

Meeting Summary

Registration Program Fees and Process Workgroup

May 24, 2017
Moses Lake, WA



Agenda_5_24_17_Workgroup_FINAL.pdf

The following is a summary of the key concepts and concerns shared at the meeting:

Introductions and goals of the meeting

At the beginning of the meeting, Margo asked attendees what they hoped to get out of today's meeting. Responses included:

- The desire to clearly understand the rule changes
- Understanding the fee structure and the impact on industries and specific businesses
- Learning how the fees are allocated
- Understanding of workload analysis, transparency of fees, how fees are spent, how fees are implemented
- Understand reporting and testing procedures
- Fairness and equity of fees
- Streamline and reduce fees
- How non-registered sources fit into the workload analysis
- Effects on exempt sources
- How is Ecology going to do outreach to previously exempt sources

Proposed changes to Chapter 173-400 WAC



400 draft



455 draft

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Ecology opened a discussion on proposed revisions to Chapters 173-400 and 173-455 WAC.

- **Jana McDonald: Can we confirm that TCP is administering adequate fees to gasoline dispensing facilities 173-455-040 WAC?** We will verify.
- **Jana McDonald: In 173-455-040 (8)(b) can we change "...shall equal 3-times the amount of the original fee owed" to "...may equal 3-times the amount of the original fee owed"?** This will be considered, ecology will use language similar to what exists in the law (RCW).
- **Jack Field: What are the costs associated with Ecology performing a source closure?** It's hard to put a dollar figure on it, but most of the associated costs are due to travel to the location of the source. The further away the source, the higher the cost.
- **Jack Field: How many closures do you get a year?** Less than 10 closure notifications a year.

- **Krista Kinsey: Do exempt facilities do any kind of reporting to Ecology?** Exempt facilities are required to report every 3-6 years.
- **Krista Kinsey: Do we accomplish anything by adding the text under 173-400-102? Can we just make sure this is captured under 173-400-100?** We will consider that change.
- **Krista Kinsey: Can you clarify the intent behind 173-400-102?** This allows a facility to use Ecology to perform emission calculations and allows the owner check those calculations.
- **Krista Kinsey: The term “as determined by Ecology” under 173-400-103 (1) seems arbitrary and targeting.** We chose this language because emissions are only one consideration when Ecology determines a facility’s tier. We will work on the language to better reflect our intent.
- **The group as a whole: We would like to see the rule language and finalize fee table before Ecology goes to the proposal phase.** We will provide this information before Ecology goes to the proposal phase.
- **Why are sources required to report when there is a change of ownership.** This is important for portable sources to make sure the new owner is liable and complies with registration program requirements and fees and not the prior owner.
- **After selling a portable source, the new owner should be responsible for the permit. The seller can’t make the buyer fulfill the permit requirements.** The permit travels with the equipment unless the permit is cancelled prior to the sale. After the sale, the permit is no longer the seller’s asset to cancel.
- **Why does ecology place the source into a tier. The tiers are arbitrary. Is it used for anything other than the fee schedule? Concern that Ecology uses this approach because one facility gets a lot of complaints or is targeted.** Facilities were placed into tiers based primarily on the historic emissions information ecology has for each source. Ecology considers the emissions of the facility along with several other factors, including permit compliance activities, type of pollution, and several different aspects of the facility. Ecology gets requests for the emissions data.
- **The public should have 60 days to comment on the workload analysis and fee schedule, consistent with Title 5.** A comment period will be added prior to finalizing increases proposed to a fee schedule.
- **How does Ecology place companies in tiers?** Ecology has years of emissions information, and we placed sources in tiers based on that information.
- **The amount of the late fee is a concern.** The late fee language is directly from the law (RCW). It isn’t a new requirement, but was already in place.
- **Why have fees changed from \$65 to \$95?** In 2012 there was a rulemaking that adjusted the fees from \$65 to \$95. Unfortunately, some of them were overlooked and will be corrected during this rulemaking.

Registration Program Fees and Process



Draft_fee_schedule_5_ 2017-05-24 screen Registration_Program
24_17_Workgroup_Co shots of spreadsheet_Workload_Analysis_5

Ecology opened a discussion on the proposed fee schedule and walked through examples of how the fee schedule was developed. Comments and questions included:

