

Chapter 173-24 WAC

TAX EXEMPTIONS AND CREDITS FOR POLLUTION CONTROL FACILITIES

WAC

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WAC 173-24-010 Introduction and purpose. Chapter 82.34 RCW provides for tax credits and exemptions for pollution control facilities approved by the appropriate control agency. The purposes of this rule are to:

- (1) Establish a procedure for reviewing applications for tax benefits received from the department of revenue for review by the department of ecology; and
- (2) Establish criteria for identifying the individual facilities within each application and, for each facility, either:
 - (a) Approve the facility;
 - (b) Approve the facility as a "dual purpose pollution control facility"; or
 - (c) Deny the facility.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-010, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-010, filed 3/14/78; Order DE 70-7, § 173-24-010, filed 8/4/71.]

WAC 173-24-020 Authority. This rule is adopted under the authority granted the director of the department of ecology by RCW 43.21A.080 and 43.21A.090.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-020, filed 9/22/00, effective 10/23/00; Order DE 70-7, § 173-24-020, filed 8/4/71.]

WAC 173-24-030 Definitions. Unless a different meaning is plainly required by the context, the following words as used in this chapter have the following meanings:

- (1) "Commercial or industrial operation" means the industrial, manufacturing, waste disposal, utility or other commercial establishment operated by an applicant for a certificate under chapter 82.34 RCW.
- (2) "Department" means the Washington state department of ecology.
- (3) "Dual purpose pollution control facility" or "dual purpose facility" means a facility in which the portion for the

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purpose of pollution control is so integrated into the total facility with portions for other purposes that separation into identifiable component parts is not possible.

(4) "Facility" means any treatment works, control device, disposal system, machinery, equipment, structure or property for which a certificate is applied for under chapter 82.34 RCW or any physically or conceptually identifiable part or accessory thereof.

(5) "Necessary to the manufacture of products" means that without which manufacture of products at the present or proposed level could not be undertaken.

If the manufacture of products could be undertaken at present levels without a facility, even though the manufacture would be uneconomical or impractical, such a facility is not necessary to the manufacture of products. However, if a commercial or industrial operation is recovering or producing chemicals or heat for use in the manufacturing process at the time it submits an application, then any facilities necessary for production or for recovery of chemicals at present percentage rates will be considered necessary to the manufacture of products.

(6) "Pollution" means "air contaminant" and "air pollution" as defined in RCW 70.94.030, and "pollution" as defined in RCW 90.48.020.

(7) "Products" as used in the phrase, "manufacture of products," includes the item or items which an industrial operation is designed primarily to manufacture or produce.

(8) "Regional or local air pollution control authority" means any local or regional entity or control program considered as an "authority" for the purpose of chapter 70.94 RCW.

(9) "Single purpose facility" means a facility other than a dual purpose facility.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-030, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-030, filed 3/14/78; Order DE 70-7, § 173-24-030, filed 8/4/71.]

WAC 173-24-040 Applications submitted to the department of revenue. Applications filed under RCW 82.34.020 must be submitted to the department of revenue in accordance with that department's requirements. The department of revenue will supply an identifying application number and forward the application to the department or regional or local air pollution control authority, as appropriate, for review under RCW 82.34.030.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-040, filed 9/22/00, effective 10/23/00; Order DE 70-7, § 173-24-040, filed 8/4/71.]

WAC 173-24-050 Applications reviewed by the department. The department will review applications for

approval of facilities that may be designated "water pollution control facilities" as defined in RCW 82.34.010 (1)(b). The department will also review any application relating to a facility that is not within the jurisdiction of an activated regional or local air pollution control authority, or that is within any area over which the department has assumed jurisdiction under RCW 70.94.390. The department will also review any application for approval of a facility relating to any air contaminant source subject to rules adopted by the department or its predecessor agencies under RCW 70.94.395.

The department will, when necessary, advise the department of revenue of the proper agency or agencies to which an application is to be submitted for review.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-050, filed 9/22/00, effective 10/23/00; Order DE 70-7, § 173-24-050, filed 8/4/71.]

WAC 173-24-060 Action by the department within thirty days—Request for further information. The department shall, within thirty days of receipt of an application from the department of revenue, make the identification and classification described in WAC 173-24-070 and approval or denial described in WAC 173-24-080, or it shall request further information from the applicant. A copy of any request from the department to the applicant for further information must be transmitted to the department of revenue. The failure of the applicant to supply any additional information requested by the department, without reasonable grounds for such a failure, may result in disapproval of all or part of the application.

The department shall notify the department of revenue, in writing, of its decisions on any application submitted and shall send a copy of the notification to the applicant by certified mail.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-060, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-060, filed 3/14/78; Order DE 70-7, § 173-24-060, filed 8/4/71.]

WAC 173-24-070 Identification and classification of facilities. The department will review each application to determine whether the facility is a single, integrated facility, or can be separated, either physically or conceptually, into identifiable component parts. Each component part must be considered as a separate facility for the purpose of the department's review of the application. The department will identify all those facilities within each application.

