

Meeting Summary
Registration Program Fees and Process Workgroup
April 26, 2017
9:00 a.m. – 12:00 p.m.
Moses Lake, WA



Workgroup_Agenda_
04-26-17.pdf

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

Introductions and Goals of Meeting

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

- Better understand costs, allocations, and staff time spent on registration program activities.
- Review the draft language.
- Understand how the draft language applies to specific sources.
- Better understand the intentions of the draft language.
- Express specific concerns for cattle feedlots in Washington.

Ecology established a “Marina” to dock discussions or questions that take the workgroup off topic or bog the discussion down. Anyone at the meeting was allowed to “dock” a sticky note on the “Marina” sheet. The workgroup will use the notes for further discussion as time allows. Participants “docked” five questions/topics in the marina at the 4/26/17 meeting.

- What is missing from the workload model? What fees are we not collecting; such as the fee for gasoline dispensing facilities (See 4/26/17 draft language, WAC 173-455-040 (7))?
- Are gasoline dispensing facilities paying a fee to anyone? Why is Ecology not collecting that fee?
- What defines a small business (4/26/17 draft language, WAC 173-455-040 (8))?
- Why are marijuana growers not included in registration program? Will they be in the future?
- Cattle feedlots request a clear list of what an approved format looks like in 4/26/17 draft language, WAC 173-400-102 (2).

Review of Workload Analysis

Ecology opened up discussion about the workload analysis documents. They explained the spreadsheet shows 2015 work activity for the registration program. RCW 70.94.151 lists and supports all activities in the workload analysis. The following is a summary of the discussion:



Short_Summary_FY18
FY19_Registration_Pro

- **In general workgroup members were interested in gaining an understanding of Ecology costs for the registration program.**
- **How will Ecology address future increased costs for the program? (*General workgroup members*)**

Ecology will base the fee schedule on a workload analysis. Ecology will post both on Ecology's website.

- **What are examples of indirect and direct costs?** *(Question from Krista Kinsey)*
- **Does Ecology have information about the average cost per source?** *(Question from Jack Field)*
Ecology does not track time spent on registration program activities for individual sources.
- **The workgroup needs information regarding costs by category group types to proceed with decision on fees and structure.** *(Comment from general workgroup members)*
Ecology will work on providing some information on this at the next workgroup meeting. Because we do not track costs by source or source category, we have limited information.
- **The workgroup requested example of actual fee amounts. A similar structure to what was presented at the meeting would be helpful.** *(Comment from general workgroup members)*
- **Is cutting costs of the program an option?** *(Question from Garry Kneedler)*
Ecology is currently working on registration program activities with limited staff. Ecology is committed to better efficiencies for the registration program. Ecology will not eliminate staff positions working on the registration program.
- **Would like to engage with Ecology on how to streamline the reporting process.** *(Comment from Garry Kneedler)*
He has to provide information numerous times and must complete forms by hand. Wants improved ability for Ecology to request and receive information. Others in workgroup agreed. Ecology has also identified this issue and appreciates support for improved tools for collecting and managing information.
- **Suggestion that an easy approach would be to charge each source \$1250.** *(Comment from Garry Kneedler)*
Ecology's goal is to make fees more equitable based on complexity of a source and how much time registration program staff spend on them.
- **Do the fees include permitting costs?** *(Question from Garry Kneedler)*
No. The fees are only for registration activities.
- **How do we know how much time Ecology spends at feed lots? We need this information for oversight at feedlots and to better understand how fee changes effect feedlots.** *(Comment from Jack Field)*
Ecology does not track costs by source or source category.
- **Ecology has operated with collection of fees for only forty five percent of eligible costs. How has Ecology made up the difference in past years and why are they not continuing to do so?** *(Question from Krista Kinsey)*
Ecology used other Air Quality Program revenue sources to cover the difference. Those revenue sources are no longer available. Also, RCW 70.94 requires Ecology to recover the costs for the registration program through source fees.
- **Can Ecology provide information about fee comparisons with local air agencies?**
The information was in the PowerPoint presentation from the 3/21/17 meeting. The document is available on Ecology's website at <http://www.ecy.wa.gov/programs/air/rules/wac173455/1609adv.htm> and in the summary notes from that meeting.
- **Why does Ecology CRO have so much more compliance staff per source than ERO?** *(Question from Jana McDonald)*
The workload analysis that was shared estimated staff time for registration program activities and did not identify ERO and CRO staff. All of the activities are fee-eligible. Specific questions about how staff spend time should be directed to supervisors and managers. Ecology has had very limited ability to track time spent on specific sources. We have recently created new cost

codes for registration program activities in an effort towards more efficient time tracking. In addition, Ecology has just launched a new agency-wide time accounting system. We are exploring the system's ability to improve tracking of costs.

