Chapter 173-455 WAC
AIR QUALITY FEE RULE

WAC 173-455-010 Overview. The purpose of this chapter is to consolidate most of the air quality related fees into one chapter. This will allow the regulated community easier access to applicable fees.

(1) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material to produce heat for the generation of electricity.

(2) "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

(3) "Weather modification and control" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

WAC 173-455-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter shall have the following meanings:

(1) "Air operating permit - Fees can be found in chapter 173-455-030, filed 5/3/07, effective 6/3/07.

WAC 173-455-030 Applicability. (1) The provisions of this chapter apply to air quality related activities regulated by the department of ecology.

(2) The solid fuel retail sales fee in WAC 173-455-060 and the weather modification fee in WAC 173-455-070 apply statewide. All other provisions of this chapter do not apply in counties regulated by a local air agency.

WAC 173-455-035 Fee requirement. All programs and services in this chapter require a fee. Unless otherwise stated, no approval of a permit or service for any activity covered in this chapter will be valid until the required fee is paid in full.

WAC 173-455-036 Fee increases. (1) Ecology may adjust fees for the registration program based on the cost of administering the registration program consistent with RCW 70.94.151(2), and WAC 173-455-039 and 173-455-040.

(2) Ecology may propose fee increases based on a workload analysis for increasing any of the following fees:

(a) Carbon dioxide mitigation program fees in WAC 173-455-050;
(b) Weather modification fees in WAC 173-455-070;
(c) Control technology fees in WAC 173-455-100;
(d) New source review fees in WAC 173-455-120;
(e) Air pollution standards variance fee in WAC 173-455-130; and
(f) Nonroad engine permit fee in WAC 173-455-140.

WAC 173-455-038 Fees not included. This chapter contains all fees required by the air quality program except the following:

(1) Air operating permit - Fees can be found in chapter 173-401 WAC.

(2) Agricultural burning - Fees can be found in chapter 173-430 WAC.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-020, filed 5/3/07, effective 6/3/07.]

WAC 173-455-040 Source registration fees. [Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-035, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-036, filed 11/30/12, effective 12/31/12.

WAC 173-455-050 Carbon dioxide mitigation program fees.

WAC 173-455-060 Solid fuel retail sales fee.

WAC 173-455-070 Weather modification fees.

WAC 173-455-100 Fees related to reasonably available control technology (RACT).

WAC 173-455-110 Registration fees for sources emitting gas vapors. [Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-110, filed 5/3/07, effective 6/3/07.] Repealed by WSR 12-24-051 (Order 11-07), filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-030, filed 5/3/07, effective 6/3/07.]

WAC 173-455-120 New source review fees.

WAC 173-455-130 Air pollution standards variance fee.

WAC 173-455-140 Nonroad engine permit fee.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-455-110 Registration fees for sources emitting gas vapors. [Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-110, filed 5/3/07, effective 6/3/07.] Repealed by WSR 12-24-051 (Order 11-07), filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-030, filed 5/3/07, effective 6/3/07.

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[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-020, filed 5/3/07, effective 6/3/07.]

WAC 173-455-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter shall have the following meanings:

(1) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material to produce heat for the generation of electricity.

(2) "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

(3) "Weather modification and control" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.
(3) Motor vehicle emission inspection - Fees can be found in chapter 173-422A WAC.

[Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-038, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-038, filed 5/3/07, effective 6/3/07.]

WAC 173-455-039 Source registration tiers. (1) A source loses its registration status when a registration fee has not been paid.

(2) Source registration tiers. For the purpose of assessing registration fees, ecology must assign sources required to register with ecology to one of six tiers based on emissions in Table 1 in (b) of this subsection.

(a) Ecology must use the following emissions inventory for each source:

(i) Emissions in an inventory include particulate matter 10 (PM$_{10}$), volatile organic compound (VOC), carbon monoxide (CO), nitrogen oxide (NOx) and sulfur dioxide (SO$_2$).

(ii) If emissions information is unavailable, ecology will use the enforceable emissions limitations for the source and/or will estimate emissions using the source's maximum capacities and production rates.

(b) Ecology must assign a source to a tier based on Table 1.

