

**Chapter 173-455 WAC
AIR QUALITY FEE RULE**

Last Update: 11/30/23

WAC

173-455-010	Overview.
173-455-020	Definitions.
173-455-030	Applicability.
173-455-031	Process to update fees.
173-455-035	Fee requirement.
173-455-036	Fee increases.
173-455-038	Fees not included.
173-455-039	Source registration tiers.
173-455-040	Source registration fees.
173-455-050	Carbon dioxide mitigation program fees.
173-455-060	Solid fuel retail sales fee.
173-455-070	Weather modification fees.
173-455-100	Fees related to reasonably available control technology (RACT).
173-455-120	New source review and other air permitting fees.
173-455-150	Clean fuels program fees.
173-455-160	Refrigerant management program fees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-455-110	Registration fees for sources emitting gas vapors. [Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-110, filed 5/3/07, effective 6/3/07.] Repealed by WSR 12-24-051 (Order 11-07), filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7.
173-455-130	Air pollution standards variance fee. [Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-130, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-130, filed 5/3/07, effective 6/3/07.] Repealed by WSR 23-07-014 (Order 21-08), filed 3/3/23, effective 7/1/23. Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270.
173-455-140	Nonroad engine permit fee. [Statutory Authority: RCW 70.94.152 and 2011 c 5 § 301(28). WSR 11-12-077 (Order 10-04), § 173-455-140, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-140, filed 5/3/07, effective 6/3/07.] Repealed by WSR 23-07-014 (Order 21-08), filed 3/3/23, effective 7/1/23. Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270.

WAC 173-455-010 Overview. The purpose of this chapter is to consolidate most of the air quality related fees into one chapter. This will allow the regulated community easier access to applicable fees.

[Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-010, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-010, filed 5/3/07, effective 6/3/07.]

WAC 173-455-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter shall have the following meanings:

(1) **"Fossil fuel"** means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material to produce heat for the generation of electricity.

(2) **"Solid fuel burning device"** (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used

for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

(3) "**Weather modification and control**" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-020, filed 5/3/07, effective 6/3/07.]

WAC 173-455-030 Applicability. (1) The provisions of this chapter apply to air quality related activities regulated by the department of ecology.

(2) The solid fuel retail sales fee in WAC 173-455-060 and the weather modification fee in WAC 173-455-070 apply statewide. All other provisions of this chapter do not apply in counties regulated by a local air agency.

[Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-030, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-030, filed 5/3/07, effective 6/3/07.]

WAC 173-455-031 Process to update fees. (1) New source review and other air permitting fees for year 2024 and beyond.

(a) Fee schedule:

(i) Starting in 2023, ecology must prepare an annual budget that reflects the cost of the program;

(ii) Ecology will base the budget on the program costs per RCW 70A.15.2210(2);

(iii) Ecology may choose to establish fees to cover program costs for a two-year period;

(iv) If increases of permitting fees are necessary, ecology must evenly distribute the increased program cost as a percentage of the increased costs across all sources subject to the program.

(b) Public notice. Except as provided by subsection (3) of this section, ecology must:

(i) Post the draft budget and draft new source review and other air quality permitting fee schedule on ecology's website by August 1st of the year before the fee schedule goes into effect.

(ii) Provide a 30-day public comment period on the draft budget and draft fee schedule.

(iii) Post the final budget and fee schedule on ecology's website by December 1st of the year before the fee schedule goes into effect.

(2) Carbon dioxide mitigation fees for year 2024 and beyond.

(a) Fee schedule:

(i) Starting in 2023, ecology must prepare an annual budget that reflects the cost of the program;

(ii) Ecology will base the budget on the program costs per RCW 70A.15.6270(3);

(iii) Ecology may choose to establish fees to cover program costs for a two-year period;

(iv) If increases of carbon dioxide mitigation fees are necessary, ecology must evenly distribute the increased program cost as a percentage of the increased costs across all sources subject to the program.

(b) Public notice. Except as provided by subsection (3) of this section, ecology must:

(i) Post the draft budget and draft carbon dioxide mitigation fee schedule on ecology's website by August 1st of the year before the fee schedule goes into effect.

(ii) Provide a 30-day public comment period on the draft budget and draft fee schedule.

(iii) Post the final budget and fee schedule on ecology's website by December 1st of the year before the fee schedule goes into effect.

(3) If a change of permitting fees and/or carbon dioxide mitigation fees is not necessary, ecology may post notice of its determination that a fee change is not necessary in lieu of posting the draft fee schedule as required by subsections (1)(b) and (2)(b) of this section.

[Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270. WSR 23-07-014 (Order 21-08), § 173-455-031, filed 3/3/23, effective 7/1/23.]

WAC 173-455-035 Fee requirement. All programs and services in this chapter require a fee. Unless otherwise stated, no approval of a permit or service for any activity covered in this chapter will be valid until the required fee is paid in full.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-035, filed 5/3/07, effective 6/3/07.]

