

## Chapter 173-455 WAC

### AIR QUALITY FEE RULE

#### WAC Sections

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**Commented [SB(1)]:** The registration program WAC 173-400 doesn't refer to registration sources as 'air contaminant sources' – suggested edit for consistency

#### 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.

#### 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.

### 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.

### 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.

### 173-455-036

#### Fee increases.

(1) Ecology must follow the processes in subsections (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](#);
- (c) Weather modification fees in WAC [173-455-070](#);
- (d) Control technology fees in WAC [173-455-100](#);
- (e) New source review fees in WAC [173-455-120](#);
- (f) Air pollution standards variance fee in WAC [173-455-130](#); and
- (g) 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. Ecology must post the workload analysis supporting the fee schedule on the agency web site at least 60 days prior to the increase.~~

~~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)~~

**Commented [TM(2)]:** Ecology believes we have met the intent of the statute, so this individual authorization is not needed.

**Commented [TM(3)]:** RCW 70.94.152 requires Ecology to charge fees that reflect the actual cost of the program.

## 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.

## 173-455-040

### ~~Air contaminant~~ Source registration fees.

~~(1) Ecology will assess an annual fee to cover the costs of implementing the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which include the program components identified in WAC 173-400-099(2).~~

~~(2) Registration fee schedule. Ecology shall post a fee schedule with the annual registration program fees for each source registration class as defined in WAC 173-400-103.~~

~~(a) The registration fee schedule shall be based on the most recent published workload analysis.~~

~~(b) Ecology shall post the registration fee schedule on ecology's website on or before March 31<sup>st</sup> of each year.~~

~~(3) Registration program source class fees.~~

~~(a) A class 1 source shall pay a base fee.~~

~~(b) Class 2, 3 and 4 sources shall pay:~~

~~(i) a base fee,~~

~~(ii) a per ton criteria pollutant emissions fee,~~

~~(iii) a pro-rated per ton toxic air pollutant emissions fee,~~

~~(iv) any applicable additional fees.~~

~~(4) Additional registration program fees.~~

~~(a) Re-inspection fee. Ecology will charge an additional fee to registration sources needing to be re-inspected due to verified conditions or actions caused by the source.~~

~~(b) Source test fee. Ecology will charge an additional fee to registration sources performing a source test.~~

~~(c) Emission point fee. Ecology will charge an additional fee to registration class 4 sources – synthetic minor sources per emission process unit or emission point.~~

~~(d) Odor source fee. Ecology may assess an additional odor source fee for odor producing sources that result in additional ecology staff time.~~

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

~~(5) Source closure.~~

~~(a) Temporary source closure. If a source is temporarily closed, registration fees shall be paid to maintain its active registration status, even if it is not actively operating.~~

**Commented [SB(4)]:** See also suggested language: ... annual fee for services provided in administering the registration program.

**Commented [SB(5)]:** BCAA & ORCAA charge source test fees. Intended to cover additional staff time for review of source test plan & report. Assume average of 6hrs at \$65/hr = \$400. Include actual fee amount in fee schedule.

**Commented [SB(6)]:** NWCAA 324.1 odor source fee; \$2781 per fee schedule effective 1/1/17

**Commented [SB(7)]:** Moved to WAC 173-400-103

**Commented [SB(8)]:** This section is intended to differentiate between a temporary & permanent source closure.

(b) Permanent source closure. Ecology requires anyA registration program source that permanently ceases operations 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 to pay a pro-rata portion of the annual registration fee for the calendar year in which they cease operations. Ecology shall calculate the portion of the fee the source will pay as follows:

$$\frac{\text{Number of calendar days}}{365} \times \text{Fee for total year}$$

(6) For purposes of assessing annual fees, ecology shall consider updates and revisions to any source's file received during the year to apply to the entire 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).~~

Commented [SB(9)]: Fee amounts will be in fee schedule

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

~~(i) Ecology will determine whether the periodic sources 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 <sup>31</sup>	—	—

<sup>31</sup> "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
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

<b>Air Pollutant</b>	<b>Emission Rate</b>
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**

<b>Component</b>	<b>Fee Rate</b>
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.

(76) Registration fees for gasoline dispensing facilities. Gasoline dispensing facilities must pay a yearly registration fee of one hundred thirty dollars for each storage tank dispensing gasoline.