### Table 1

<table>
<thead>
<tr>
<th>Tier</th>
<th>Annual Emissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Source with annual emissions less than the tons per year in Tier 2.</td>
</tr>
<tr>
<td>2</td>
<td>Source with annual emissions between 0.01 and less than or equal to 10 tons per year.</td>
</tr>
<tr>
<td>3</td>
<td>Source with annual emissions greater than 10 and less than or equal to 20 tons per year.</td>
</tr>
<tr>
<td>4</td>
<td>Source with annual emissions greater than 20 and less than or equal to 70 tons per year.</td>
</tr>
<tr>
<td>5</td>
<td>Source with annual emissions greater than 70 tons per year.</td>
</tr>
<tr>
<td>6</td>
<td>Synthetic minor source (as defined in WAC 173-400-030) that emits or has the potential to emit at or above 80 percent of the threshold for a major source (as defined in WAC 173-401-200).</td>
</tr>
</tbody>
</table>

(3) Notice of tier placement.

(a) Draft tier placement. Ecology must notify a source of its draft tier placement by August 1st of the year before a new fee goes into effect, or every other year if ecology proposes a biennial budget.

(b) Ecology must provide electronic notice or notice by the United States postal service if ecology does not have an electronic address for a source or the source requests postal notice.

(c) Ecology must provide a sixty day comment period.

(d) Final tier assignment. Ecology must notify the source of the final tier placement by January 1st of the year when the new fee schedule goes into effect.

(4) Requesting reassignment to a different tier.

(a) A source may submit a request to ecology by September 30th for tier reassignment for the upcoming year if they believe they were assigned to the wrong tier. To request reassignment, the source must provide information sufficient to support a reassignment.

(b) By December 1st of each year or biennially if ecology proposes a two-year budget as provided by WAC 173-455-040 (4)(a)(iii), ecology must notify the source of the final tier determination.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-039, filed 10/25/18, effective 11/25/18.]

WAC 173-455-040 Source registration fees. (1) Registration fee. Each source required to register with ecology must pay an annual fee based on the source registration tier to which it is assigned in WAC 173-455-039.

(2) Source closure. A source that closes or shuts down temporarily must pay its registration fee to maintain active registration status.

(3) Registration fee schedule for years 2019, 2020, 2021. (a) Table 2 lists annual registration fees for 2019, 2020, and 2021.

### Table 2

<table>
<thead>
<tr>
<th>Tier</th>
<th>Fee 2019</th>
<th>Fee 2020</th>
<th>Fee 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$200</td>
<td>$200</td>
<td>$200</td>
</tr>
<tr>
<td>2</td>
<td>$400</td>
<td>$575</td>
<td>$700</td>
</tr>
<tr>
<td>3</td>
<td>$700</td>
<td>$1,000</td>
<td>$1,300</td>
</tr>
<tr>
<td>4</td>
<td>$1,100</td>
<td>$1,300</td>
<td>$1,500</td>
</tr>
<tr>
<td>5</td>
<td>$5,000</td>
<td>$5,500</td>
<td>$7,000</td>
</tr>
<tr>
<td>6</td>
<td>$7,000</td>
<td>$7,500</td>
<td>$8,000</td>
</tr>
</tbody>
</table>

(b) The registration fee for mint distilleries is $200 for 2019, 2020, and 2021. For 2022 and beyond, the registration fee for mint distilleries will be assessed according to their total emissions.

(4) Registration fee schedule for year 2022 and beyond.

(a) Fee schedule:

(i) Starting in 2022, ecology must prepare an annual budget that reflects the cost of the program;

(ii) Ecology must base the budget on the program costs for the previous twelve-month period consistent with RCW 70.94.151(2);

(iii) Ecology may choose to establish fees to cover registration program costs for a two-year period;

(iv) Ecology must compare the revenue from the previous year, or the previous two-year period if appropriate, to the upcoming draft budget. If increases of registration fees are necessary, ecology must evenly distribute the increased program cost as a percentage of the increased costs across all sources subject to the program.

(b) Public notice. Ecology must:

(i) Post the draft budget and draft registration fee schedule on ecology's web site by August 1st of the year before the fee schedule goes into effect.

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(10/25/18)

(ii) Provide a sixty-day public comment period on the draft budget and draft fee schedule.

(iii) Post the final budget and fee schedule on ecology's web site by December 1st of the year before the fee schedule goes into effect.

(5) Registration fees for gasoline dispensing facilities. Gasoline dispensing facilities subject to chapter 173-491 WAC must pay a yearly registration fee of one hundred thirty dollars for each storage tank dispensing gasoline.

