

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

**WAC 173-455-036 Fee increases.** (1) Ecology must follow the processes in subsection ~~(s)~~ (2) ~~((and (3)))~~ of this section for increasing any of the following fees:

~~(a) ((Air contaminant source registration fees in WAC 173-455-040;~~

~~(b))~~ Carbon dioxide mitigation program fees in WAC 173-455-050;

~~((e))~~ (b) Weather modification fees in WAC 173-455-070;

~~((d))~~ (c) Control technology fees in WAC 173-455-100;

~~((e))~~ (d) New source review fees in WAC 173-455-120;

~~((f))~~ (e) Air pollution standards variance fee in WAC 173-455-130; and

~~((g))~~ (f) Nonroad engine permit fee in WAC 173-455-140.

(2) Ecology may propose fee increases ~~((in even-numbered years for each year in the upcoming biennium. A workload analysis must support the fee increase. Prior to making any changes, ecology will post the new fees on the agency web site no later than November 30th of the year preceding the date on which the new fees will take place. If directed by RCW 43.135.055, fee increases will only occur after the legislature authorizes the increase.~~

~~(3) Ecology may adjust fees by the fiscal growth factor calculated under chapter 43.135 RCW as follows.~~

$$\text{New fee} = \text{Existing fee} \times (1 + \text{FGF})$$

Where FGF means the annual fiscal growth factor calculated under chapter 43.135 RCW (expressed as a decimal))

for the registration program based on the cost of administering the registration program consistent with RCW 70.94.151(2), and the procedures in WAC 173-455-039 and 173-455-040.

NEW SECTION

**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 shall 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 will use the following emissions inventory for each source:

(i) Emissions in an inventory include particulate matter 10 (PM<sub>10</sub>), volatile organic compound (VOC), carbon monoxide (CO), nitrogen oxide (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>).

(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 will assign a source to a tier based on Table 1.

**Table 1**

### Tiers for Registration Sources

Tier	Annual Emissions
1	Source with annual emissions less than the tons per year in Tier 2.
2	Source with annual emissions between 0.01 and less than or equal to 10 tons per year.
3	Source with annual emissions greater than 10 and less than or equal to 20 tons per year.
4	Source with annual emissions greater than 20 and less than or equal to 70 tons per year.
5	Source with annual emissions greater than 70 tons per year.
6	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).

(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 December 1st of the year before 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.

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

**WAC 173-455-040 ((Air contaminant)) Source registration fees.**

~~((1) Ecology will charge a yearly registration fee to cover the cost of implementing the registration program.~~

~~(2) Ecology will determine fee eligibility based on the most current emissions inventory information available for each source.~~

~~(3) A registration program source that shut down during the previous year and is not operating in the current year is not subject to a fee for the current calendar year.~~

~~(4) Periodic registration program source eligibility and fees are determined as follows:~~

~~(a) A source is a periodic registration program source if all of these statements are true:~~

(i) A source is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2);

(ii) The source emits at least one pollutant in Table 173-455-040 (4)(c) within the rates in the table; and

(iii) The source does not emit any pollutant at a rate higher than those in Table 173-455-040 (4)(c).

(b) The registration fee category and fee for periodic registration program source are determined as follows:

(i) Ecology will determine whether the periodic source is in the small, medium, or large category based on the source's most current emissions inventory information.

(ii) Ecology will determine whether the source's category based on the emission rate of the air contaminant that falls in the category with the highest fee.

(c) A periodic registration program source must pay the applicable yearly registration fee on Table 173-455-040 (4)(c).

**Table 173-455-040 (4)(c)  
Periodic Registration Fee Table**

Yearly periodic registration fee	\$450	\$700	\$1,000
Category	Small Periodic Source	Medium Periodic Source	Large Periodic Source
Air Contaminant	Emission Rates		
	Tons per year	Tons per year	Tons per year
Carbon monoxide	5 to < 15	15 to < 30	30 to < 100
Lead	0.005 to < 0.3	0.3 to < 0.45	0.45 to < 0.6
Nitrogen oxides	2.0 to < 5	5 to < 14	14 to < 40
Particulate matter (TSP or total suspended particulates)	1.25 to < 6	6 to < 12	12 to < 25
Particulate matter <sub>10</sub>	0.75 to < 3.5	3.5 to < 7	7 to < 15
Particulate matter <sub>2.5</sub>	0.5 to < 2	2 to < 5	5 to < 10
Sulfur dioxide	2.0 to < 5	5 to < 14	14 to < 40
Volatile organic compounds	2.0 to < 5	5 to < 14	14 to < 40
Toxic air pollutant	> de minimis emissions*	—	—