(87) 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~~ thinks the registration fee results in an extreme economic hardship, the ~~small business owner~~ may request a fee reduction. The ~~owner or operator~~ must provide sufficient evidence to support a claim of an extreme hardship. The registration fee may be reduced by no more than fifty percent.

(98) Fee payments.

(a) A source ~~subject to fees in this section~~ must pay ~~those registration~~ fees within thirty days of receipt of ecology's billing statement.

(b) ~~Ecology may subject to penalty persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more~~

than 90-days late with such payments. This penalty shall equal 3-times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW). 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.

**Commented [SB(10)]:** This is similar to BCAA, PSCAA & SWCAA. This is not a new requirement, see RCW 70.94.431(7)

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

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

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

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

**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. The order of approval will specify costs to monitor conformance related to the carbon dioxide mitigation plan.

(2) **Fees.** The fees for the carbon dioxide mitigation program are described in this section and lists them in the table below. The fees listed are added to the fees established in WAC 173-455-120, when the a carbon dioxide mitigation plan is required under Chapter 173-407 WAC. requirements are triggered.

**Commented [TM(11)]:** These fees requirements are in Ch. 173-407 WAC.

Activity	Fee
<b>a. Application review</b>	\$6595.00/hr.1 not to exceed \$500.00
<b>b. Mitigation plan approval</b>	
i. Payment to third party	\$100.002
ii. Purchase of CO2 credits	\$6595.00/hr.3
iii. Direct investment	\$6595.00/hr.4
<b>c. Routine compliance monitoring</b>	
i. Payment to third party	\$100.005 annually until full amount paid

**Commented [TM(12)]:** Update to reflect base rate for NSR fees

**Commented [TM(13)]:** Ecology is charging for the cost of the work.

Activity	Fee
ii. Purchase of CO2 credits	\$ <del>65</del> 95.00/hr. <sup>6</sup>
iii. Applicant controlled project	\$ <del>65</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 2 above.

<sup>6</sup> Verify and confirm credits with the trading or marketing organization.

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

### 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.



(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~~Ecology 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.

### **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.

## **173-455-100**

### **Control technology fees.**

(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 source-specific determinations where 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, 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, 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) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and 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, 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, 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 ~~eighty~~ dollars. An additional \$95 per hour will be charged for processing time in exceedance of four hours.

**Commented [TM(14)]:** Acronym not used.

**Commented [TM(15)]:** Cost for three hours of work.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - ~~Five-Four~~ hundred ~~seventy five~~ dollars. An additional \$95 per hour will be charged for processing time in exceedance of five hours.

**Commented [TM(16)]:** Consider moving(4) (a) to section 120-8. Will need to renumber section

**Commented [SB(17R16)]:** Orders issued under WAC 173-400-114 – replacement or substantial alteration of control technology are not typically subject to new source review.

(5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, 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.

**Commented [SB(18)]:** Please add \$95/hr above four hours and five hours of permitting time (respectively), to align with other permitting fees. (JJ comment)

(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 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. 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](#).

(b) To receive a fee reduction, the owner or operator of a small business must include information in an 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 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: Annual sales; labor force size; 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 average annual profits. In no case will a RACT analysis and determination fee be reduced 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. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to ~~the department~~ [ecology](#). 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, a billing 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*. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by ~~the department~~ [ecology](#) until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(9) Dedicated account. All control technology fees collected by ~~ecology the department~~ from permit program sources shall be deposited in the air operating permit account created under RCW [70.94.015](#). All control technology fees collected by ~~ecology the department~~ from nonpermit 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.

~~(1) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.~~

**Commented [TM(19)]:** Apparently this periodic review has never happened. Do we still need this in rule? Consider removing.

## 173-455-120

### ~~New source review~~ **Permitting fees.**

**Commented [TM(20)]:** Consider adding a table for fees for ease of readability. Or do we want to wait until we do rulemaking on NSR fees in the future?

**Commented [TM(21)]:** Consider changing title of section to "Permitting fees". The current title not accurate and causes significant confusion because this section includes more than NSR.

(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 covers up to the number of review hours specified in each fee in this section.