(6) Fee reductions for economic hardship. If a small business owner, as defined in RCW 19.85.020(3), thinks the registration fee results in an extreme economic hardship, the small business owner or operator must provide sufficient evidence to support a claim of an extreme hardship. Ecology may reduce the registration fee by no more than fifty percent.

(7) Fee payments.

(a) The owner or operator of a source subject to fees in this section must pay those fees within ninety days of receipt of ecology's billing statement.

(b) Ecology may assess a late fee equal to three times the amount of the original fee owed against sources knowingly under-reporting emissions, or failing to pay registration fees by the ninety-first day after the receipt of ecology's billing statement. Failure to pay all or part of a registration fee may result in an enforcement action.

(c) The owner or operator may request to pay an ecology fee on a payment plan. Ecology will not apply a late fee for fees paid by a payment plan if a source meets two conditions:

(i) The owner or operator requests a payment plan within thirty days of the receipt of ecology's billing statement.

(ii) The owner or operator pays the fee on time as outlined in the payment plan.

(8) Fossil-fueled electric generating facilities must pay registration fees required in this section in addition to carbon dioxide mitigation program fees required in WAC 173-455-050 if the facility is not subject to chapter 173-401 WAC.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-050, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-040, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.1152, 70.94.1331, 70.94.1650, 70.94.1745, 70.94.1892. WSR 07-11-018 (Order 06-14), § 173-455-050, filed 5/3/07, effective 6/3/07.]

WAC 173-455-050 Carbon dioxide mitigation program fees. (1) Statutory authority. RCW 70.94.892 authorizes ecology to determine, assess, and collect fees sufficient to cover costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval for a facility. The order of approval must specify the costs necessary to monitor the source's conformance to the carbon dioxide mitigation plan.

(2) Fees. The table in this subsection lists the fees for the carbon dioxide mitigation program. These fees are added to the fees established in WAC 173-455-120, when the carbon dioxide mitigation plan requirements are triggered.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Application review</td>
<td>$95.00/hr.¹ not to exceed $500.00</td>
</tr>
</tbody>
</table>

¹Estimated using an EE3 per hour rate with a cap.
²Small fee primarily to check math and that the source is using an EFSEC approved qualified organization.
³Estimated EE3 per hour rate to check that the credits purchased will be verifiable and from a reputable trading or marketing organization.
⁴Estimated using an EE3 per hour rate.
⁵Same as rationale for ² above.
⁶Verify and confirm credits with the trading or marketing organization.

(3) The department or authority may use RCW 70.94.085 to structure a cost-reimbursement agreement with the applicant.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-050, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.181, [70.94.1152, 70.94.1331, 70.94.1650, 70.94.1745, 70.94.1892. WSR 07-11-018 (Order 06-14), § 173-455-050, filed 5/3/07, effective 6/3/07.]

WAC 173-455-060 Solid fuel retail sales fee. (1) A person selling a solid fuel burning device at retail shall collect a fee from the buyer, pursuant to RCW 70.94.483.

(2) The fee shall be:

(a) Set at a minimum of thirty dollars on January 1, 1992. Thereafter, ecology may annually adjust the fee to account for inflation as determined by the office of the state economic and revenue forecast council. Adjustments in the fee should be rounded down to the nearest dollar.

(b) Applicable to all new and used solid fuel burning devices.

(c) Procedures for masonry fireplaces. Generally, contractors will collect, pay, and report the fee to the department of revenue on the combined excise tax return for the tax reporting period during which the retail sales tax is billed to the customer for the construction of the masonry fireplace. (See WAC 458-20-170 for a detailed explanation.) Collection and payment of the fee by contractors shall be in accordance with the following:

(i) A masonry contractor or other subcontractor who builds a masonry fireplace. The retail sale occurs at the time the general or prime contractor or customer is billed for the work. The masonry contractor or other subcontractor must collect the fee and pay it to the department of revenue, unless the masonry contractor or other subcontractor has received a reseller permit from the general or prime contractor. The fee shall be reported on the combined excise tax return.