WAC 173-455-036 Fee increases. (1) Ecology may adjust fees for the registration program based on the cost of administering the registration program consistent with RCW 70.94.151(2), and WAC 173-455-039 and 173-455-040.

(2) Ecology may propose fee increases based on a workload analysis for increasing any of the following fees:

(a) Carbon dioxide mitigation program fees in WAC 173-455-050;

(b) Weather modification fees in WAC 173-455-070;

(c) Control technology fees in WAC 173-455-100;

(d) New source review fees in WAC 173-455-120;

(e) Air pollution standards variance fee in WAC 173-455-130; and

(f) Nonroad engine permit fee in WAC 173-455-140.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-036, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-036, filed 11/30/12, effective 12/31/12.]

WAC 173-455-038 Fees not included. This chapter contains all fees required by the air quality program except the following:

(1) Air operating permit - Fees can be found in chapter 173-401 WAC.

(2) Agricultural burning - Fees can be found in chapter 173-430 WAC.

(3) Reporting of emissions of greenhouse gases - Fees can be found in chapter 173-441 WAC.

[Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270. WSR 23-07-014 (Order 21-08), § 173-455-038, filed 3/3/23, effective 7/1/23. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-038, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-038, filed 5/3/07, effective 6/3/07.]

WAC 173-455-039 Source registration tiers. (1) A source loses its registration status when a registration fee has not been paid.

(2) Source registration tiers. For the purpose of assessing registration fees, ecology must assign sources required to register with ecology to one of six tiers based on emissions in Table 1 in (b) of this subsection.

(a) Ecology must use the following emissions inventory for each source:

(i) Emissions in an inventory include particulate matter 10 (PM₁₀), volatile organic compound (VOC), carbon monoxide (CO), nitrogen oxide (NOx) and sulfur dioxide (SO₂).

(ii) If emissions information is unavailable, ecology will use the enforceable emissions limitations for the source and/or will estimate emissions using the source's maximum capacities and production rates.

(b) Ecology must assign a source to a tier based on Table 1.

**Table 1
Tiers for Registration Sources**

Tier	Annual Emissions
1	Source with annual emissions less than the tons per year in Tier 2.
2	Source with annual emissions between 0.01 and less than or equal to 10 tons per year.
3	Source with annual emissions greater than 10 and less than or equal to 20 tons per year.
4	Source with annual emissions greater than 20 and less than or equal to 70 tons per year.
5	Source with annual emissions greater than 70 tons per year.
6	Synthetic minor source (as defined in WAC 173-400-030) that emits or has the potential to emit at or above 80 percent of the threshold for a major source (as defined in WAC 173-401-200).

(3) Notice of tier placement.

(a) Draft tier placement. Ecology must notify a source of its draft tier placement by August 1st of the year before a new fee goes

into effect, or every other year if ecology proposes a biennial budget.

(b) Ecology must provide electronic notice or notice by the United States postal service if ecology does not have an electronic address for a source or the source requests postal notice.

(c) Ecology must provide a sixty day comment period.

(d) Final tier assignment. Ecology must notify the source of the final tier placement by January 1st of the year when the new fee schedule goes into effect.

(4) Requesting reassignment to a different tier.

(a) A source may submit a request to ecology by September 30th for tier reassignment for the upcoming year if they believe they were assigned to the wrong tier. To request reassignment, the source must provide information sufficient to support a reassignment.

(b) By December 1st of each year or biennially if ecology proposes a two-year budget as provided by WAC 173-455-040 (4)(a)(iii), ecology must notify the source of the final tier determination.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-039, filed 10/25/18, effective 11/25/18.]

WAC 173-455-040 Source registration fees. (1) Registration fee. Each source required to register with ecology must pay an annual fee based on the source registration tier to which it is assigned in WAC 173-455-039.

(2) Source closure. A source that closes or shuts down temporarily must pay its registration fee to maintain active registration status.

(3) Registration fee schedule for years 2019, 2020, 2021.

(a) Table 2 lists annual registration fees for 2019, 2020, and 2021.

**Table 2
Registration Fee Schedule for 2019 Through 2021**

Tier	Fee 2019	Fee 2020	Fee 2021
1	\$200	\$200	\$200
2	\$400	\$575	\$700
3	\$700	\$1,000	\$1,300
4	\$1,100	\$1,300	\$1,500
5	\$5,000	\$5,500	\$7,000
6	\$7,000	\$7,500	\$8,000

(b) The registration fee for mint distilleries is \$200 for 2019, 2020, and 2021. For 2022 and beyond, the registration fee for mint distilleries will be assessed according to their total emissions.

(4) Registration fee schedule for year 2022 and beyond.