(c) A project may be subject to multiple fees. For example, 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 application, 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 fees that are due by invoice from ecology within thirty days from the date of the invoice. Ecology will cease processing all applications for which the required fees have not been received within thirty days of an invoice.

(h) At the time of filing, an applicant must pay all delinquent 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 payable 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 hundred six hours.

(ii) An application is considered complex if the emissions associated with the application include at least one pollutant for which emissions increases are greater than the levels in the following table:

**Emission Threshold Table  
(WAC 173-400-030)**

<b>Air Contaminant</b>	<b>Annual Emission Rate</b>
Carbon monoxide	100 tons per year
Nitrogen oxides	40 tons per year
Sulfur dioxide	40 tons per year
Particulate matter (PM)	25 tons per year of PM emissions
	15 tons per year of PM <sub>10</sub> emissions
	10 tons per year of PM <sub>2.5</sub> emissions
Volatile organic compounds	40 tons per year
Fluorides	3 tons per year
Lead	0.6 tons per year
Sulfuric acid mist	7 tons per year
Hydrogen sulfide (H <sub>2</sub> S)	10 tons per year

<b>Air Contaminant</b>	<b>Annual Emission Rate</b>
Total reduced sulfur (including H <sub>2</sub> S)	10 tons per year
Reduced sulfur compounds (including H <sub>2</sub> S)	10 tons per year

(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.

(iii) Examples of complex changes include, but are not limited to:

(A) Changes requiring more than one hour of engineering review;

(B) Consolidation of permits not allowed under simple change;

(C) Request for review of a permit action that is exempt under WAC [173-400-110\(5\)](#) (Table 110(5) emission-based exemption levels); or

(D) Changes requiring mandatory public comment under WAC [173-400-171](#).

(d) The fee for a permit modification (as defined in WAC [173-400-030](#)) is located in subsection (2)(a) or (b) of this section.

(4) Request to extend approval to construct or modify a stationary source issued under minor new source review that is set to expire (WAC [173-400-111\(7\)](#)): One hundred dollars.

An applicant may request an eighteen-month extension of an approval to construct.

(5) Review of general order of approval (WAC [173-400-560](#)).

(a) Category A general order.

(i) SEPA review complete: Five hundred dollars.

(ii) SEPA review required: Seven hundred eighty-five dollars.

(iii) Category A consists of the following general order of approval, including any subsequent updating or replacement:

(A) Concrete batch plants (No. 08-AQG-002);

(B) Rich burn, spark ignition, gaseous fossil fuel-powered emergency electrical generators (No. 06-AQG-005);

(C) Perchloroethylene dry cleaners using less than 2100 gallons per year (No. 06-AQG-003);

(D) Stationary and portable rock crushers (No. 11AQ-GO-001);

(E) Small water heaters and steam generating boilers (No. 08-AQ-G003); and

(F) Automobile body repair and refinishing shops (No. 08-AQG-001).

(b) Category B general order.

(i) SEPA review complete: Eight hundred seventy-five dollars.

(ii) SEPA review required: One thousand one hundred sixty dollars.

(iii) Category B includes a general order of approval developed on or after January 1, 2011.

Category B covers, but is not limited to, the following general order of approval, including any subsequent updating or replacement:

(A) Portable and stationary asphalt plants (No. 10AQ-G0-01 [10AQ-GO-01]); and

(B) Dairy manure anaerobic digesters (No. 12AQ-GO-01).

(6) Review of relocation of portable source under WAC [173-400-036](#), [173-400-110](#) or [173-400-560](#).

(a) This fee applies to a portable source who intends to relocate in ecology's jurisdiction with an approval order from another permitting authority.

(i) SEPA review complete: One hundred fifty dollars.

(ii) SEPA review required: Four hundred thirty-five dollars.

(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.

(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.

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) 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.

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.

(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.

(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; 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: 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.

### **173-455-130**

#### **Air pollution standards variance fee.**

The department Ecology shall charge a fee of ~~sixty-five~~<sup>ninety-five</sup> dollars per hour to process a variance request in accordance with WAC [173-400-180](#).

**Commented [TM(22)]:** Update to reflect base rate for NSR fees

### **173-455-140**

#### **Nonroad engine permit fee.**

| ~~The department~~[Ecology](#) shall charge a fee of ninety-five dollars per hour to process a notification of intent to operate under WAC [173-400-035](#).