¹Estimated using an EE3 per hour rate with a cap.
²Small fee primarily to check math and that the source is using an EFSEC approved qualified organization.
³Estimated EE3 per hour rate to check that the credits purchased will be verifiable and from a reputable trading or marketing organization.
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(ii) A general or prime contractor building a custom building. The retail sale occurs at the time the customer is billed for the construction. The fee is charged and reported with the first progress payment after the masonry fireplace has been substantially completed. If a general or prime contractor subcontracts the work on a custom building to a masonry or other contractor, the general or prime contractor may give the masonry or other subcontractor a reseller permit. The general or prime contractor is responsible to collect the fee and pay it to the department of revenue. The fee is reported on the combined excise tax return.

(iii) A general or prime contractor building a speculation building. The fee is required to be paid at the time the fireplace is complete. The fee must be reported to the department of revenue on a combined excise tax return and paid to the department of revenue. If the prime or general contractor subcontracts the building of the masonry fireplace to a masonry contractor or other subcontractor, the general or prime contractor may not give a reseller permit to the masonry or other subcontractor. The masonry or other subcontractor must collect and pay the fee to the department of revenue as provided in (c)(i) of this subsection.

(d) Procedures for all other solid fuel burning devices. Collected by the retailer at the time of sale and remitted to the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.

(3) If the retailer or contractor fails to collect and remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the retailer or contractor shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.

(4) Beginning July 1, 1990, and each calendar quarter thereafter, the funds collected under RCW 70.94.483 shall be used solely for the purposes of public education and enforcement of the solid fuel burning device program. The department shall distribute the funds from the woodstove education and enforcement account as follows:

(a) Sixty-six percent of the funds shall be distributed to those local air authorities with enforcement programs, based upon the fraction of the total state population residing in the counties within their respective jurisdictions. Population figures used to establish this fraction shall be determined by the office of financial management. Where an activated local air authority does not exist or does not implement an enforcement program, or elects not to receive the funds, ecology shall retain the funds that would otherwise be distributed under this subsection; and

(b) Thirty-four percent of the funds shall be distributed to ecology for the purposes of enforcement and educating the public about:

(i) The effects of solid fuel burning device emissions upon health and air quality; and

(ii) Methods of achieving better efficiency and emission performance from solid fuel burning devices.

WAC 173-455-070 Weather modification fees. (1) Procedures for issuing license. In accordance with WAC 173-495-060, an applicant shall pay a fee of one hundred dollars to the state of Washington to obtain a license.

(2) Period of license. In accordance with WAC 173-495-060, an applicant shall pay a fee of one hundred dollars made payable to the state of Washington for a license renewal.

(3) Permit requirements. In accordance with WAC 173-495-070, the applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ecology from available data.

WAC 173-455-100 Fees related to reasonably available control technology (RACT). (1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.153 or 70.94.154 and described in subsections (2) through (5) of this section.

(2) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of construction application. Review and approval of notice of construction application for replacement or substantial alteration of control technology - Ninety-five dollars per hour.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - Ninety-five dollars per hour.

(3) Fee schedule for source-specific determinations where ecology performs RACT analysis and determination.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - One thousand five hundred dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emission units) - Seven thousand five hundred dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - Fifteen thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - Two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year but not more than ten tons per year of any toxic air pollutant - One thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - Two thousand dollars.
(4) Fee schedule for source-specific determinations where the source performs the RACT analysis and ecology conducts review and issues a determination.

(a) Basic RACT review and determination fees:
   (i) Low complexity (the analysis addresses one type of emission unit) - One thousand dollars;
   (ii) Moderate complexity (the analysis addresses two to five types of emissions units) - Five thousand dollars;
   (iii) High complexity (the analysis addresses more than five types of emissions units) - Ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - One thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees as applicable:
   (i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - Five hundred dollars;
   (ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - One thousand dollars.

(5) Fee schedule for categorical RACT determinations. Ecology shall assess fees for categorical RACT determinations (for categories with more than three sources) as shown below. Ecology shall base the fees described in (a) of this subsection on the most complex source within a category. When determining complexity level for the most complex source in the category, the emission rate or number of types of emission units that results in the highest complexity level will determine the fee for the source category. Except as provided in (b) and (d) of this subsection, ecology will determine fees for individual sources in the category by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):
   (i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - Twenty-five thousand dollars;
   (ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons per year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - Fifty thousand dollars; or
   (iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - One hundred thousand dollars.