(a) Fee schedule:

(i) Starting in 2022, ecology must prepare an annual budget that reflects the cost of the program;

(ii) Ecology must base the budget on the program costs for the previous twelve-month period consistent with RCW 70.94.151(2);

(iii) Ecology may choose to establish fees to cover registration program costs for a two-year period;

(iv) Ecology must compare the revenue from the previous year, or the previous two-year period if appropriate, to the upcoming draft budget. If increases of registration fees are necessary, ecology must evenly distribute the increased program cost as a percentage of the increased costs across all sources subject to the program.

(b) Public notice. Ecology must:

(i) Post the draft budget and draft registration fee schedule on ecology's website by August 1st of the year before the fee schedule goes into effect.

(ii) Provide a sixty-day public comment period on the draft budget and draft fee schedule.

(iii) Post the final budget and fee schedule on ecology's website by December 1st of the year before the fee schedule goes into effect.

(5) Registration fees for gasoline dispensing facilities. Gasoline dispensing facilities subject to chapter 173-491 WAC must pay a yearly registration fee of one hundred thirty dollars for each storage tank dispensing gasoline.

(6) Fee reductions for economic hardship. If a small business owner, as defined in RCW 19.85.020(3), thinks the registration fee results in an extreme economic hardship, the small business owner may request a fee reduction. The small business owner or operator must provide sufficient evidence to support a claim of an extreme hardship. Ecology may reduce the registration fee by no more than fifty percent.

(7) Fee payments.

(a) The owner or operator of a source subject to fees in this section must pay those fees within ninety days of receipt of ecology's billing statement.

(b) Ecology may assess a late fee equal to three times the amount of the original fee owed against sources knowingly under-reporting emissions, or failing to pay registration fees by the ninety-first day after the receipt of ecology's billing statement. Failure to pay all or part of a registration fee may result in an enforcement action.

(c) The owner or operator may request to pay an ecology fee on a payment plan. Ecology will not apply a late fee for fees paid by a payment plan if a source meets two conditions:

(i) The owner or operator requests a payment plan within thirty days of the receipt of ecology's billing statement.

(ii) The owner or operator pays the fee on time as outlined in the payment plan.

(8) Fossil-fueled electric generating facilities must pay registration fees required in this section in addition to carbon dioxide mitigation program fees required in WAC 173-455-050 if the facility is not subject to chapter 173-401 WAC.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-040, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-040, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-040, filed 5/3/07, effective 6/3/07.]

WAC 173-455-050 Carbon dioxide mitigation program fees. (1) Statutory authorization. RCW 70A.15.6270 authorizes ecology to deter-

mine, assess, and collect fees sufficient to cover costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval for a facility. Ecology may also collect fees sufficient to cover the additional costs to monitor the source's conformance to the carbon dioxide mitigation plan.

(2) **Fees.** Table 1 in this subsection lists the fees for the carbon dioxide mitigation program for 2023. These fees are additional to the fees established in WAC 173-455-120, when the carbon dioxide mitigation plan requirements are triggered.

Table 1 Carbon Dioxide Mitigation Program 2023 Fee Schedule

Activity	Fee
Application review	\$119.00/hr. not to exceed \$595.00
Mitigation plan approval Payment to third party	\$125.00 ¹
Mitigation plan approval Purchase of CO ₂ credits	\$119.00/hr. ²
Mitigation plan approval Direct investment	\$119.00/hr.
Routine compliance monitoring Payment to third party	\$125.00 annually until full amount paid
Routine compliance monitoring Purchase of CO ₂ credits	\$119.00/hr. ³
Routine compliance monitoring Applicant controlled project	\$119.00/hr. ³

¹ Fee to cover the cost of checking the accuracy of calculations and that the source is using an independent qualified organization approved by the energy facility site evaluation council per RCW 80.70.050.

² Fee to cover cost of checking that the credits will be purchased from a reputable trading or marketing organization and will be derived from mitigation that is real, verified, permanent, enforceable, and additional per RCW 80.70.030.

³ Fee to cover the cost of verifying and confirming with the trading or marketing organization that the purchased credits derive from mitigation that is real, verified, permanent, enforceable, and additional per RCW 80.70.030.

(3) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031(2).

(4) The department or authority may use RCW 70A.15.1570 to structure a cost-reimbursement agreement with the applicant.

[Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270. WSR 23-07-014 (Order 21-08), § 173-455-050, filed 3/3/23, effective 7/1/23. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-050, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-050, filed 5/3/07, effective 6/3/07.]

WAC 173-455-060 Solid fuel retail sales fee. (1) A person selling a solid fuel burning device at retail shall collect a fee from the buyer, pursuant to RCW 70.94.483.

(2) The fee shall be:

(a) Set at a minimum of thirty dollars on January 1, 1992. Thereafter, ecology may annually adjust the fee to account for inflation as determined by the office of the state economic and revenue forecast council. Adjustments in the fee should be rounded down to the nearest dollar.

