit action plans detailing their processes for administrating aviation fuel taxes. Each action plan had to include the following information:

1. The process to amend any noncompliant laws to conform to Federal law on use of aviation fuel tax revenues, and restructure general revenues to adapt to the dedication of aviation fuel tax revenue to airports and State aviation programs;

2. A commitment to undertake the legislative process; and

3. The process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenue; confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal or exceeding the amounts collected as aviation fuel taxes; and the requirements to ensure the appropriations are implemented and are enforceable by State or local agencies.

We assessed FAA's compliance determinations by reviewing the action plans and corresponding documents submitted by State governments and U.S. territories. We did not identify any material issues with FAA's reviews of 36 States and 3 territories. However, we could not verify the Agency's compliance determinations for 10 States and 1 territory because FAA lacks an effective document control system as required by Federal Internal Control Standards.[17] Specifically, we identified the following issues:

- FAA only provided one document each for Alaska, Idaho, and American Samoa, which did not provide sufficient information for evaluating compliance. The document for each jurisdiction is missing details on aviation fuel tax rates, legislation establishing each tax rate or any changes to tax rates, and financial documentation showing that aviation fuel tax revenue was used as intended. Idaho was the exception, as its documentation did include aviation fuel tax rates.
- FAA did not provide pertinent correspondence to and from the State that would provide an understanding of how the Agency determined compliance for Mississippi, New Hampshire, North Dakota, Ohio, Oregon, Washington, and Vermont.
- FAA did not save or archive the initial action plan and supplemental response(s) for the State of Nebraska, although the documents are referenced in the Agency's correspondence to the State.

FAA also did not provide compliance letters for any of these 11 jurisdictions. Such letters are meant to capture the key aviation fuel tax facts that FAA reviewed to determine compliance. Letters were also missing for 16 States where we did not identify any material issues with FAA's review. Agency officials stated that they did not provide compliance letters at the beginning of their review process; rather, they updated the FAA website to reflect the compliance status. However, based on our review, FAA has not retroactively issued compliance letters. According to FAA, the Agency will issue compliance letters to jurisdictions that have not received letters by December 31, 2023. The lack of letters and above-mentioned documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment since these documents serve as records of the Agency's compliance determination.

Although FAA has confirmed that State and local laws align with the Amendment, FAA has not validated if jurisdictions are following the law through testing. According to FAA officials, this is because the Agency is currently focused on obtaining compliance from qualified jurisdictions and has not been authorized to begin enforcement action for the Amendment. Moreover, according to Agency

[17] *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

officials, testing and validation have not occurred due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. Without testing the jurisdictions' approved action plans for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations.

Four States and One U.S. Territory Are Not in Compliance With the Amended Revenue Use Policy

Almost 6 years after FAA's December 8, 2017, deadline to comply with the amended Revenue Use Policy, four States and one territory remain qualified[18] with the Amendment. Furthermore, FAA has not taken enforcement action or explained the steps it will take to move the qualified jurisdictions into compliance—even though the Revenue Use Policy outlines FAA's enforcement policies and procedures. According to Agency officials, this is due to congressional guidance in the committee reports accompanying FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement.

According to FAA, the following jurisdictions are not in compliance with the Revenue Use Policy amendment. We verified the following information from FAA by reviewing actions plans, tax legislation, and correspondence between FAA and these jurisdictions.

- **California (Non-Sponsor)** continues to divert revenue for nonairport purposes. In 2019, after FAA's repeated inquiries, the California Department of Finance submitted an action plan that identified annual tax proceeds estimated at $55 million over the next 5 years to be spent on transportation projects. State officials note that these proceeds will provide direct benefits to California's airport system, and they plan to use them as offsets against the aviation fuel tax proceeds. However, the State did not submit documentation of the actual proceeds collected from aviation fuel taxes from fiscal year 2017 to present. Moreover, the State has not given FAA a breakdown of aviation fuel tax receipts collected by local jurisdictions and airport sponsors within California.