\* "De minimis emissions" means trivial levels of toxic air emissions that do not pose a threat to human health or the environment. WAC 173-460-150 contains the de minimis emission rate of a toxic air pollutant in pounds per averaging period (year, 24-hour, 1-hour).

(5) Annual registration program source fees are determined as follows:

(a) Ecology will determine the annual registration fee based on the most current emissions inventory information.

(b) A source that is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2) is an annual registration program source if it meets any of the following criteria:

(i) The source emits one or more air pollutants in Table 173-455-040 (5)(b) at rates greater than those in the table; or

**Table 173-455-040 (5)(b)  
Annual Registration Emission Rate Table**

Air Pollutant	Emission Rate
Carbon monoxide	100 tons per year
Lead	0.6 tons per year

Air Pollutant	Emission Rate
Fluorides	3 tons per year
Nitrogen oxides	40 tons per year
Particulate matter	25 tons per year
Particulate matter <sub>10</sub>	15 tons per year
Particulate matter <sub>2.5</sub>	10 tons per year
Reduced sulfur compounds (including H <sub>2</sub> S)	10 tons per year
Sulfur dioxide	40 tons per year
Sulfuric acid mist	7 tons per year
Total reduced sulfur (including H <sub>2</sub> S)	10 tons per year

(ii) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

(iii) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or

(iv) The director of ecology determines that the source poses a potential threat to human health and the environment.

(c) Annual registration program sources must pay a yearly registration fee comprised of the following three components:

**Annual Registration Fee Components**

Component	Fee Rate
Flat fee	\$1,057 per year
Complexity	\$469 per complexity rating point
Emissions	\$16 per ton

(i) Flat fee component. Each source must pay the flat fee component plus the other fees.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed by ecology to review and inspect the source. The source's complexity rating is multiplied by the complexity fee rate to determine the complexity portion of the yearly registration fee.

(iii) Emissions component. Billable emissions (in tons per year) include nitrogen oxides, sulfur dioxide, particulate matter (except total suspended particulate), and volatile organic compounds. The source's billable emissions are multiplied by the emissions fee rate to determine the emissions portion of the yearly registration fee.

(6)) (1) Registration fee. Each source required to register with ecology shall 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  
Registration Fee Schedule for 2019  
Through 2021**

Tier	Fee 2019	Fee 2020	Fee 2021
1	\$200	\$200	\$200

<u>Tier</u>	<u>Fee 2019</u>	<u>Fee 2020</u>	<u>Fee 2021</u>
<u>2</u>	<u>\$400</u>	<u>\$575</u>	<u>\$700</u>
<u>3</u>	<u>\$700</u>	<u>\$1,000</u>	<u>\$1,300</u>
<u>4</u>	<u>\$1,100</u>	<u>\$1,300</u>	<u>\$1,500</u>
<u>5</u>	<u>\$5,000</u>	<u>\$5,500</u>	<u>\$7,000</u>
<u>6</u>	<u>\$7,000</u>	<u>\$7,500</u>	<u>\$8,000</u>

(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 will 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.

(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.

~~((7))~~ (6) Fee reductions for economic hardship. If a small business owner (who is subject to a periodic registration program fee under subsection (4) of this section or a gasoline dispensing facility subject to subsection (6) of this section), as defined in RCW 19.85.020(3), thinks the registration fee results in an extreme economic hardship, the small business owner may request a fee reduction. The small business owner or operator must provide sufficient evidence to support a claim of an extreme hardship. Ecology may reduce the registration fee (may be reduced) by no more than fifty percent.

~~((8))~~ (7) Fee payments.

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

(b) ((A late fee of sixty eight dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received within the thirty day period.)) Ecology may assess a penalty equal to three times the amount of the original fee owed to sources knowingly under-reporting emissions, or failing to pay registration fees after the ninety-first day past the due date. Failure to pay all or part of a registration fee may result in an enforcement action.