(b) Applicable to all new and used solid fuel burning devices.

(c) Procedures for masonry fireplaces. Generally, contractors will collect, pay, and report the fee to the department of revenue on the combined excise tax return for the tax reporting period during which the retail sales tax is billed to the customer for the construction of the masonry fireplace. (See WAC 458-20-170 for a detailed explanation.) Collection and payment of the fee by contractors shall be in accordance with the following:

(i) A masonry contractor or other subcontractor who builds a masonry fireplace. The retail sale occurs at the time the general or prime contractor or customer is billed for the work. The masonry contractor or other subcontractor must collect the fee and pay it to the department of revenue, unless the masonry contractor or other subcontractor has received a reseller permit from the general or prime contractor. The fee shall be reported on the combined excise tax return.

(ii) A general or prime contractor building a custom building. The retail sale occurs at the time the customer is billed for the construction. The fee is charged and reported with the first progress payment after the masonry fireplace has been substantially completed. If a general or prime contractor subcontracts the work on a custom building to a masonry or other contractor, the general or prime contractor may give the masonry or other subcontractor a reseller permit. The general or prime contractor is responsible to collect the fee and pay it to the department of revenue. The fee is reported on the combined excise tax return.

(iii) A general or prime contractor building a speculation building. The fee is required to be paid at the time the fireplace is complete. The fee must be reported to the department of revenue on a combined excise tax return and paid to the department of revenue. If the prime or general contractor subcontracts the building of the masonry fireplace to a masonry contractor or other subcontractor, the general or prime contractor may not give a reseller permit to the masonry or other subcontractor. The masonry or other subcontractor must collect and pay the fee to the department of revenue as provided in (c)(i) of this subsection.

(d) Procedures for all other solid fuel burning devices. Collected by the retailer at the time of sale and remitted to the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.

(3) If the retailer or contractor fails to collect and remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the retailer or contractor shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.

(4) Beginning July 1, 1990, and each calendar quarter thereafter, the funds collected under RCW 70.94.483 shall be used solely for the purposes of public education and enforcement of the solid fuel burning device program. The department shall distribute the funds from the woodstove education and enforcement account as follows:

(a) Sixty-six percent of the funds shall be distributed to those local air authorities with enforcement programs, based upon the fraction of the total state population residing in the counties within

their respective jurisdictions. Population figures used to establish this fraction shall be determined by the office of financial management. Where an activated local air authority does not exist or does not implement an enforcement program, or elects not to receive the funds, ecology shall retain the funds that would otherwise be distributed under this subsection; and

(b) Thirty-four percent of the funds shall be distributed to ecology for the purposes of enforcement and educating the public about:

(i) The effects of solid fuel burning device emissions upon health and air quality; and

(ii) Methods of achieving better efficiency and emission performance from solid fuel burning devices.

[Statutory Authority: RCW 70.94.152 and 2011 c 5 § 301(28). WSR 11-12-077 (Order 10-04), § 173-455-060, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-060, filed 5/3/07, effective 6/3/07.]

WAC 173-455-070 Weather modification fees. (1) Procedures for issuing license. In accordance with WAC 173-495-060, an applicant shall pay a fee of one hundred dollars to the state of Washington to obtain a license.

(2) Period of license. In accordance with WAC 173-495-060, an applicant shall pay a fee of one hundred dollars made payable to the state of Washington for a license renewal.

(3) Permit requirements. In accordance with WAC 173-495-070, the applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ecology from available data.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-070, filed 5/3/07, effective 6/3/07.]

WAC 173-455-100 Fees related to reasonably available control technology (RACT). (1) General. Ecology will assess and collect fees as authorized in RCW 70A.15.2230(7) and described in subsections (2) through (4) of this section.

(2) Fee schedule for source-specific determinations where ecology performs RACT analysis and determination.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - One thousand five hundred dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - Seven thousand five hundred dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - Fifteen thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - Two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than 10 tons per year of any toxic air pollutant - One thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than 10 tons per year of any toxic air pollutant - Two thousand dollars.

(3) Fee schedule for source-specific determinations where the source performs the RACT analysis and ecology conducts review and issues a determination.

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit) - One thousand dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - Five thousand dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - Ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit 100 tons per year or more of any criteria pollutant - One thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than 10 tons per year of any toxic air pollutant - Five hundred dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than 10 tons per year of any toxic air pollutant - One thousand dollars.

(4) Fee schedule for categorical RACT determinations. Ecology shall assess fees for categorical RACT determinations (for categories with more than three sources) as shown below. Ecology shall base the fees described in (a) of this subsection on the most complex source within a category. When determining complexity level for the most complex source in the category, the emission rate or number of types of emission units that results in the highest complexity level will determine the fee for the source category. Except as provided in (b) and (d) of this subsection, ecology will determine fees for individual sources in the category by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):

(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than 20 tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - Twenty-five thousand dollars;

(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than 20 tons per year and less than 100 tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than 10 tons per year, or the analysis addresses two to five types of emissions units) - Fifty thousand dollars; or

(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed 100 tons per year, average source emissions of one or more individual toxic air pollutants exceed 10 tons per year, or the analysis addresses more than five types of emission units) - One hundred thousand dollars.