[18] FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

- **Kentucky (Non-Sponsor)** is maintaining a grandfather exemption from the Amendment because its tax legislation was enacted on or before December 30, 1987. However, the State increased its tax rate from 5 to 6 percent in 1990, after the grandfathering date. Kentucky has not given FAA any documentation about how it is using the proceeds from the 1 percent increase.

- **Nevada (Non-Sponsor)** has not responded to FAA's inquiries sent in 2017 and 2019 for clarification on issues the Agency found in the State's action plan. The last documented correspondence from the State is dated February 19, 2016. As a result, FAA cannot determine whether the excise tax or the county option tax on aviation fuel can be considered as grandfathered.

- **Tennessee (Block Grant State)** officials note that the State's business tax is a gross receipt tax on the privilege of doing business in Tennessee and is not specific to the sale, storage, or use of aviation fuel. Tennessee officials also state that the Amendment should not apply to its Environmental Assurance Fee because it is a fee rather than a tax. FAA has requested further information from the State but has not received a response.

- **Guam (Sponsor)** is maintaining a grandfather exemption from compliance with the Amendment because its tax legislation was enacted on or before December 30, 1987. The territory did not give FAA further details about its grandfathering status and recently notified the Agency that it had increased its excise tax rate on aviation fuel on January 1, 2018. Guam used the proceeds from this increase, which resulted in approximately $5.17 million in revenue, for non-aviation related purposes. The territory has asked FAA to forgive its decision not to use the tax increase proceeds as required and stated the territory would comply with the Amendment by October 2021. However, Guam remains in a qualified status although its aviation fuel tax rate increase became effective 2 years after the territory submitted its action plan to FAA.

By potentially diverting aviation fuel tax revenue to non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

Other Matters

In addressing our audit objective, we initially planned to determine if airport sponsors had diverted other revenue in addition to fuel taxes from commercial

service airports. During this audit, we visited the Syracuse Hancock International Airport (SYR), where we interviewed Syracuse Regional Airport Authority (SRAA) senior officials and conducted a review of SYR for compliance with the Revenue Use Policy for fiscal year 2019. During our review, we identified recurring issues that FAA had reported in a 2014 compliance review of SRAA (see exhibit D). We subsequently reduced our commercial airport selection to just SYR due to time constraints, the volume of data, and other potential obstacles, such as data format and staff turnover at airports. Based on these considerations, we re-focused our work on aviation fuel tax requirements.

Conclusion

FAA provides billions of taxpayer dollars in Federal grants to ensure that U.S. airports remain self-sufficient and can invest in their own infrastructure. A key component for airports to stay self-sufficient is the revenue they collect, such as fuel taxes. Thus, airport revenue diversion diminishes the effectiveness and achievement of objectives of these Federal grants. While FAA has been working with jurisdictions to align State and local laws with the Amendment on aviation fuel tax revenue as directed by Congress, the Agency lacks a plan to test aviation fuel tax plans from compliant jurisdictions and enforce compliance in qualified jurisdictions. As a result, FAA is not well positioned to promote effective stewardship of the taxpayer dollars that were meant to support the Nation's airports.

Recommendations

To improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion, we recommend that the Federal Aviation Administrator:

1. Issue compliance letters to jurisdictions that FAA has determined to be in compliance with the Amendment to *Policy and Procedures Concerning the Use of Airport Revenue* (Amendment) but that have not received official notification of compliance.
2. Develop and implement a testing plan to assess whether jurisdictions are following FAA's requirements for compliance with the Amendment to the Revenue Use Policy.
3. Establish a plan of action to bring California, Kentucky, Nevada, Tennessee, and Guam into compliance with the Amendment to the Revenue Use Policy.

Agency Comments and OIG Response

We provided FAA with our draft report on October 23, 2023, and received its formal response on November 21, 2023. FAA's response is included as an appendix to this report. FAA concurred with all three of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of the planned actions.

