

WAC 458-20-242B Pollution control exemption and/or credits for dual purpose facilities which are constructed to meet pollution control requirements and which achieve pollution control in the process of production of the plant's products. Rule 242 deals with pollution control facilities and is published in two parts:

- Part A. Single purpose facilities added to existing production plants as separately identifiable equipment principally for pollution control and which are not designed for production of products other than recovered products which but for the facility would be released as pollutants.
- Part B. Dual purpose facilities which consist of new plant equipment which achieves pollution control in the process of production of the plant's products rather than through the add on of a pollution device to existing plant equipment at some point in processing or upon completion of processing.

This rule sets out instructions for determining pollution control tax exemption and/or credit for a dual purpose pollution control facility.

A dual purpose pollution control facility is defined as a single, integrated facility which is installed to meet standards for air or water pollution, or both, and which is also necessary to the manufacture of products. It refers to a facility in which the portion of the total facility to be identified as for the purpose of pollution control is so integrated into the total facility that physical separation into identifiable component parts—that is, that which is for manufacturing and that which is for pollution control—is not possible. If these criteria are met, the following net cost approach shall be used to determine tax exemption and/or credit.

The application for certification shall be filed with the department of revenue in accordance with chapter 82.34 RCW and WAC 458-20-242A. Upon approval by the appropriate control agency, subject to the qualification that the facility described in the application is a dual purpose facility and that all requirements outlined in chapter 82.34 RCW are met, an exemption/credit certificate shall be issued. To determine the net cost attributable to the pollution control element of the dual function facility, the computations described in the following steps are required.

(1) Obtain cost estimates (for facilities under construction) and final cost figures (for completed facilities) directly related to the new dual function facility. (Actual allowable credits will be based on final costs of completed facilities.) Add to this final cost the amount of unrecovered depreciation on existing equipment replaced, if any. Subtract from this the salvage value of the replaced equipment, if and. Sales and use tax paid shall not be included as part of the facility cost.

(2) Determine the percentage that actual production capacity per unit of time of the existing plant equipment (before installation of the control facility) is of the actual capacity per unit of time of the new dual purpose facility. If the percentage so obtained is equal to or greater than 100 percent, use the figure obtained in step (1) for calculations commencing at step (3).

If the percentage so obtained is less than 100 percent, multiply that percentage times the figure derived in step (1) above. This fig-

ure represents the gross cost of constructing the new facility which meets pollution control requirements and obtains productive capacity of the existing plant. Productive capacity shall include all production of commercial or industrial value other than recovered or captured materials deductible from credits under provisions of RCW 82.34.060.

(3) All computations used to adjust the gross cost (as determined in step (2) above) shall be expressed in terms of current dollars at the start up date as defined in this step (3). To this end, a discount rate suitable for determining the present value of future income or expenditures is required. The basis of the discount rate will be the average cost of borrowed capital based on Aa Industrial Bonds as reported in Moody's Bond Record and the cost of equity capital as established by the price earnings ratio for the particular industry class as reported in the value line. This will be the average of amounts so reported for the 12 months preceding and 12 months succeeding the start up date. This date is the first date the new dual purpose facility is both in operation and in compliance with the requirements of the appropriate pollution control agency.

The discount rate to be applied will be a combination of these rates. The two rates shall be weighted 50/50. The same discount rate shall be used for all adjustments to the gross cost.

(4) The next step in the procedure is to calculate the present value of future capital that will not be spent at some specific future date due to the expenditure now of the amount determined in (2) above. This "specific future date" is the date determined by the department as the date of projected replacement of the existing plant absent the need to meet pollution control requirements. This will be the amount of expenditure calculated in (2) above multiplied by the discount factor (as determined by use of the discount rate as calculated in (3) above) which will equal the present worth of that amount of money received or expended on the date representing the end of the useful life of the existing plant by the new installation (the date of "projected replacement"). This calculated amount shall be reduced by the present value, if any, of the undepreciated balance that would remain after the end of the depreciation period for the new facility if construction had been delayed to the date used as the end of the useful life of the facility replaced. This net calculation is then subtracted from the amount computed as the "gross cost" in (2).

(5) From the amount determined in (4) deduct the present value, after deduction of a percentage equal to the maximum corporate federal income tax rate as of the start up date, of operating savings expected to accrue to the date of projected replacement used in (4) applying the discount factor for annual savings based on the discount rate calculated in (3). Operating savings shall not include the net commercial value of materials captured or recovered by virtue of the new installation deductible under RCW 82.34.060 (2) (b).

(6) The next step is to deduct from the balance as computed in (5) the present net value of federal income tax savings to be derived from depreciation of the gross cost of the dual purpose facility due to its construction sooner than at the date of projected replacement using straight line depreciation over the useful life of the facility. The determination of net present value of federal income tax reductions due to depreciation allowances will consist of three steps.

(a) Calculate the present value of depreciation allowances from date of completion of the new facility using straight line depreciation to the projected replacement date.

(b) Deduct from (a) the present value of depreciation that would have been allowable after the date of full depreciation of the new dual purpose facility if construction of the new facility had been delayed until the projected replacement date of the existing facility.

(c) Multiply the result of (a) minus (b) by the maximum corporate federal income tax rate as of the start up date.

The net amount of federal tax benefits arrived at in (c) shall then be deducted from the balance determined in step (5).

(7) The remaining amount from that calculated in (2) after adjustments provided for in steps (3) through (6) is the "net cost" of pollution control equipment to be used as the base for calculation of credits.

Calculation of credits

(A) Determine 2 percent of the amount computed in step 7. this is the gross annual credit.

(B) Multiply the amount shown in step (7) by 50 percent to determine maximum total credit allowable.

(C) The gross credit allowable per year must first be reduced by the net commercial value of captured or recovered materials. Captured or recovered materials means materials which, but for compliance with pollution control requirements, would be discharged into the air or water and which discharge is required to be reduced or eliminated by requirements of the appropriate pollution control agency. The result is the net credit allowable per year.

The formula for "C" is the value of materials captured or recovered from the new plant less the value of materials which would have been captured or recovered over a comparable period of time from the existing plant, but for compliance with pollution control requirements, multiplied by the percentage derived by dividing net cost (step 7) by total cost (step 1).

If the net commercial value of recovered materials exceeds the gross credit allowable per year, the excess must be carried forward for purposes of reducing credits for future years. The amount of the net commercial value of recovered materials reduces both the annual and total credit allowable.

(D) Determine the total amount of Federal Investment Tax Credit or other federal tax credit actually received. Then multiply this tax credit by the percentage which the net cost portion (step 7) is to the total cost of the facility (step 1) to arrive at the portion of the tax credit applicable to the pollution control element of the dual purpose facility.

(E) Deduct the amount determined in step (D) from the amount determined in step (C) until total federal tax credits are totally offset. This is to be an annual calculation.

(F) If the annual amount of net credit to be taken after computation through step (E) exceeds 50 percent of the firm's tax liability under chapters 82.04, 82.12, and 82.16 RCW, it must be reduced to 50 percent of such tax liability.

Adopted December 8, 1977.

[Order ET 77-1, § 458-20-242B (Rule 242 Part B), filed 12/8/77.]