(b) If ecology is evaluating an emission unit for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(5) RACT fee reductions for small businesses. Ecology may reduce the RACT analysis/review and determination fees identified in subsections (2) through (4) of this section for a small business as provided in this subsection.

(a) Small business reduction.

(i) To qualify for a small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020.

(ii) To receive a small business fee reduction, the owner or operator of a small business must include sufficient information in an application submitted in accordance with (c) of this subsection demonstrating that the business meets the requirements of a small business as required under (a)(i) of this subsection.

(iii) For small businesses that ecology determines are eligible for a small business fee reduction under (a)(i) of this subsection, ecology shall reduce the RACT analysis/review and determination fee to the greater of:

(A) Fifty percent of the RACT analysis/review and determination fee; or

(B) Three hundred twelve dollars.

(b) Extreme hardship reduction.

(i) If the fee assessed after a reduction granted under (a)(iii) of this subsection imposes an extreme hardship on a small business due to special economic circumstances, the small business may request an extreme hardship fee reduction.

(ii) To receive an extreme hardship reduction, the owner or operator of a small business must provide sufficient evidence to support a claim of special economic circumstances and extreme hardship in an application submitted in accordance with (c) of this subsection.

(iii) Ecology may consider the following factors in determining whether an owner or operator has demonstrated special economic circumstances and extreme hardship, and in determining the amount of the fee reduction:

(A) Annual sales;

(B) Labor force size;

(C) Market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and

(D) Average annual profits.

(c) Application for fee reduction.

(i) One of the following representatives of the small business must sign the application:

(A) An authorized corporate officer in the case of a corporation;

(B) An authorized partner in the case of a limited or general partnership; or

(C) The proprietor in the case of a sole proprietorship.

(ii) Ecology may request additional information as needed to verify the application information. If ecology determines the owner or operator has made false statements in the application, ecology may deny the fee reduction request and revoke any previously granted fee reductions for that business.

(d) In no case will ecology reduce a RACT analysis/review and determination fee to an amount below \$125.

(6) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(7) Fee payments. A source shall pay fees specified in subsection (3)(a) of this section when the source submits a notice of construction application to ecology. Sources shall pay other fees specified in subsections (2) through (6) of this section no later than 30 days after receipt of an ecology billing statement. For fees specified in subsection (4) of this section, ecology will mail a billing statement for one-half of the payment from each source when the source category rule-making effort is commenced as noted by publication of the CR-101 form in the *Washington State Register*. Ecology will mail a billing statement for the second half of the payment when the proposed rule is published in the *Washington State Register*. Ecology will not issue an order of approval or other action approving or identifying a source to be at RACT until the source has paid all fees. A source shall make all fees collected under this regulation payable to the Washington department of ecology.

(8) Dedicated account. Ecology shall deposit all control technology fees it collects from air operating permit program sources in the air operating permit account created under RCW 70.94.015. Ecology shall deposit all control technology fees collected from nonair chapter 173-401 WAC program sources in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (3) of this section, ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (4) of this section, ecology shall track time and expenditures on a source-category basis.

(10) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270. WSR 23-07-014 (Order 21-08), § 173-455-100, filed 3/3/23, effective 7/1/23. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892. WSR 18-22-006 (Order 16-09), § 173-455-100, filed 10/25/18, effective 11/25/18. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and sec-

tion 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-100, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-100, filed 5/3/07, effective 6/3/07.]

WAC 173-455-120 New source review and other air permitting fees.

(1) General requirements.

(a) The fees in this section apply to:

(i) Permit applications received on or after July 1, 2023.

(ii) Requests for ecology review of other actions covered by this section received by ecology on or after July 1, 2023.

(b) Components of permitting fees. Permit fees include initial fees and may include an additional hourly fee. The initial fee covers up to the number of review hours specified for each fee in this section.

(c) A project may be subject to multiple fees set forth in this section. For example, a project may be subject to both minor and major new source review permit fees and second or third tier review. In addition a project may be subject to fees under WAC 173-455-050 and 173-455-100.

(d) An applicant must submit initial fees with the associated permit application, notice, or request. An application, notice or request is incomplete until initial fees have been paid.

(i) For purposes of WAC 173-400-111 (1)(e), application fees are considered initial fees under this section.

(ii) If ecology determines a project is complex after an applicant paid the basic project initial fee, then the application is incomplete until the applicant has paid the initial complex project fee.