Exhibit A. Scope and Methodology

This performance audit was conducted between June 2022 and October 2023. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion, we reviewed applicable laws, regulations, and FAA policies and procedures such as FAA's *Policy and Procedures Concerning the Use of Airport Revenue* and *Proceeds From Taxes on Aviation Fuel*. We also reviewed the following FAA guidance: Airport Compliance Manual (5190.6B Change 1), Guide for Airport Financial Reports Filed by Airport Sponsors (150/5100-19D), and Compliance Guidance Letters. Further, we obtained publicly available data about airports that diverted revenue in the past and reviewed articles on occurrences of airport revenue diversion. We also interviewed representatives from FAA's ACO, FAA's New York Airports District Office and Eastern Regional Office, and the following aviation industry trade organizations: Airlines for America, Aircraft Owners & Pilot Association, Airports Council International North America, International Air Transport Association, National Air Transportation Association, and American Association of Airport Executives.

To determine how FAA assessed compliance with aviation fuel tax revenue requirements, we reviewed action plans, correspondence, financial documentation, tax legislation, and FAA compliance letter for 46 States and 4 U.S. territories. We also reviewed actions plans, correspondence, and tax legislation for four States and one territory that have yet to comply with Federal aviation fuel tax requirements. We communicated with FAA officials from ACO to determine the Agency's plan for testing jurisdictions' approved action plans for using aviation fuel taxes and taking enforcement action for jurisdictions that have not complied with Federal aviation fuel tax requirements.

Exhibit B. Organizations Visited or Contacted

Department of Transportation

FAA Headquarters

FAA Eastern Region Office

Airport/Airport Sponsor

Syracuse Hancock International Airport, NY

Syracuse Regional Airport Authority, NY

Other Organizations

Aircraft Owners and Pilots Association

Airlines for America

Airports Council International – North America

American Association of Airport Executives

International Air Transport Association

National Air Transportation Association

Exhibit C. List of Acronyms

AAIA	Airport and Airways Improvement Act of 1982
ACO	Airport Compliance and Management Analysis
AIP	Airport Improvement Program
DOT	Department of Transportation
FAA	Federal Aviation Administration
OIG	Office of Inspector General
PILOTS	Payments in Lieu of Taxes
SRAA	Syracuse Regional Airport Authority
SYR	Syracuse Hancock International Airport

Exhibit D. Review of Syracuse Regional Airport Authority for Compliance With the Revenue Use Policy: Summary of Findings

To conduct our work, we developed a universe of high-risk airport sponsors—based on historical data, prior audit results, annual financial reports, and recommendations from FAA and industry officials—and identified five commercial service airports[19] to review that were at the highest risk of diverting revenues. We initially visited SYR where we reconciled the SRAA's trial balance to its audited financial statements and judgmentally selected financial transactions for testing to determine whether airport-generated revenues were used in accordance with Federal regulations. Our review found that SYR did not adhere to the Revenue Use Policy's requirements for the disbursement of airport funds in four areas: ineligible payments in lieu of taxes (PILOTS), periodic adjustments to cost-allocation plans, little or no documentation for replacing facility rental payments with in-kind services, and payment of marketing costs to airlines instead of the direct service providers. These areas are described in further detail below.

- **PILOTS** help local governments perform vital services—firefighting and police protection, construction of public schools and roads, and search-and-rescue operations, etc.,— but cannot exceed the value of services.[20] While three of SYR's PILOT payments concluded in 2012, SYR continued to make payments totaling more than $35,000 to local taxing jurisdictions between 2012 and 2019.
- **Cost-Allocation Plan**. Currently operated by the SRAA, SYR was previously overseen by the City of Syracuse (City). A cost-allocation plan drafted during the transition period detailed how administrative services should be divided between the City and SRAA. The Revenue Use Policy states that airport sponsors should adjust cost-allocation plans to reflect changes to allowable actual expenses in the following accounting period. We found that SRAA's cost-allocation plan for fiscal year 2019 was based on actual costs from fiscal year 2016. However, SRAA did not reconcile the allocated costs to the actual expenses. We could not determine the exact financial impact because

[19] Syracuse Hancock International Airport, Palm Springs International Airport, Shreveport Regional Airport, Phoenix Sky Harbor International Airport, and Dallas Love Field Airport.
[20] Revenue Use Policy, 2014.

the City did not provide SRAA with backup documentation for the costs allocated to SYR for 2019.

