

WSR 24-05-073
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed February 20, 2024, 1:50 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 7.07 (Operating Permit Fees).

Hearing Location(s): On March 28, 2024, at 8:45 a.m., via Zoom meeting <https://us02web.zoom.us/j/9128500665?pwd=dGhUdnU2Q0gzdHQxbTNTM0lNbllMUT09>, Meeting ID 912 850 0665, Passcode 1904; or call in 888-788-0099 US Toll-free. The meeting can also be attended in person at the Puget Sound Clean Air Agency's (agency) office at 1904 3rd Avenue, Suite 105, Seattle, WA.

Date of Intended Adoption: April 25, 2024.

Submit Written Comments to: Betsy Wheelock, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, email RegUpdates@psccleanair.gov, fax 206-343-7522, by March 29, 2024.

Assistance for Persons with Disabilities: Contact agency reception, phone 206-343-8800, fax 206-343-7522, email RegUpdates@psccleanair.gov, by March 22, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Section 7.07:** The operating permit program fees, like the other fee programs of the agency (registration, notice of construction, and asbestos), are designed to recover the costs of implementing and administering the program. Changes to the operating permit fee schedule in Regulation I, Section 7.07 were made in 2022 and 2023, recognizing the cumulative effects of inflation. Prior to these actions, the last fee increases to Section 7.07 were made in 2012.

The current proposed changes are intended to further adjust fees to keep the revenues in balance with the level of effort to complete the compliance work associated with the operating permit program. While the revenue and expenses for the operating permit program have been roughly balanced for most of the past dozen years, the increasing costs to the program in the last few years and increasing level of effort for some types of work by the agency for certain aspects of the operating permit program need to be addressed through another adjustment to the fee schedule to ensure the agency does not reach a deficit condition.

The proposed changes include recategorizing municipal solid waste landfills from the middle tier base fee level to the highest tier base fee level. There are currently two landfills in the agency's air operating permit (AOP) program: King County Cedar Hills Landfill, and Pierce County Graham Landfill. This change reflects a financial equity adjustment based on the amount of staff time necessary to administer permitting and compliance with the sources in this category. The proposed amendments to the operating permit fee schedule also include cost increases for each base fee category of five percent. The consumer price index increase since the last operating permit fee increase is approximately five percent (up 21 percent over the past three years).

The proposed increase anticipates the effects of inflation will not readily ease and this proposal assumes the inflationary effects through the fiscal year 2025 time period (and the calendar year 2025

time period) will continue. The lag between proposed fee increases and the actual billings that reflects that revenue have also been considered in this proposal. The emission fees, a \$/ton fee for reportable air pollutant emissions levels, are proposed to remain unchanged. This recommendation regarding emission fee charges remaining unchanged will keep the emission fee charges equivalent to those for registration program sources. Additionally, no changes are proposed for the fee elements that relate to permit issuance transactions.

Reasons Supporting Proposal: The long-standing financial policy of the agency's board of directors is that fees support the costs of the compliance programs. These proposed operating permit fee changes are necessary to maintain consistency with that policy and this proposal is intended to cover increasing and future program costs based upon a reasonable evaluation of work needed to be performed by the agency for the operating permit program.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: Chapter 70A.15 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: John Dawson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4060; Implementation and Enforcement: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4052.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70A.15.2040.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 RCW does not appear to apply to local air agencies.

Scope of exemption for rule proposal:

Is fully exempt.

February 20, 2024
Christine Cooley
Executive Director

AMENDATORY SECTION

REGULATION I SECTION 7.07 OPERATING PERMIT FEES

(a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$8,125. In

addition, 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 may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70A.15 RCW).

(1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 2012), or sources subsequently determined by the control officer to be assigned to either Section 7.07 (b) (1) (i) or 7.07 (b) (1) (ii) shall be subject to the following facility fees:

(i) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
221112	Fossil Fuel Electric Power Generation
324110	Petroleum Refineries
327213	Glass Container Manufacturing
327310	Cement Manufacturing
331110	Iron and Steel Mills and Ferroalloy Manufacturing
336411	Aircraft Manufacturing
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing
<u>562212</u>	<u>Solid Waste Landfill</u>
928110	National Security
..... ((\$83,650)) <u>\$87,833</u>	

(ii) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
311119	Other Animal Food Manufacturing
311812	Commercial Bakeries
321912	Cut Stock, Resawing Lumber, and Planing
321918	Other Millwork (including Flooring)
321999	All Other Miscellaneous Wood Product Manufacturing
322220	Paper Bag and Coated and Treated Paper Manufacturing
326140	Polystyrene Foam Product Manufacturing
332996	Fabricated Pipe and Pipe Fitting Manufacturing
..... ((\$20,910)) <u>\$21,956</u>	

(iii) Operating permit sources with NAICS codes other than listed above. ((~~\$41,830~~)) \$43,922

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b) (1):

\$30 for each ton of CO reported in the previous calendar year,

and

\$60 for each ton of NOx reported in the previous calendar year,

and

\$60 for each ton of PM10 reported in the previous calendar year,

and

\$60 for each ton of SOx reported in the previous calendar year,

and

\$60 for each ton of VOC reported in the previous calendar year,

and

\$60 for each ton of HAP reported in the previous calendar year.

(c) In addition to the fees under Sections 7.07 (b) (1) and (b) (2) above, the Agency shall, on a source-by-source basis, assess the following fees:

- (1) \$500 for administrative permit amendments [WAC 173-401-720], and
- (2) for minor permit modifications [WAC 173-401-725 (2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$8,125, and
- (3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$16,250, and
- (4) to cover the costs of public involvement under WAC 173-401-800, and
- (5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.