

RCW 90.16.050 Use of water for power development—Annual license fee—Progress report—Exceptions to the fee schedule—Ensuring accountability in the programs.

(1) Every person, firm, private or municipal corporation, or association hereinafter called "claimant", claiming the right to the use of water within or bordering upon the state of Washington for power development, shall on or before the first day of January of each year pay to the state of Washington in advance an annual license fee, based upon the theoretical water power claimed under each and every separate claim to water according to the following schedule:

(a) For projects in operation: For each and every theoretical horsepower claimed up to and including one thousand horsepower, at the rate of eighteen cents per horsepower; for each and every theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of three and six-tenths cents per horsepower; for each and every theoretical horsepower in excess of ten thousand horsepower, at the rate of one and eight-tenths cents per horsepower.

(b) For federal energy regulatory commission projects in operation that are subject to review for certification under section 401 of the federal clean water act, the following fee schedule applies in addition to the fees in (a) of this subsection: For each theoretical horsepower of capacity up to and including one thousand horsepower, at the rate of thirty-two cents per horsepower; for each theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of six and four-tenths cents per horsepower; for each theoretical horsepower in excess of ten thousand horsepower, at the rate of three and two-tenths cents per horsepower.

(c) To justify the appropriate use of fees collected under (b) of this subsection, the department of ecology shall submit a progress report to the appropriate committees of the legislature prior to December 31, 2009, and biennially thereafter. The progress report will: (i) Describe how license fees and other funds used for the work of the licensing program were expended in direct support of the federal energy regulatory commission licensing process and license implementation during the current biennium, and expected workload and full-time equivalent employees for federal energy regulatory commission licensing in the next biennium. In order to increase the financial accountability of the licensing, relicensing, and license implementation program, the report must include the amount of licensing fees and program funds that were expended on licensing work associated with each hydropower project. This project-specific program expenditure list must detail the program costs and staff time associated with each hydropower project during the time period immediately prior to license issuance process, the program costs and staff time deriving from the issuance or reissuance of a license to each hydropower project, and the program costs and staff time associated with license implementation after the issuance or reissuance of a license to a hydropower project. This program cost and staff time information must be collected beginning July 1, 2016, and included in biennial reports addressing program years 2016 or later. The report must also include an estimate of the total workload, program costs, and staff time for work associated with either certification under section 401 of the federal clean water act or license implementation for federally licensed hydropower projects

expected to occur in the next reporting period, or both. In addition, the report must provide sufficient information to determine that the fees charged are not for activities already performed by other state or federal agencies or tribes that have jurisdiction over a specific license requirement and that duplicative work and expense is avoided; (ii) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and (iii) recognize hydropower operators that exceed their environmental regulatory requirements.

(d) The fees required in (b) of this subsection expire June 30, 2029. The biennial program reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.

(2) The following are exceptions to the fee schedule in subsection (1) of this section:

(a) For undeveloped projects, the fee shall be at one-half the rates specified for projects in operation; for projects partly developed and in operation the fees paid on that portion of any project that shall have been developed and in operation shall be the full annual license fee specified in subsection (1) of this section for projects in operation, and for the remainder of the power claimed under such project the fees shall be the same as for undeveloped projects.

(b) The fees required in subsection (1) of this section do not apply to any hydropower project owned by the United States.

(c) The fees required in subsection (1) of this section do not apply to the use of water for the generation of fifty horsepower or less.

(d) The fees required in subsection (1) of this section for projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system shall be reduced by fifty percent to reflect the portion of the year when the project is not operable.

(e) Any irrigation district or other municipal subdivision of the state, developing power chiefly for use in pumping of water for irrigation, upon the filing of a statement showing the amount of power used for irrigation pumping, is exempt from the fees in subsection (1) of this section to the extent of the power used for irrigation pumping.

(3) In order to ensure accountability in the licensing, relicensing, and license implementation programs of the department of ecology and the department of fish and wildlife, the departments must implement the following administrative requirements:

(a) (i) Both the department of ecology and the department of fish and wildlife must be responsible for producing an annual work plan that addresses the work anticipated to be completed by each department associated with federal hydropower licensing and license implementation.

(ii) Both the department of ecology and the department of fish and wildlife must assign one employee to each licensed hydropower project to act as each department's designated licensing and implementation lead for a hydropower project. The responsibility assigned by each department to hydropower project licensing and implementation leads must include resolving conflicts with the license applicant or license holder and the facilitation of department decision making related to license applications and license

implementation for the particular hydropower project assigned to a licensing lead.

(b) The department of ecology and the department of fish and wildlife must host an annual meeting with parties interested in or affected by hydropower project licensing and the associated fees charged under this section. The purposes of the annual meeting must include soliciting information from interested parties related to the annual hydropower work plan required by (a) of this subsection and to the biennial progress report produced pursuant to subsection (1)(c) of this section.

(c) Prior to the annual meeting required by (b) of this subsection, the department of fish and wildlife and the department of ecology must circulate a survey to hydropower licensees soliciting feedback on the responsiveness of department staff, clarity of staff roles and responsibilities in the hydropower licensing and implementation process, and other topics related to the professionalism and expertise of department staff assigned to hydropower project licensing projects. This survey must be designed by the department of fish and wildlife and the department of ecology after consulting with hydropower licensees and the results of the survey must be included in the biennial progress report produced pursuant to subsection (1)(c) of this section. Prior to the annual meeting, the department of ecology and the department of fish and wildlife must analyze the survey results. The departments must present summarized information based on their analysis of survey results at the annual meeting for purposes of discussion with hydropower project licensees. [2022 c 139 § 1; 2016 c 75 § 1; 2007 c 286 § 1; 1929 c 105 § 1; RRS § 11575-1.]