- **State Police Lease Agreement.** SYR has a police station on its premises, and a lease agreement allows the State police to provide in-kind services in lieu of rental payments to SRAA.[21] However, in 2014, ACO was unable to identify these in-kind services and recommended that SRAA develop a recordkeeping system. However, SRAA still had limited evidence to show that the recommendation had been implemented during our review. Airport officials indicated that this likely resulted from change in leadership and misunderstanding among the remaining personnel.

- **Air Carrier Incentive Program** allows airports to increase traffic by waiving or reducing landing fees, rental fees, or fuel flowage fees, in addition to other incentives. FAA recommends that airport sponsors pay any related marketing and advertising costs directly to the service provider because it reduces the risk that the sponsor will provide a direct air carrier subsidy and gives the sponsor greater control. However, FAA found that SRAA directly paid $75,000 in marketing assistance to an airline to promote a new route. We also determined that SRAA reimbursed more than $21,000 in 2019 to an airline for marketing and promotional activities. SYR officials informed us that this occurred because prior management lacked necessary financial controls.

[21] These in-kind services include: (1) assist the Department of Aviation upon request from the mayor or appropriate City official; (2) meeting with the Commissioner of Aviation four times a year; (3) assist in the event of an air disaster; (4) assist in the event of a hijacking incident; (5) perimeter security by the State Police helicopter; and (6) K-9 support as requested.

Exhibit E. Major Contributors to This Report

MARSHALL JACKSON	PROGRAM DIRECTOR
DOMINIQUE LIPSCOMB	PROJECT MANAGER
DERRICKA BROADEN	PROJECT MANAGER
MARIA DOWDS	SENIOR AUDITOR
KAZI HASSAN	SENIOR ANALYST
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MORGAN ATHERTON	WRITER-EDITOR
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CELESTE VERCHOTA	LEGAL COUNSEL
SHAWN SALES	SUPERVISORY VISUAL COMMUNICATIONS SPECIALIST
GEORGE ZIPF	SUPERVISORY MATHEMATICAL STATISTICIAN

Appendix. Agency Comments

Federal Aviation Administration

Memorandum

Date: November 21, 2023

To: Nelda Z. Smith, Assistant Inspector General for Aviation Audits

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1

ERIKA S VINCENT

Digitally signed by ERIKA S VINCENT Date: 2023.11.21 14:21:06 -05'00'

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

The Federal Aviation Administration's (FAA) Airport Compliance Program ensures airport sponsors comply with the Federal obligations they assume when they accept Federal grant funds or transfer Federal property for airport purposes. The program serves to protect the public interest in civil aviation and ensure compliance with applicable Federal laws, FAA rules, and policies. In 2014, FAA required state and local governments to submit an action plan to FAA by December 8, 2017, to comply with FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628). Over the past nine years, FAA reviewed 193 action plans that outline the taxing jurisdictions' processes to amend any non-compliant laws and restructure general revenues, how the aviation fuel tax revenue would be dedicated to airports and/or State aviation programs, and a commitment to undertake the legislative process. FAA is committed to working with state and local governments to ensure compliance with the Amendment.

Upon review of OIG's draft report, FAA concurs with all three recommendations as written. We plan to implement recommendation 1 by December 31, 2023, and recommendations 2 and 3 by December 31, 2024.

We appreciate this opportunity to respond to the OIG draft report. Please contact Erika Vincent at Erika.Vincent@faa.gov if you have any questions or require additional information about these comments.