- **Why does the spreadsheet split out leave time? Doesn't that roll into the benefits calculations?** *(Question from Garry Kneedler)*
No, leave is not part of the benefits calculations. It is a separate cost based on actual average leave time taken by staff.
- **Are emission inventories conducted every year and who does them?** *(Question from Jana McDonald)*
Ecology inventories some sources every year. Others only periodically. Staff at both CRO and ERO conduct the inventories.
- **Ecology exempts 12 of the mint fields now. Who else is exempt?** *(Question from Shane Johnson)*
Exempt status currently varies by year depending on that year's emissions.
- **Can Ecology provide examples of the kinds of sources that are small, medium, or large?** *(Question from Garry Kneedler)*
Examples: Small - dry cleaners, auto body shops, and small rock crushers
 Medium - smaller potato processors and feedlots
 Large - larger potato processors, data centers, Simplot, and REC
- **Are gas stations exempt?** *(Question from Jana McDonald)*
No, they are not.
- **Why is Ecology not collecting the fees for gas stations?** *(Question from Jana McDonald)*
Ecology does collect fees from gas stations. Gasoline dispensing facilities pay an annual fee of \$160 per tank through Ecology's toxic cleanup underground storage tank (UST) program. Gasoline terminals are registered sources through Ecology's air quality program and pay annual registration fees. The \$130 per tank fee that prompted this question is located in WAC 173-455-040(6). It was added in 2012 with the goal of funding a 0.5 FTE position in Ecology's Toxic Cleanup Program to incorporate air quality inspections into UST inspections. The \$130 fee has not been collected because the position has not been established yet.
- **Are there other registration program sources from whom Ecology is not collecting fees?** *(Question from Jana McDonald)*
There are likely sources that aren't registered currently, but are required to. Ecology does not have a way to identify them. The draft rule language requires sources subject to registration to notify ecology.
- **What are the "Indirect" costs?**
They are part of the overhead costs. See (4) in the spreadsheet notes towards the end of the document.
- **Workgroup wants sources to be able to anticipate what fees will be each year.**
Ecology will consider how to accomplish this.

Review of Draft Language

Ecology introduced the documents being used for the meeting's discussion.



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The primary focus of the discussion was on sections pertaining to the registration program fee and process changes. Workgroup members had the following questions, concerns, and recommendations for Ecology:

Chapter 173-400 WAC

- 173-400-100 Source Classification
 - (g) – Clarify what kind of order.
- 173-400-102 Scope of registration and reporting requirements
 - (1) Initial notification.
 - **Why is this necessary?** Ecology responded that current rules do not place responsibility for registration on the source. This new language does that and sets a timeframe.
 - **Ecology should require more sources to register to level the playing field. Sources that are not aware of the requirement to register still won't know that they have to do this. Was this intended to allow Ecology to take enforcement action if a source doesn't register? The suggested was made that the language require registration as soon as the source is aware of the requirement rather than 30 days after start of operation.** Ecology responded that they do not have the staff to search for unregistered sources. Ecology also clarified that the intent is not to catch more sources for violations or penalties. *(Question and comment from Jana McDonald)*
 - **There was concern about the necessity of this language and Ecology misusing it.** Ecology responded when they identify a source required to register, they instruct them to do so. However, Ecology expects that a company with a registered source is aware of the requirement and will register all of their sources. *(Comment from Jack Field)*
 - **The suggestion was made that Ecology allow 90 days rather than 30 days for registration of newly operating source.** Ecology had no concerns with that. *(Comment from Garry Kneeder)*
 - **Will Ecology automatically register a new source that submits an NOC application?** Ecology responded yes. The permitting and registration program coordinates when permitting new or modified sources. *(Question from Krista Kinsey)*
 - (2) Reports.
 - **Ecology explained that (2) is new emissions inventory reporting requirements. This allows for changes such as an electronic format in the future.**
 - **There is concern that Ecology should clearly define "ecology approved format" because a source will become used to one format and then Ecology will change the format. The feed lots in particular want clarity.** *(Comment from Jack Field)*
 - **There is concern that the language "ecology approved format" is too open ended and that sources would need to update their systems in future years.** *(Comment from Garry Kneeder)*
 - **Ecology was asked to consider all ends of the spectrum when improving the formats.** *(Comment from Krista Kinley)*
 - **Simplot currently has difficulty with moving their data from their formats to the Ecology spreadsheets for inventory. Ecology was asked to consider how sources record their information when developing new reporting formats.**