(b) If ecology is evaluating an emission unit for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. Ecology may reduce the RACT analysis and determination fee identified in subsections (2) through (5) of this section for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the business meets the conditions of (a) of this subsection. One of the following must sign the application:
   (i) An authorized corporate officer in the case of a corporation;
   (ii) An authorized partner in the case of a limited or general partnership;
   (iii) The proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible for a small business fee reduction under (a) of this subsection, ecology shall reduce the RACT analysis and determination fee to the greater of:
   (i) Fifty percent of the RACT analysis and determination fee;
   (ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include:
   (i) Annual sales;
   (ii) Labor force size;
   (iii) Market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and
   (iv) Average annual profits.

   In no case will ecology reduce a RACT analysis and determination fee to an amount below one hundred dollars.

(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees.
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for an individual source if that source is using approved pollu-
tion prevention measures.

(8) Fee payments. A source shall pay fees specified in sub-
section (4)(a) of this section when the source submits a
notice of construction application to ecology. Sources shall
pay other fees specified in subsections (2) through (7) of this
section no later than thirty days after receipt of an ecology
billing statement. For fees specified in subsection (5) of this
section, ecology will mail a billing statement for one-half of
the payment from each source when the source category rule-
making effort is commenced as noted by publication of the
CR-101 form in the Washington State Register. Ecology will
mail a billing statement for the second half of the payment
when the proposed rule is published in the Washington State
Register. Ecology will not issue an order of approval or other
action approving or identifying a source to be at RACT until
the source has paid all fees. A source shall make all fees col-
clected under this regulation payable to the Washington
department of ecology.

(9) Dedicated account. Ecology shall deposit all control
technology fees it collects from air operating permit program
sources in the air operating permit account created under
RCW 70.94.015. Ecology shall deposit all control technology
fees collected from nonair chapter 173-401 WAC program
sources in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology
shall track revenues on a source-specific basis. For purposes
of source-specific determinations under subsections (2)
through (4) of this section, ecology shall track time and
expenditures on the basis of source complexity categories.
For purposes of categorical determinations under subsection
(5) of this section, ecology shall track time and expenditures
on a source-category basis.

(11) Periodic review. Ecology shall review and, as
appropriate, update this section at least once every two years.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and
70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-100, filed 10/25/18,
effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94
RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012
2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-100, filed 11/30/12,
effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.1]52,
[70.94.1]31, [70.94.1]650, [70.94.1]745, [70.94.1]892. WSR 07-11-018 (Order
06-14), § 173-455-100, filed 5/3/07, effective 6/3/07.]

WAC 173-455-120 New source review fees. (1) General
requirements.

(a) The fees in this section apply to:

(i) Permit applications received on or after July 1, 2011.

(ii) Requests for ecology review of other actions covered
by this section received by ecology on or after July 1, 2011.

(b) Components of permitting fees. Permit fees include
initial fees and may include an hourly fee. The initial fee cov-
ers up to the number of review hours specified in each fee in
this section.

(c) A project may be subject to multiple fees. For exam-
ple, a project may be subject to both minor and major new
source review permit fees and second or third tier review.

(d) An applicant must submit initial fees with an applica-
tion, notice, or request. An application, notice or request is
incomplete until initial fees have been paid.

(i) For purposes of WAC 173-400-111(1), initial fees are
considered application fees.

(ii) If ecology determines a project is complex after an
applicant submitted the basic project initial fee, then the
application is incomplete until the applicant pays the initial
complex project fee.

(iii) If ecology determines that a higher initial fee is due
after an applicant submitted an application or request, the
application or request is considered incomplete until the
applicant pays the new initial fee.

(e) If the initial fee paid by an applicant does not cover
the cost of processing the application, notice or request, then
ecology shall assess a fee based on the actual costs for review
in excess of the hours specified in each fee. The assessed fee
must be a rate of ninety-five dollars per hour of ecology staff
time expended.

(f) Ecology cannot finalize an action covered under this
section until all fees are paid. (WAC 173-400-111(3).)

(g) An applicant must pay all delin-
quaint air quality fees associated with the facility. This is in
addition to the fees required by this section. Delinquent fees
may include, but are not limited to, registration fees, civil
penalties awarded to ecology, or other outstanding fees due
under this section.

(i) All fees collected under this rule must be made pay-
able to the department of ecology.

(j) Fees assessed under this section apply without regard
to whether ecology approves or denies a request.

Permit fees.