(iii) If ecology determines that a higher initial fee is due after an applicant submitted an application or request, the application or request is considered incomplete until the applicant has paid the higher initial fee.

(e) If the initial fee paid by an applicant does not cover the cost of processing the application, notice, or request, then ecology must assess an additional fee based on the actual costs for review in excess of the hours specified for the initial fee. The additional fee must be assessed at a rate of \$119 per hour of ecology staff time expended, or the rate established under WAC 173-455-031.

(f) Ecology cannot finalize an action covered under this section until all fees have been paid. (WAC 173-400-111 (3)(i).)

(g) For fees assessed by invoice from ecology, the applicant must pay fees that are due within 30 days from the date of the invoice. Ecology will cease processing all applications for which the required fees have not been received within 30 days of an invoice.

(h) At the time of filing a permit application, notice, or request, an applicant must pay all delinquent air quality fees associated with the facility in addition to the fees required by this section. Delinquent fees may include, but are not limited to, registration fees, civil penalties issued by ecology, or other outstanding fees due under this section.

(i) All fees collected under this section must be made payable to the department of ecology.

(j) Fees assessed under this section apply without regard to whether ecology approves or denies the underlying permit application, notice, or request.

Permit fees.

Minor new source review.

(2) Fees for review of a permit application for a new source or for the modification of an existing source with an emissions increase. (WAC 173-400-110(3).)

(a) Table 1 lists the 2023 fees for review of an application for a new source or for the modification of an existing source with an emissions increase.

Table 1: 2023 Fees for review of a permit application for a new source or for the modification of an existing source with an emissions increase (WAC 173-400-110(3))

Action	Initial Fee	Hourly Rate
Basic Project	\$1,904.00 for up to 16 hours of review	\$119.00 per hour starting at 17 hours
Complex Project	\$12,614.00 for up to 106 hours of review	\$119.00 per hour starting at 107 hours

(b) A project is considered complex if the emissions associated with the application include at least one pollutant for which emissions increases are greater than the levels in Table 2.

Table 2: Emission Threshold Table (WAC 173-400-030)

Pollutant	Annual Emission Rate
Carbon monoxide	100 tons per year
Nitrogen oxides	40 tons per year
Sulfur dioxide	40 tons per year
Particulate matter (PM)	25 tons per year of PM emissions
	15 tons per year of PM ₁₀ emissions
	10 tons per year of PM _{2.5} emissions
Volatile organic compounds	40 tons per year
Fluorides	3 tons per year
Lead	0.6 tons per year
Sulfuric acid mist	7 tons per year
Hydrogen sulfide (H ₂ S)	10 tons per year
Total reduced sulfur (including H ₂ S)	10 tons per year
Reduced sulfur compounds (including H ₂ S)	10 tons per year

(c) Ecology may also determine that a project is complex based on consideration of factors that include, but are not limited to:

- (i) Number and complexity of emission units;
- (ii) Volume of emissions, including toxicity of emissions;
- (iii) Amount and complexity of modeling; or
- (iv) Number and kind of applicable state and federal requirements.

(d) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(3) Fees for review of a requested change to an existing order of approval. (WAC 173-400-111 (7) and (8).)

(a) Ecology will not charge a fee for correcting a mistake by ecology in a permit.

(b) "Administrative or simple change" means:

(i) An action not subject to a mandatory public comment period under WAC 173-400-171; and

(ii) The modified approval order requires one hour or less of engineering evaluation by ecology and does not authorize physical modification of equipment; and

(iii) Changes in permit conditions are based on actual operating conditions and review of the operating conditions requires one hour or less of engineering evaluation by ecology and the modification does not cause a change in allowable emissions.

(c) Complex changes:

(i) This fee does not apply to an administrative or simple change or to the modification of an existing permit that results in an emissions increase.

(ii) Examples of complex changes include, but are not limited to:

(A) Changes requiring more than one hour of engineering review by ecology;

(B) Consolidation of permits not allowed under simple change;

(C) Request for review of whether a proposed action is exempt from new source review under WAC 173-400-110(5) (Table 110(5) emission-based exemption levels); or

(D) Changes requiring mandatory public comment under WAC 173-400-171(3).

(d) Table 3 lists the 2023 fees for review of a requested change to an existing order of approval.

Table 3: 2023 Fees for review of a requested change to an existing order of approval (WAC 173-400-111 (7) and (8))

Action	Initial Fee	Hourly Rate
Correcting a mistake by ecology in a permit	No fee	No fee
Administrative or simple change	\$357.00 for up to 3 hours of review	\$119.00 per hour starting at 4 hours
Complex change	\$1,190.00 for up to 10 hours of review	\$119.00 per hour starting at 11 hours
Permit extension request (WAC 173-400-111(7))	\$119.00	Not applicable

(e) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(4) Fees for review of an application for coverage under a general order of approval (WAC 173-400-560).