- **Stephanie Kranz: It is unfair that synthetic minors are heavily penalized based on the activities of a few bad actors.** We based this fee structure on the work that Ecology is currently doing. Furthermore, we have examined the fee structures of multiple LCAs and determined that they are taking a similar approach. Ecology does not consider a registration fee to be a penalty.
- **Krista Kinsey: Without better clarity on where Ecology staff is spending their time, it is hard to make an assessment of the accuracy or inaccuracy of this fee structure.** We have refined the workload model as well as we can with the time accounting information we have available. Furthermore, this fee structure is emissions based and assumes all regulated facilities will pay based on their tier category. Ecology staff do not track time by source, but generally spend more time at larger facilities than smaller facilities.
- **Greg Christensen: I am okay with this fee structure as long as there are no associated pollutant fees.** Under this structure, there are no pollutant fees associated with Tiers 1 and 2. Tiers 3 and 4, which are less than 100 sources, may have an associated pollutant fee.
- **Krista Kinsey: Why is there such a significant difference of caps between Tiers 3 and 4?** Tier 3 and 4 are sources that have the highest actual and potential emissions. Tier 4 sources have taken federally enforceable limits to stay below major source thresholds.
- **Jack Field: People will not be happy when they find out our fees are going from \$3,000 to \$10,000.** I believe your latest fees were in the neighborhood of \$5,000. Based on your emissions, your fees would well exceed \$10,000. This is the reason we have a cap in Tiers 3 and 4 of the fee structure. While we are going to have to increase fees, we want to make sure they are not overly burdensome on any entity.
- **Jana McDonald: Could Ecology double everything, add \$100 to exempt facilities and be done. With your current structure you're going to open up the door for everyone to argue their Tier ranking.** In order to address the fairness issue that this workgroup agreed was important when we started this rulemaking, ecology is proposing this tiered structure. This proposal would have a per ton pollutant fee for less than 100 of the largest sources. If affected entities take measures to reduce their emissions and are able to demonstrate they belong in a lower tier that is certainly an acceptable outcome in the eyes of Ecology.
- **Jana McDonald: Should portables have their own category? Utah charges a \$650 fee every time an entity moves a portable rock crusher.** We will look into that.
- **Stephanie Kranz: The Tier 4 category has the highest fees by a significant amount. Does this fee structure reflect actual Ecology work performed at these sites?** Yes. There are additional requirements pertaining to the registration program associated with these facilities.
- **Krista Kinsey: Does Ecology receive any EPA funding with which to conduct registration program activities?** No. Ecology receives no federal funding for these activities.
- **Jack Field and Jana McDonald: An emission fee of \$50/ton is unreasonable.** We included this as a start point for the conversation. Emission fees can be lower; all the way down to \$0/ton. The more we reduce the emission fees, however, the more we will have to recover through base fees.
- **Krista Kinsey: Have you looked at how your percentages reflect time spent at each facility?** We have as closely as the data allows. Under this fee concept everyone is going to pay into the registration program. Ecology staff does not track time spent at each facility.

- **Jana McDonald: Is this fee structure stable? Have you look at long term trends in order to determine your base fees?** Yes. We analyzed the available data in order to determine these base fees.
- **Krista Kinsey: For changes to the fee schedule and workload analysis, we need a 60 day public comment period worked into the rule. This is consistent with Title V permits.** I agree, this will be added. The current workload analysis and fee schedule will be available on the agency website. We intend to only open the public comment period if we propose increases to registration fees.
- **Garry Kneedler: There needs to be accountability and increased efficiency from Ecology. Why do we not have a functioning registration database?** Ecology is aware of the need for a more efficient registration database. Ecology's management and leadership team is working on potential solutions to address this issue.
- **Jack Field: How does Ecology intend to notify 500+ facilities when there are changes to the fee schedule and/or workload analysis? Will you do physical mailers to remote facilities?** Establishing a listserv will be an ideal mode of communication. We can consider other options like physical mailers, but those are expensive and can drive up the costs of the program.
- **Krista Kinsey: If we have concerns and can't support something, what are the formal comment options?** There is still time to discuss concerns. There will be a formal comment period and Ecology will provide a formal response to all comments received.
- **Krista Kinsey: It is difficult to see understand the 5.72 total FTEs and how the non-technical pieces of the workload fit in.** Because it is part of the workload analysis and costs for the program, Ecology included the non-technical costs to provide a better understanding of how the work is allocated. Leave time is also shown with the 5.72 FTEs. Ecology is open to industry comments on the workload analysis.
- **Krista Kinsey: Ecology should issue the workload analysis and fee schedule for a formal 60 day public comment period when fees and workloads change. Is there accountability for Ecology for the fee collection and making sure the money goes to the correct place?** The fees collected goes into the air pollution account, and the amount is compared to the costs of the program.
- **Jack Field: Ecology should provide notice if there are changes to the workload analysis.** Ecology will look at forming a new distribution list for notification on increases to registration fees. Any proposed fee increases will need to be supported by a workload analysis.

Wrap up and discuss attendees concerns

At the end of the meeting, Margo asked attendees what concerns remained. Responses included:

- Fees are too high, reduce costs and improve efficiency
- The discussion of fees happened to late in the stakeholder process or there was not enough time for discussion
- Cattlemen will be concerned
- Fairness and equity
- Tier 1 and 2 pay right away, and 3 and 4 are phased in, are the tiers appropriate
- Too many sources are grouped into Tier 3
- Consistent reporting and efficiency of forms
- Good democratic process

- Lack of information on where staff time is spent
- Schedule between this meeting and when the rule is proposed in August
- Share spreadsheet with facility info
- Exempt feeders

Attendance

Workgroup member attendees:

- Gary Christenson, WA Mint Growers
- Robert Cox, Pomeroy Grain Growers
- Jack Field, WA Cattle Feeders Association
- Shane Johnson, WA Mint Growers
- Lisa Karstetter, Yahoo
- Krista Kinsey, Simplot
- Garry Kneedler, North Central Construction
- Stephanie Kranz, Tidewater Terminal Co.
- Jana McDonald, Central Pre-Mix
- Rodney Rosin, CHS
- Bill Wagoner, National Frozen Foods

Audience attendees:

- Mary Catherine McAleer, Association of WA Business

Ecology staff attendees:

- Jason Alberich, Ecology HQ
- Cindy Bradley, Ecology HQ
- Shawn Nolph, Ecology CRO
- Brenda Smits, Ecology ERO
- Margo Thompson, Ecology HQ
- Karen Wood, Ecology ERO

Absent workgroup members:

- Tim Clark, Cascade Auto Center
- Adam Hyde, Trout Lake Farms
- Sean Lunsford, Helena Chemical Company