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Subject: RE: Washington State Department of Transportation (WDOT) - Aviation Fuel Tax
Attachments: 6 NOV 25 Response to FAA HQ deadline extension request.pdf

---

Please see attached request for an extension of time to respond to this request.

With appreciation,

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
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Subject: [EXTERNAL] Washington State Department of Transportation (WDOT) - Aviation Fuel Tax

Please see the attached WDOT Aviation Fuel Tax Action Plan.

v/r

Danielle S. Hinnant
Executive Assistant
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November 6, 2025

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

RE: Request for Extension to Provide Additional Information – Fuel Tax Compliance Review

Dear Director Helvey;

The State of Washington respectfully requests an extension to the 60-day deadline for submission of additional information related to your recent request concerning fuel tax compliance.

Due to the complexity of the data involved and the need to coordinate with multiple state agencies additional time is required to ensure that our response is complete and accurate. Changes in administrations both at the Federal and State levels have impacted personnel assignments since we last communicated about this issue over a year ago and we need to ensure that the appropriate personnel are adequately briefed.

For these reasons we respectfully request an additional 60 days beyond the current deadline to complete this process. The extension will allow us to provide FAA with a comprehensive and well-supported submission that reflects our ongoing commitment to full compliance and transparency.

We appreciate your consideration of this request and your continued partnership in advancing aviation in Washington State. Please let us know if you require any additional information.

Sincerely,

Ann B. Richart, AAE
Aviation Director

From: Richart, Ann
Sent: Thu, 6 Nov 2025 20:23:07 +0000
To: danielle.S-CTR.Hinnant@faa.gov; michael.helvey@faa.gov
Cc: jessica.sypniewski@faa.gov; Garrison, William (FAA); peter.doyle@faa.gov; Zulauf, Ryan C (FAA); Best, Aleta (FAA); Woehler, Kerri; Hansen, Erik (OFM); Hartwell, Jason (DOR); Coulson, Amber
Subject: RE: Washington State Department of Transportation (WDOT) - Aviation Fuel Tax
Attachments: 6 NOV 25 Response to FAA HQ deadline extension request.pdf

---

Please see attached request for an extension of time to respond to this request.

With appreciation,

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550

From: Hinnant, Danielle S-CTR (FAA) <Danielle.S-CTR.Hinnant@faa.gov>
Sent: Thursday, October 23, 2025 1:02 PM
To: Richart, Ann <ann.richart@wsdot.wa.gov>; Elizer, Marshall <marshall.elizer@wsdot.wa.gov>; Hansen, Erik (OFM) <Erik.Hansen@OFM.WA.GOV>; Hartwell, Jason (DOR) <JasonH@DOR.WA.GOV>; Coulson, Amber <amber.coulson@wsdot.wa.gov>; Stone, Grady (FAA) <grady.stone@faa.gov>; Garrison, William (FAA) <william.garrison@faa.gov>; Ferrell, Warren (FAA) <Warren.Ferrell@faa.gov>; Doyle, Peter (FAA) <Peter.Doyle@faa.gov>
Cc: Sypniewski, Jessica (FAA) <jessica.sypniewski@faa.gov>; Garrison, William (FAA) <william.garrison@faa.gov>; Doyle, Peter (FAA) <Peter.Doyle@faa.gov>
Subject: [EXTERNAL] Washington State Department of Transportation (WDOT) - Aviation Fuel Tax

Please see the attached WDOT Aviation Fuel Tax Action Plan.

v/r

Danielle S. Hinnant
Executive Assistant
Office of Airports Compliance Division (ACO)
Federal Aviation Administration
Washington, DC 20591

Washington State
Department of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
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Subject: [EXTERNAL] Washington State Department of Transportation (WDOT) - Aviation Fuel Tax

WARNING: This email originated from outside of WSDOT. Please use caution with links and attachments.