For each facility identified, the department shall classify it as a "dual purpose facility" or a "single purpose facility."

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-070, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-070, filed 3/14/78; Order DE 70-7, § 173-24-070, filed 8/4/71.]

WAC 173-24-080 Approval of a facility. The department shall approve any facility when:

(1) It was installed or intended to be installed for the primary purpose of pollution control, and;

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(2) When it is operated or intended to be operated primarily for the purpose of pollution control, and;

(3) When it is suitable, reasonably adequate, and meets the intent and purposes of chapter 70.94 or 90.48 RCW;

If the facility does not meet these criteria, it must be denied.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-080, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-080, filed 3/14/78; Order DE 70-7, § 173-24-080, filed 8/4/71.]

WAC 173-24-090 Installation for the purpose of pollution control. A facility will be considered to be installed or intended to be installed for the primary purpose of pollution control when:

(1) It was installed or intended to be installed in response to a requirement of the department or a regional or local air pollution control authority contained in a permit, order, or rule that applies to the particular industry or commercial establishment in question, and such a facility meets or exceeds the requirements of such a permit, order, or rule; and

(2) It was installed in conformance with a requirement developed under chapter 90.48 or 70.94 RCW and not under some other statute administered by the department such as, for example, chapter 70.95 or 70.105 RCW.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-090, filed 9/22/00, effective 10/23/00. Statutory Authority: Chapter 82.34 RCW, RCW 43.21A.080, and 43.21A.090. 80-15-020 (Order DE 80-33), § 173-24-090, filed 10/7/80; Order DE 70-7, § 173-24-090, filed 8/4/71.]

WAC 173-24-100 Operation for the purpose of pollution control. A facility is operated or intended to be operated primarily for the purpose of pollution control when:

(1) The emissions or effluents from the commercial or industrial operation do or will contain measurably less pollution with the facility installed than they would without the facility installed, and;

(2) For a facility, other than a dual purpose facility, it is not necessary to the manufacture of products.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-100, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-100, filed 3/14/78; Order DE 70-7, § 173-24-100, filed 8/4/71.]

WAC 173-24-110 Meeting the intent and purposes of chapters 70.94 and 90.48 RCW. A facility is suitable, reasonably adequate, and meets the intent and purposes of chapters 70.94 and 90.48 RCW, when:

(1) Normal operation of the particular commercial or industrial operation with the facility installed will not be in violation of any provision of chapter 70.94 or 90.48 RCW and;

(2) Such an operation will meet the requirements of any applicable permits, orders, rules or standards of the department or a regional or local air pollution control authority.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-110, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-110, filed 3/14/78; Order DE 70-7, § 173-24-110, filed 8/4/71.]

WAC 173-24-120 Treatment before connection to utilities. Any facility designed for the primary purpose of reducing, controlling, disposing of, or treating industrial or commercial wastes before the ultimate conveyance thereof to the waste collecting facilities of public or privately owned utilities must be approved if it satisfies the requirements set forth in this chapter. However, any facility installed or constructed for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities may not be eligible for approval.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-120, filed 9/22/00, effective 10/23/00; Order DE 70-7, § 173-24-120, filed 8/4/71.]

WAC 173-24-125 Revision of prior findings. On its own initiative or in compliance with the local or regional air pollution control agency in which an air pollution control facility is located, the department may revise the prior findings of the appropriate control agency whenever it appears that any of the conditions listed in RCW 82.34.100 (1) or (2) have been met or when the department determines that the prior determination had been made in error.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-125, filed 9/22/00, effective 10/23/00. Statutory Authority: Chapter 82.34 RCW, RCW 43.21A.080, and 43.21A.090. 80-15-020 (Order DE 80-33), § 173-24-125, filed 10/7/80.]

WAC 173-24-130 Administrative appeal of department decision. The approval or disapproval by the department under RCW 82.34.030 of any application, or any revision of prior findings by the department under RCW 82.34.100 shall constitute a decision of the department subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW. Any aggrieved party may appeal any decision in accordance with the rules of the pollution control hearings board no later than thirty days after receipt of written notice thereof.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-130, filed 9/22/00, effective 10/23/00; Order DE 70-7, § 173-24-130, filed 8/4/71.]

WAC 173-24-140 Delegation. The powers, duties, and functions vested in the department by chapter 82.34 RCW, will be performed by the deputy director of the department or his or her delegate.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-140, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-140, filed 3/14/78; Order DE 70-7, § 173-24-140, filed 8/4/71.]

WAC 173-24-150 Delegation of state responsibilities under federal program. The functions of the "state certifying authority" for the federal tax credit program for pollution control facilities must be performed by the deputy director of the department or his or her delegate.

[Statutory Authority: Chapter 82.34 RCW. 00-20-009 (Order 00-20), § 173-24-150, filed 9/22/00, effective 10/23/00. Statutory Authority: RCW 43.21A.080 and 43.21A.090 and chapter 82.34 RCW. 78-04-015 (Order DE 78-2), § 173-24-150, filed 3/14/78; Order DE 70-7, § 173-24-150, filed 8/4/71.]

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