

Chapter 173-455 WAC

AIR QUALITY FEE RULE

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~~WAC 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. A workload analysis must support the fee increase. Prior to making any changes, ecology will post the~~

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~~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.~~

~~-           New fee = Existing fee x (1 + FGF)  
Where FGF means the annual fiscal growth factor  
calculated under chapter 43.135 RCW (expressed as a  
decimal)~~

### WAC 173-455-038 Fees not included.

This chapter contains all fees required by the air quality program except the following:

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

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

~~(3) Motor vehicle emission inspection - Fees can be found in chapter 173-422A WAC.~~

### WAC 173-455-040 ~~Air contaminant s~~Source registration fees.

(1) Ecology will ~~charge a yearly registration~~ assess an annual fee to cover the cost of implementing the registration program. Fees received under the registration program shall not exceed the cost of ad-

ministering the program, which includes the program components identified in WAC 173-400-099(2).

(2) Registration program source tier fees.

(a) Tier 1 sources shall pay a Tier 1 base fee.

(b) Tier 2 sources shall pay:

(i) a Tier 2 base fee;

(ii) applicable additional fees in (4) of this subsection.

(c) Tier 3 sources shall pay:

(i) a Tier 3 base fee;

(ii) a per ton emissions fee for the following pollutants:

(A) carbon monoxide (CO);

(B) nitrogen oxides (NO<sub>x</sub>);

(C) PM-10;

(D) sulfur oxides (SO<sub>x</sub>); and

(E) volatile organic compounds (VOCs);

(F) total toxic air pollutants in WAC 173-460-150; and

(iii) applicable additional fees in section (4) of this subsection.

(d) Tier 4 sources shall pay:

(i) a Tier 4 base fee;

(ii) a per ton emissions fee for the following pollutants:

(A) carbon monoxide (CO);

(B) nitrogen oxides (NOx);

(C) PM-10;

(D) sulfur oxides (SOx); and

(E) volatile organic compounds (VOCs);

(F) total toxic air pollutants in WAC 173-460-150; and

(iii) applicable additional fees in section (4) of this subsection.

**(3) Additional registration program fees.**

(a) Re-inspection fee. Ecology will charge an additional fee to re-inspect a source to verify conditions.

(b) Source test fee. Ecology will charge an additional fee for each source test.

**(4) Source closure.**

(a) Temporary source closure. A source that closes temporarily must pay its registration fees to maintain its active registration status.

(b) Permanent source closure. Ecology may require a stationary source that permanently ceases operations to pay a source closure fee. The source closure fee will be included in the fee schedule.

**(5) Registration fee schedule.**

(a) Registration fee schedule for years 2018 and 2019.

Registration fees will be phased in for the years 2018 and 2019

as in table (2)(a) below:

Table 2a - phased in registration fee schedule

<u>Year</u>		<u>2018</u>	<u>2019</u>
<u>Tier 1 base fee</u>		<u>\$200</u>	<u>\$250</u>
<u>Tier 2 base fee</u>		<u>\$750</u>	<u>\$850</u>
<u>Tier 3 base fee</u>		<u>\$1,200</u>	<u>\$1,500</u>
<u>Tier 4 base fee</u>		<u>\$3,000</u>	<u>\$4,500</u>
<u>Emissions fee (if ap- plicable)</u>	<u>Per ton pollutant</u>	<u>\$50</u>	<u>\$50</u>
	<u>Per ton total TAP</u>	<u>\$150</u>	<u>\$150</u>
<u>Additional fee (if applicable)</u>	<u>Re-inspection fee</u>	<u>\$300</u>	<u>\$300</u>
	<u>Source test fee</u>	<u>\$500</u>	<u>\$500</u>
	<u>Source closure fee</u>	<u>\$0</u>	<u>\$0</u>

(ii) Tier 3 source registration fee shall not exceed \$8,000.

(iii) Tier 4 source registration fee shall not exceed \$13,000.

(b) Registration fee schedule after year 2019.

Ecology shall post a fee schedule identifying registration pro-  
gram fees for the source tiers as described in section (2) above. The

fee schedule, including a list of sources with assigned tiers, will be posted on ecology's website no later than November 1 for the upcoming year. A fee schedule remains in effect until replaced with a new fee schedule using the process in (c) below.

(c) Process for adjusting the fee schedule.

A draft registration workload analysis with draft registration fee schedule shall be posted on the ecology website prior to any proposed fee change. The draft materials must be posted no later than August 1<sup>st</sup> of the year before the fee increase goes into effect. Ecology must hold a 60-day public comment period. The final fee schedule will be posted on ecology's website no later than November 1<sup>st</sup> for the upcoming year.

~~(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 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~~

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

<sup>§</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~~

<b>Air Pollutant</b>	<b>Emission Rate</b>
<b>Carbon monoxide</b>	<b>100 tons per year</b>
<b>Lead</b>	<b>0.6 tons per year</b>
<b>Fluorides</b>	<b>3 tons per year</b>

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

<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.~~

(6) **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) **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~~ they ~~small business owner~~ may request a fee reduction. ~~The owner or operator~~ They must provide sufficient evidence to support a claim of an extreme hardship. The registration fee may be reduced by no more than fifty percent.

(8) **Fee payments.**

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

(b) A penalty equal to three times the amount of the original fee  
owed may be assessed 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 enforcement action. 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.

(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.

(9) **Additional registration fee for fossil-fueled electric gener-**  
**ating 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.

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

(1) **Statutory authorization.** RCW 70.94.892 authorizes the department 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 table below lists the fees for the carbon dioxide mitigation program ~~are described in this section and listed in the table below.~~ These se fees ~~listed~~ 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>\$6595.00/hr.</del> <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>\$6595.00/hr.</del> <sup>3</sup>
iii. Direct investment	<del>\$6595.00/hr.</del> <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>\$6595.00/hr.</del> <sup>6</sup>
iii. Applicant controlled project	<del>\$6595.00/hr.</del> <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.

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

### **WAC 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.

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(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.

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(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.

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(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. 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.

(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;

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(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.

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(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~~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 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:

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- (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. Other fees specified in subsections (2) through (7) of this section shall be paid no later than

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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 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 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 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 un-

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der 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~~ as needed.

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

The department shall charge a fee of ~~sixty~~ninety-five dollars per hour to process a variance request in accordance with WAC 173-400-180.