Ecology responded that they don't know what a new IT system will look like, but we recognize that some sources may require assistance or allowances to submit in their own format. Ecology will reconsider the language based upon comments. *(Comment from Jana McDonald)*

- 173-400-103 Source registration class

Ecology explained that this section presents substantial changes to the rules. Ecology is opening the draft structure for group consideration and discussion. Ecology will share actual dollar amounts for the structure prior to the next workgroup meeting. Ecology also explained that these changes apply only to sources in Ecology's jurisdiction – not local air agencies.

- (1)

- Ecology explained that this draft language will base source grouping for fees upon information submitted with annual or periodic emissions inventory. If that information is not available, Ecology will base source grouping for fees upon maximum potential to emit.
- **Why is Ecology including TSP in the pollutant table when permitting and compliance focus is on PM2.5 and PM10?** Ecology will check into this and let the workgroup know. *(Question from Krista Kinley)*
- **Please explain why Ecology crossed out the old table with the old thresholds and created the new table.** Ecology explained that using the draft rule language will re-structure sources into different categories than currently used. The thresholds identified in the draft rule language are similar to what is used at Benton Clean Air Agency. Ecology's goal is to have equitable distribution of fees and with full cost recovery for fee-eligible activities. *(Comment from Krista Kinley)*

- (2) Registration classes.

- Ecology explained that (2) (a) defines a Class 1 source. This is designed to identify small and seasonal sources. Ecology also noted that (d) refers to all sources that would be AOP (Title V major source) except for enforceable permitting limits. Synthetic minor sources refers to all SM sources, not just SM80s.
- **Basing fees on actual emissions will not assure program cost recovery. Emissions can vary widely from year to year. The workgroup suggested that we look for a fee structure Ecology can rely on for sustainable adequate income to support Ecology's work. They cannot support a moving target for cost recovery.** Ecology responded that the intent is for the new structure to charge fees in a more equitable manner. Ecology asked if the workgroup suggested a lower \$/ton emissions fee. Ecology also explained that the only sources charged a per ton fee right now are those classified as annual sources and SM80s. *(Comment from Jana McDonald and Garry Kneedler)*
- **The new language reads that medium and annual sources, as currently regulated, will be in Class 2 and Class 3. Synthetic minors will be Class 4. Are Title V (AOP) sources addressed separately?** Ecology responded yes. AOP sources are not subject to registration program or fees. Ecology addresses these through separate rules. *(Question from Jana McDonald)*

- **The workgroup wants to see a similar budget breakdown based on the suggested structure. They need to see the costs to sources in order to weigh in on the structure.** Ecology responded that they need input today and that we will provide detailed costs at the next meeting. *(Comment from Jana McDonald)*
- **Why is Ecology proposing to change the pollutant thresholds to classify sources?** Ecology responded that the current thresholds are compared to actual emissions reported periodically by a registered facility. Ecology will consider other factors in placing a facility into a payment category, and therefore will consider changes to what thresholds are used. Ecology’s goal is to have equitable distribution of fees and full cost recovery for fee-eligible activities. *(Question from Jana McDonald)*
- **There is concern that Ecology will place a dry cleaner and a rock crusher in the same category for fees. The tons of pollutants emitted by the two different sources does not correlate to the work performed by Ecology.** Ecology noted the concern. *(Comment from Garry Kneedler)*