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

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

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

~~((9) Additional registration fee for fossil-fueled electric generating facilities.))~~ (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.

AMENDATORY SECTION (Amending WSR 07-11-018, filed 5/3/07, effective 6/3/07)

**WAC 173-455-050 Carbon dioxide mitigation program fees.** (1) **Statutory authorization.** RCW 70.94.892 authorizes ~~((the department))~~ 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 will specify the costs necessary to monitor the source's conformance ~~((related))~~ to the carbon dioxide mitigation plan.

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

Activity	Fee
<b>a. Application review</b>	<del>\$(65.00)</del> 95.00/hr. <sup>1</sup> not to exceed \$500.00
<b>b. Mitigation plan approval</b>	
i. Payment to third party	\$100.00 <sup>2</sup>
ii. Purchase of CO <sub>2</sub> credits	<del>\$(65.00)</del> 95.00/hr. <sup>3</sup>
iii. Direct investment	<del>\$(65.00)</del> 95.00/hr. <sup>4</sup>
<b>c. Routine compliance monitoring</b>	
i. Payment to third party	\$100.00 <sup>5</sup> annually until full amount paid
ii. Purchase of CO <sub>2</sub> credits	<del>\$(65.00)</del> 95.00/hr. <sup>6</sup>
iii. Applicant controlled project	<del>\$(65.00)</del> 95.00/hr. <sup>6</sup>

<sup>1</sup> Estimated using an EE3 per hour rate with a cap.

<sup>2</sup> Small fee primarily to check math and that the source is using an EFSEC approved qualified organization.

<sup>3</sup> Estimated EE3 per hour rate to check that the credits purchased will be verifiable and from a reputable trading or marketing organization.

<sup>4</sup> Estimated using an EE3 per hour rate.

<sup>5</sup> Same as rationale for <sup>2</sup> above.

<sup>6</sup> Verify 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.

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

**WAC 173-455-100 (~~(Control technology fees.)~~) 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 (~~(are performed by ecology)~~).

(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 emissions 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 (~~(will be required)~~) 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 (~~(will be required)~~) 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 - 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.

~~((3))~~ (4) Fee schedule for source-specific determinations where the source performs the RACT analysis (~~(is performed by the source)~~) and ecology conducts review and issues a determination (~~(conducted by ecology)~~).

(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 emission 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 (~~(will be required)~~) 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 (~~(will be required)~~) 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; 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 - One thousand dollars.

~~((4) 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 (NOCA) for replacement or substantial alteration of control technology - Three hundred fifty dollars.~~

~~(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - Five hundred dollars.)~~

(5) Fee schedule for categorical RACT determinations. Ecology shall assess fees for categorical RACT determinations (for categories with more than three sources) (~~(shall be assessed)~~) as shown below. Ecology shall base the fees described in (a) of this subsection (~~(shall be based)~~) 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 (~~(will be determined)~~) 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 (~~(is being evaluated)~~) 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 (~~(may be reduced)~~) 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 (~~(43.31.025)~~) 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 (~~(have been met. The application must be signed)~~). One of the following must sign the application:

(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 for a small business fee reduction under (a) of this subsection, ecology shall reduce the RACT analysis and determination fee (~~(shall be reduced)~~) to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(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 (~~(be reduced)~~) to an amount below one hundred dollars.

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

(8) Fee payments. A source shall pay fees specified in subsection (4)(a) of this section (~~((shall be paid at the time))~~) when the source submits a notice of construction application (~~((s is submitted to the department.))~~) to ecology. Sources shall pay other fees specified in subsections (2) through (7) of this section (~~((shall be paid))~~) 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 (~~((will be mailed))~~) 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 (~~((will be mailed))~~) when the proposed rule is published in the *Washington State Register*. (~~((No))~~) Ecology will not issue an order of approval or other action approving or identifying a source to be at RACT (~~((will be issued by the department))~~) until the source has paid all fees (~~((have been paid by the source))~~). A source shall make all fees collected under this regulation (~~((shall be made))~~) payable to the Washington department of ecology.

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

AMENDATORY SECTION (Amending WSR 07-11-018, filed 5/3/07, effective 6/3/07)

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