Minor new source review.

(2) Review of new source or modification of an existing
source with an emissions increase. (WAC 173-400-110 and
173-400-110(3).)

(a) Basic project: One thousand five hundred dollars plus
an hourly rate of ninety-five dollars after sixteen hours.

This fee covers up to sixteen hours of staff time to review
the application and issue a final decision. Ecology will bill
the applicant ninety-five dollars per hour for each additional
hour spent on the application above sixteen hours.

(b) Complex project: Ten thousand dollars plus an
hourly rate of ninety-five dollars after one hundred six hours.

(i) This fee covers up to one hundred six hours of staff
time to review the application and issue a final decision.
Ecology will bill the applicant ninety-five dollars per hour for
each additional hour spent on the application above one hun-
dred six hours.

(ii) An application is considered complex if the emis-
sions associated with the application include at least one pol-
lutant for which emissions increases are greater than the lev-
els in the following table:

Emission Threshold Table

<table>
<thead>
<tr>
<th>Air Contaminant</th>
<th>Annual Emission Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon monoxide</td>
<td>100 tons per year</td>
</tr>
<tr>
<td>Nitrogen oxides</td>
<td>40 tons per year</td>
</tr>
<tr>
<td>Sulfur dioxide</td>
<td>40 tons per year</td>
</tr>
</tbody>
</table>

[Ch. 173-455 WAC p. 6] (10/25/18)
(iii) Ecology may determine that a project is complex based on consideration of factors that include, but are not limited to:

(A) Number and complexity of emission units;
(B) Volume of emissions, including toxicity of emissions;
(C) Amount and complexity of modeling; or
(D) Number and kind of applicable state and federal requirements.

(3) Change to an existing order of approval. (WAC 173-400-111(8).)

(a) Ecology will not charge a fee for correcting a mistake by ecology in a permit.

(b) Administrative or simple change: Two hundred dollars plus an hourly rate of ninety-five dollars after three hours.

(i) This fee covers up to three hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above three hours.

(ii) An administrative or simple change means:

(A) An action not subject to a mandatory public comment period in WAC 173-400-171; and
(B) The reissued approval order requires one hour or less of engineering evaluation and no physical modification of equipment; and
(C) Changes in permit conditions are based on actual operating conditions and the operating conditions require one hour or less of engineering evaluation and the change does not cause a change in allowable emissions.

(c) Complex changes: Eight hundred seventy-five dollars plus an hourly rate of ninety-five dollars after ten hours.

(i) This fee covers up to ten hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above ten hours.

(ii) This fee excludes an administrative or simple change and changes to an existing permit that result in an emissions increase.

(10/25/18)
(b) This fee applies to a portable source who intends to relocate in ecology's jurisdiction and has operated under an ecology issued approval order or is approved for coverage under an ecology issued general order of approval.
   (i) SEPA review complete: No fee.
   (ii) SEPA review required: Two hundred eighty-five dollars.

(7) Request to establish a voluntary emission limit (WAC 173-400-091): Five hundred dollars plus an hourly rate of ninety-five dollars after six hours.
   (a) This fee covers up to six hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above six hours.
   (b) This fee applies to a regulatory order issued under WAC 173-400-091 that places a limit on emissions.
   (i) This fee applies to a request to establish the emission limit in a stand-alone regulatory order.
   (ii) This fee does not apply when an emission limit is included as a condition in an approval order for a notice of construction application.

(8) Request to replace or substantially alter control technology: Refer to WAC 173-455-100(4) for fee schedule.

Major new source review preapplication and permit fees.

(9) Request for a written prevention of significant deterioration applicability determination (WAC 173-400-720) or preapplication assistance: Five hundred dollars plus an hourly rate of ninety-five dollars after six hours.
   This fee covers up to six hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above six hours.
   (a) PSD permit application: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.
   This fee covers one hundred fifty-eight hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above one hundred fifty-eight hours.
   (b) PSD permit application where greenhouse gases are the sole PSD pollutant being reviewed: Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.
   This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.
   (10) Prevention of significant deterioration (PSD) (WAC 173-400-720 and 173-400-730).
   (a) PSD permit application: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.
   This fee covers one hundred fifty-eight hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above one hundred fifty-eight hours.
   (b) PSD permit application where greenhouse gases are the sole PSD pollutant being reviewed: Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.
   This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.
   (11) Revision to a prevention of significant deterioration permit (WAC 173-400-750).
   (a) Administrative revision as defined in WAC 173-400-750(3): One thousand nine hundred dollars plus an hourly rate of ninety-five dollars after twenty hours.
   This fee covers twenty hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above twenty hours.
   (b) All other revisions (except major modification): Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.
   This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.
   (c) The fee for a major modification of a PSD permit (as defined in WAC 173-400-720) is located in subsection (10)(a) of this section.