Chapter 173-455 WAC

- 173-455-36 Fee increases
 - **What is the purpose of the new language in this section?** Ecology responded that we are establishing Ecology will have to support any increase in the fee schedule with a posted workload analysis. *(Question from Jana McDonald)*
 - **Does Ecology need to go thru the legislature to make the changes?** Ecology responded that this is no longer required. *(Question from Jack Field)*
 - **Is the authority for assessing fees in WAC or RCW?** Ecology responded the authority is found in RCW 70.94. *(Question from Jack Field)*
- 173-455-040 Source registration fees
 - (1)
 - Ecology explained that (1) is language from the RCW and used here for clarification.
 - (2)
 - Ecology explained that this section is language that requires Ecology to post the fee schedule.
 - **Is there a reason the fees don’t tie into Ecology’s biennium or fiscal year?** Ecology will look into history of this. *(Question from Jack Field)*
 - **The requirement to post the fee schedule annually suggests there will be a new fee assessed each year.** Ecology responded that, although Ecology is required to post a new fee schedule each year, the fees will not change frequently. The fees will be based upon workload. **Krista requested that we clarify this in the rule.** *(Comment from Krista)*
 - **The suggestion was made that Ecology remove the March 31 of each year reference in (b).** *(Comment from Jana McDonald)*
 - (3)
 - Ecology explained that (3) presents the basic fee structure by source class.
 - **(3)(iv) “any applicable additional fees” leaves it wide open for Ecology to charge other fees. Suggested (iv) read “any applicable additional fees as listed in (4) below”.** Ecology agreed with the suggestion and will make the change. *(Comment from Jana McDonald, Krista Kinley, and Jack Field)*

- **Will Ecology charge for each time they come out for a source test?** Ecology responded this is intended to recoup the cost for that. *(Question from Gary Kneedler)*
 - **Ecology should rely more on a base fee per facility rather than actual emissions to limit variability in fees paid from year to year. Ecology should base only a small portion of the fee on the per ton fee. It would be more reliable for Ecology in collecting adequate fees and easier for the source to plan for budgeting.** Ecology asked the workgroup for suggestions on what percentage of the registration fees we should focus on emissions vs. a base fee. Ecology explained that local air agencies typically charge both base and emissions fees. Northwest Clean Air Agency is different and incorporates a per ton fee into the base fee by category. *(Comment from Krista Kinley)*
 - **Ecology may be able to eliminate annual actual emissions reporting. It has become a burden to companies with multiple sources and portable operations.** Ecology responded that we will consider the suggestion. Ecology stated that the Air Quality Program needs to consider the value of annual actual emissions reporting. It may indicate fees should be charged on PTE rather than actual emissions. However, the workload associated with determining PTE for 500+ sources may be much more than inventorying those sources annually or periodically. Ecology will look at if it could be based on PTE, with an option for the source to submit actuals. *(Comment from Garry Kneedler)*
 - (4)
 - Ecology explained (4). The re-inspection fee is for a source that requires Ecology compliance staff to visit a second time or more to ensure that the source is in compliance. This is intended as something that the source has control over and provides incentive to comply.
 - **If Ecology visits a source to investigate a complaint, does Ecology consider that a re-inspection?** Ecology responded no. This (4) is focused on findings of a compliance inspection – not complaint investigations. *(Question from Jack Field)*
 - **Does Ecology have to visit the source again when an inspection indicates a compliance issue? How do we know that you're not picking on us?** Ecology responded that a revisit does not occur often - only if the source is not cooperative and Ecology needs to revisit. *(Question from Krista Kinley)*
 - **In (4)(b), with a permit, Ecology may require a source test every five years. If the source is a new plant, is Ecology attendance at the first source test incorporated into the permit fees?** Ecology responded that permit fees do not cover any activities after the permit is issued. The registration fees cover all compliance activities. This provision allows for Ecology to charge for source test oversight. *(Question from Gary Kneedler)*
 - **Where is permitting revenue included in these rules?** Ecology responded that permitting fees are separate from the registration fees. Permitting fees are outside the scope of this rulemaking. Current permitting fees are available on Ecology's website. *(Question from Gary Kneedler)*
 - **How many odor complaints does Ecology deal with, such as marijuana?** Jana has other comments on this section that she will email to Brenda. *(Question and comment from Jana McDonald)*
 - **How will Ecology apply fees for odor sources?** Ecology gave the example that one local air agency charges \$2700. *(Question from Jack Field)*