Please see the attached WDOT Aviation Fuel Tax Action Plan.

v/r

Danielle S. Hinnant
Executive Assistant
Office of Airports Compliance Division (ACO)
Federal Aviation Administration
Washington, DC 20591

Washington State Department of Transportation

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Please see the attached WDOT Aviation Fuel Tax Action Plan.

v/r

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Executive Assistant
Office of Airports Compliance Division (ACO)
Federal Aviation Administration
Washington, DC 20591

Washington State Department of Transportation

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Ann B. Richart, AAE
Aviation Director

From: Richart, Ann
Sent: Thu, 19 Feb 2026 23:56:47 +0000
To: Helvey, Michael (FAA)
Cc: scott.glenn@faa.gov; Garrison, William (FAA); Zulauf, Ryan C (FAA); Woehler, Kerri; Krutsinger, Allison
Subject: Washington State Aviation Fuel Tax Compliance Follow Up
Attachments: 19 FEB 26 Response to FAA.pdf

Director Helvey –

Attached please find a response to your request for further information from Washington State.

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550
https://www.youtube.com/watch?v=EvbOmaJpwVE&pp=ygUWc3RhdGUgYXZpYXRpb24gam91cm5hbA%3D%3D

Washington State
Department of Transportation

Aviation Division
PO Box 47312
Olympia, WA 98504
360-709-8015
www.wsdot.wa.gov

February 19, 2026

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Director Helvey;

The state of Washington appreciates your extension of time for us to respond to your questions about our preliminary response to your ongoing fuel tax compliance review. Unfortunately our response is not yet completed. We respectfully request additional time to provide a response. This issue has been elevated to the Office of Financial Management in Governor Ferguson's office.

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Washington State Department of Transportation

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Sincerely,

Ann B. Richart, AAE
Aviation Director

From: Richart, Ann
Sent: Fri, 27 Mar 2026 22:37:09 +0000
To: Helvey, Michael (FAA); scott.glenn@faa.gov
Cc: jyoti.athavale@faa.gov; FinancialCompliance@faa.gov; Ryser, John (DOR); Meredith, Julie
Subject: Washington State Response Letter
Attachments: 27 MAR 26 Response to FAA Meredith.pdf

Please see attached response to your recent correspondence from Washington State Secretary of Transportation.

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
(360) 529-6550

https://www.youtube.com/watch?v=EvbOmaJpwVE&pp=ygUWc3RhdGUgYXZpYXRpb24gam91cm5hbA%3D%3D

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March 27, 2026

Mr. Michael W. Helvey
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Director Helvey,

We are writing in response to your March, 17, 2026, letter. We understand the importance of your request for additional information, and we are committed to providing it no later than April 24, 2026.

As we noted in our last communication, to ensure we are providing you with the most accurate and up-to-date information possible, we needed to involve the Office of Financial Management, as well as the Governor's Office, and coordinate with multiple other state agencies. Due to relevant staff fulfilling duties related to a recently concluded legislative session and consequent limited capacity during the past few months, we regret that we are not able to provide the relevant information by the 10-day deadline established in your most recent communication. However, we do anticipate some significant updates we would like to share with you.

Since 2023, Washington State has taken steps to collect more granular aviation fuel tax information and can provide improved details on the tax collections mentioned in your October letter. In addition, we will provide updated information and more detail regarding the list of potential offsets appended to your October letter. We believe these additional materials—which, as noted, we will submit no later than four weeks from the date of this letter, by April 24, 2026—will demonstrate Washington State's efforts to ensure aviation fuel tax revenues are expended according to federal law. We will also provide an update on ongoing efforts involving both the state executive and legislative branches to resolve this issue.

Thank you,

Julie Meredith

Julie Meredith, PE
Secretary of Transportation

From: Richart, Ann
Sent: Fri, 27 Mar 2026 22:37:09 +0000
To: Helvey, Michael (FAA); scott.glenn@faa.gov
Cc: jyoti.athavale@faa.gov; FinancialCompliance@faa.gov; Ryser, John (DOR); Meredith, Julie
Subject: Washington State Response Letter
Attachments: 27 MAR 26 Response to FAA Meredith.pdf

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Washington State Department of Transportation
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