(a) Category A consists of the following general order of approval, including any subsequent updating or replacement:

(i) Concrete batch plants (No. 08-AQG-002);

(ii) Perchloroethylene dry cleaners using less than 2100 gallons per year (No. 06-AQG-003);

(iii) Stationary and portable rock crushers (No. 11AQ-GO-001);

(iv) Small water heaters and steam generating boilers (No. 08-AQ-G003); and

(v) Automobile body repair and refinishing shops (No. 08-AQG-001).

(b) Category B includes a general order of approval developed on or after January 1, 2011. Category B covers, but is not limited to, the following general order of approval, including any subsequent updating or replacement:

- (i) Portable and stationary asphalt plants (No. 10AQ-GO-01); and
 - (ii) Dairy manure anaerobic digesters (No. 12AQ-GO-01).
- (c) Table 4 lists the 2023 fees for Category A and B reviews of applications for coverage under a general order of approval.

Table 4: 2023 Fees for review of an application for coverage under a general order of approval (WAC 173-400-560)

Type of source seeking coverage under a general order of approval	SEPA review complete	SEPA review required
Portable and stationary concrete batch plants (No. 08-AQG-002)	\$625.00	\$981.00
Perchloroethylene dry cleaners using less than 2,100 gallons per year (No. 06-AQG-003)	\$625.00	\$981.00
Stationary and portable rock crushers (No. 11AQ-GO-001)	\$625.00	\$981.00
Small water heaters and steam generating boilers (No. 08-AQ-G003)	\$625.00	\$981.00
Automobile body repair and refinishing shops (No. 08-AQG-001)	\$625.00	\$981.00
Portable and stationary asphalt plants (No. 10AQ-GO-01)	\$1,093.00	\$1,450.00
Dairy manure anaerobic digesters (No. 12AQ-GO-01)	\$1,093.00	\$1,450.00
Any other source seeking coverage under a general order of approval	\$1,093.00	\$1,450.00

(d) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(5) Fees for review of a relocation notice for a portable source in ecology's jurisdiction under WAC 173-400-036.

(a) Table 5 lists the 2023 fees for review of a relocation notice for a portable source.

Table 5: 2023 Fees for review of a relocation notice for a portable source (WAC 173-400-036)

Action	SEPA Review Complete	SEPA Review Required
Portable source has approval order issued by a clean air agency	\$187.00	\$543.00
Portable source has approval order issued by ecology	No fee	\$365.00

(b) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(6) Fees for review of a request to establish a voluntary emission limit (WAC 173-400-091).

(a) This fee applies to a regulatory order issued under WAC 173-400-091 that places a limit on emissions.

(i) This fee applies to the review of a request to establish the emission limit in a stand-alone regulatory order.

(ii) This fee does not apply when an emission limit is included as a condition in an approval order for a notice of construction application.

(b) Table 6 lists the 2023 fees to establish a voluntary emission limit.

Table 6: 2023 Fees for review of a request to establish a voluntary emission limit (WAC 173-400-091)

Action	Initial Fee	Hourly Rate
Review of request to establish a voluntary emission limit (WAC 173-400-091)	\$714.00 for up to 6 hours of review	\$119.00 per hour starting at 7 hours

(c) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(7) Fees for review of a request to replace or substantially alter control technology without an increase in emissions (RCW 70A.15.2220).

(a) Table 7 lists the 2023 fees for review of a request to replace or substantially alter control technology without an increase in emissions.

Table 7: 2023 Fees for review of a request to replace or substantially alter control technology without an increase in emissions (RCW 70A.15.2220)

Action	Initial Fee	Hourly Rate
Review notice of construction application	No initial fee	\$119.00 per hour
Review RACT analysis and determination for affected emission unit	No initial fee	\$119.00 per hour

(b) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

Major new source review preapplication and permit fees.

(8) Fees for review of a prevention of significant deterioration (PSD) determination (WAC 173-400-720, 173-400-730, and 173-400-750).

(a) Table 8 lists the 2023 fees for the review of a request for prevention of significant deterioration (PSD) determination.

Table 8: 2023 Fees for review of a request for prevention of significant deterioration (PSD) determination

Action	Initial Fee	Hourly Rate
Written PSD applicability determination (WAC 173-400-720)	\$4,760.00 for up to 40 hours of review	\$119.00 per hour starting at 41 hours
Preapplication assistance beyond the application assistance meeting ecology provides	\$714.00 for up to 6 hours of review	\$119.00 per hour starting at 7 hours
PSD permit application - New (WAC 173-400-720 and 173-400-730)	\$18,802.00 for up to 158 hours of review	\$119.00 per hour starting at 159 hours
PSD permit application - Limited to greenhouse gases	\$9,401.00 for up to 79 hours of review	\$119.00 per hour starting at 80 hours
PSD permit revision - Administrative (as defined in WAC 173-400-750(3))	\$2,380.00 for up to 20 hours of review	\$119.00 per hour starting at 21 hours
PSD permit revisions - Revision not administrative or major modification	\$4,760.00 for up to 40 hours of review	\$119.00 per hour starting at 41 hours
PSD permit revision - Major modification (WAC 173-400-720)	\$18,802.00 for up to 158 hours of review	\$119.00 per hour starting at 159 hours
Permit extension request (WAC 173-400-730(5))	\$625.00	No hourly fee

(b) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(9) Fees for nonattainment area major new source review.