(12) Request to extend the following major source approvals that are set to expire: Five hundred dollars.
   This provision applies to each of the following:
   (a) PSD permit, including a major modification;
   (b) PSD permit revision;
   (c) Approval order for major source nonattainment area permitting; and
   (d) A change to an approval order for major source nonattainment area permitting.

(13) Nonattainment area major new source review.
   (a) A notice of construction application subject to WAC 173-400-830: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.
   (b) Change to an approval order issued under WAC 173-400-830:
      (i) Request to change permit conditions under WAC 173-400-111(8) that is not subject to mandatory public comment in WAC 173-400-171: One thousand nine hundred dollars plus an hourly rate of ninety-five dollars after twenty hours.
      (ii) All other permit changes (except major modification): Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.
   This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.
   (iii) The fee for a major modification (as defined in WAC 173-400-810) of an approval order is located in subsection (13)(a) of this section.

(14) Plant-wide applicability limits (WAC 173-400-720).
   (a) Request to establish new plant-wide applicability limits: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.
   This fee covers up to one hundred fifty-eight hours of staff time to review the request and establish a plant-wide applicability limit. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above one hundred fifty-eight hours.
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(b) All other requests, such as increase or renew plant-wide applicability limits; or process an expired plant-wide applicability limit: Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.

This fee covers up to seventy-nine hours of staff time to increase, renew or process a retired plant-wide applicability limit. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above seventy-nine hours.

Other fees.

(15) Second tier review (WAC 173-460-090): Ten thousand dollars plus an hourly rate of ninety-five dollars after one hundred six hours.

(a) This fee covers up to one hundred six hours of staff time to evaluate the health impact assessment protocol and second tier petition, and make a recommendation. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the second tier petition above one hundred six hours.

(b) A second tier petition that becomes subject to third tier review during the course of evaluation continues as a second tier petition for billing purposes. Staff must sum the time spent on this petition and bill the applicant if the total hours exceed one hundred six hours.

(16) Third tier review (WAC 173-460-100): Ten thousand dollars plus an hourly rate of ninety-five dollars after one hundred six hours.

(a) This fee covers up to one hundred six hours of staff time to evaluate the health impact assessment protocol and third tier petition, and make a recommendation. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the second tier petition above one hundred six hours.

(b) This fee does not apply to a second tier petition that becomes a third tier petition.

(17) Ecology may enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085. Ecology will be reimbursed at a rate of ninety-five dollars per hour.

(18) Small business fee reduction. The new source review fee identified in subsections (2) through (7) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and, if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

(i) Fifty percent of the new source review fee;

(ii) Two hundred fifty dollars.

(e) If, due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(19) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) through (7) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(20) Tracking revenues, time, and expenditures. Ecology must track revenues collected under this subsection on a source-specific basis.

(21) Periodic review. To ensure that fees cover the cost of processing the actions in this section, ecology shall review and update this section as necessary.

WAC 173-455-130 Air pollution standards variance fee. The department shall charge a fee of ninety-five dollars per hour to process a variance request in accordance with WAC 173-400-180.

WAC 173-455-140 Nonroad engine permit fee. The department shall charge a fee of ninety-five dollars per hour to process a notification of intent to operate under WAC 173-400-035.

[Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-120, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.152 and 2011 c 5 § 301(28). WSR 11-12-077 (Order 10-04), § 173-455-120, filed 5/31/11, effective 7/1/11. Statistical Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-120, filed 5/3/07, effective 6/3/07.]

[Statutory Authority: Chapter 70.94 RCW, WAC 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-130, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-130, filed 5/3/07, effective 6/3/07.]

[Statutory Authority: RCW 70.94.152 and 2011 c 5 § 301(28). WSR 11-12-077 (Order 10-04), § 173-455-140, filed 5/31/11, effective 7/1/11. Statistical Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-140, filed 5/3/07, effective 6/3/07.]

(10/25/18)