- **Who decides that fees are late?** Ecology responded that their fiscal office tracks and notifies staff when fees are late. *(Question from Jack Field)*
 - **Should we reconsider this in light of today's discussion on billing upon closure?** *(Question from Jack Field)*
- 173-455-050 Carbon dioxide mitigation program fees.
 - Ecology explained this section is not relevant to the registration program. Ecology is proposing to modify it to align with current rates.
- 173-455-100 Control technology fees
 - Ecology explained that they would like to modify this section to align with current rates.
 - **Why is Ecology adjusting fees in (4)(b)?** *(Question from Jack Field)*
 - **Do the categories in this rule change with the adjustments to the registration fees? Does Ecology need to update these to correlate to new registration classes?** Ecology responded that they will review this. *(Question from Jana McDonald)*
 - **Why is Ecology removing (11)? Jack opposed removing.** Ecology responded that this language was added in 2012. At that time Ecology established fees at only 60 percent cost recovery, with the intention to adjust at least once every two years. Ecology has not done that. Ecology has added language requiring Ecology to do a workload analysis prior to changing the fee schedule. The requirement makes the original language obsolete. *(Comment from Jack Field)*
 - **Jack Field wants Ecology to demonstrate cost increases before charging fees.** *(Comment from Jack Field)*
- **Is the registration program trying to do too much?** Ecology is using existing staff to perform the registration fee eligible activities identified in RCW 70.94.151. Ecology optimizes staff time to best meet the registration program purposes identified in RCW 70.94.011, including securing and maintaining levels of air quality that protect human health and safety, and preventing air pollution problems that interfere with the enjoyment of life or property. Staff prioritize work daily, to make the biggest impacts while keeping in mind that air emissions from small individual sources contribute to the region's total air emissions. *(Question from Krista Kinsey)*

Last Minute Thoughts and Next Steps

- Ecology stated that the next meeting will be our last meeting of this workgroup.
- There was concern from workgroup members that they need more time and information to be effective with their input. They are not sure the current timeline allows for that and that we are trying to fit too much into a three hour meeting. The workgroup suggested Ecology allow for more time. Ecology explained that they are scheduled to propose in August and their timeline is very tight. Ecology will not be able to make significant changes once it goes to proposal. It is important to have significant changes done before then. Workgroup members will have

additional opportunities to comment outside of workgroup meetings prior to the proposal in August.

- Meeting participants agreed to a longer meeting on 5/24/17 to help with the concern for more time. They requested an agenda with specific topics to cover during the meeting. Suggested hours are 8:30-11:30 and 12:30-3:30.
- Workgroup members requested that Ecology provide draft documents well in advance to allow them time for review prior to the next meeting.
- Participants expressed concern about the purpose of the workgroup. It seems to workgroup members like Ecology has already decided on a structure. Ecology previously said they were open to structure. Ecology responded that the structure presented at today's meeting is a suggestion to serve as a basis for beginning the discussion. Ecology stated they heard good suggestions for changing the structure during this meeting.
- Gary Kneedler emphasized that the workgroup needs to know where Ecology is spending time in order to judge whether the fee structure is equitable.
- Jack Field asked if Ecology could enter into an MOU with other agencies, such as Department of Agriculture, to reduce the work.
- Ecology will e-mail changes from today's discussion to the workgroup before the next meeting.

Attendance

Workgroup member attendees:

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

Audience attendees:

- George Colley, Washington Mint Growers

Ecology staff attendees:

- Jason Alberich, Ecology HQ
- Jay Carmony, Ecology CRO
- Jolaine Johnson, Ecology ERO
- Lisa Kean, Ecology HQ
- Shawn Nolph, Ecology CRO
- Brian Prisock, Ecology ERO
- Nancy Pritchett, Ecology HQ
- Brenda Smits, Ecology ERO
- Margo Thompson, Ecology HQ

Absent Workgroup Members:

- Gary L. Christensen, WA Mint Growers
- Tim Clark, Cascade Auto Center
- Robert D. Cox, Pomeroy Grain Growers
- Adam Hyde, Trout Lake Farms
- Sean Lunsford, Helena Chemical Company