(a) Table 9 lists the 2023 fees for nonattainment area major new source review.

Table 9: 2023 Fees for nonattainment area major new source review

Action	Initial Fee	Hourly Rate
Notice of construction application (WAC 173-400-830)	\$18,802.00 for up to 158 hours of review	\$119.00 per hour starting at 159 hours
Change in permit conditions - Major modifications for an order issued under WAC 173-400-830	\$18,802.00 for up to 158 hours of review	\$119.00 per hour starting at 159 hours
Change in permit conditions under WAC 173-400-111(8) - Action not subject to mandatory public comment under WAC 173-400-171(3)	\$2,380.00 for up to 20 hours of review	\$119.00 per hour starting at 21 hours
Changes in permit conditions - All other changes	\$9,401.00 for up to 79 hours of review	\$119.00 per hour starting at 80 hours
Permit extension request (WAC 173-400-111(7))	\$625.00	No hourly fee

(b) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(10) Fees for review of plant-wide applicability limits (WAC 173-400-720).

(a) Table 10 lists the 2023 fees for review of requests to establish plant-wide applicability limits.

Table 10: 2023 Fees for review of plant-wide applicability limits (WAC 173-400-720)

Action	Initial Fee	Hourly Rate
Plant-wide applicability limits - Establish new limits	\$18,802.00 for up to 158 hours of review	\$119.00 per hour starting at 159 hours
Plant-wide applicability limits - All other requests	\$9,401.00 for up to 79 hours of review	\$119.00 per hour starting at 80 hours

(b) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

Other fees.

(11) Table 11 lists the 2023 fees for all other permitting actions, including second and third tier reviews.

(a) A second tier petition (WAC 173-460-090) that becomes subject to third tier review during the course of evaluation continues as a second tier petition for billing purposes. Staff must sum the time spent on this petition and bill the applicant if the total hours exceed 85 hours.

(b) The fee listed in Table 11 for third tier review (WAC 173-460-100) does not apply to a second tier petition that becomes a third tier petition under (a) of this subsection.

Table 11: Other fees for 2023

Action	Initial Fee	Hourly Rate
Second tier review (WAC 173-460-090)	\$9,996.00 for up to 84 hours of review	\$119.00 per hour starting at 85 hours
Third tier review (WAC 173-460-100)	\$9,996.00 for up to 84 hours of review	\$119.00 per hour starting at 85 hours
Cost reimbursement agreement as provided in RCW 70A.15.1570	No initial fee	\$119.00 per hour
Review of a request for a variance under WAC 173-400-180	No initial fee	\$119.00 per hour
Review of a notification of intent to operate under WAC 173-400-035	No initial fee	\$119.00 per hour
Hourly rate for other permitting actions	No initial fee	\$119.00 per hour

(c) Ecology will post a new fee schedule for the fees in this section starting in 2024 in accordance with WAC 173-455-031.

(12) Fee reductions for small businesses. Ecology may reduce the permitting fees identified in subsections (2) through (6) of this section for a small business as provided in this subsection.

(a) Small business reduction.

(i) To qualify for a small business permitting fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020.

(ii) To receive a small business fee reduction, the owner or operator of a small business must include sufficient information in an application submitted in accordance with (c) of this section, demonstrating that the business meets the requirements of a small business as required under subsection (1)(a) of this section.

(iii) For small businesses that ecology determines are eligible for a small business fee reduction under (a)(ii) of this subsection, ecology shall reduce the permitting fee to the greater of:

(A) Fifty percent of the permitting fee; or

(B) Three hundred twelve dollars.

(b) Extreme hardship reduction.

(i) If the fee assessed after a reduction granted under (a)(iii) of this subsection imposes an extreme hardship on a small business due to special economic circumstances, the small business may request an extreme hardship fee reduction.

(ii) To receive an extreme hardship reduction, the owner or operator of a small business must provide sufficient evidence to support a claim of special economic circumstances and extreme hardship in an application submitted in accordance with (c) of this subsection.

(iii) Ecology may consider the following factors in determining whether an owner or operator has demonstrated special economic circumstances and extreme hardship, and in determining the amount of the fee reduction:

(A) Annual sales;

(B) Labor force size;

(C) Market conditions which affect the owner's or operator's ability to pass the cost of the permitting fees through to customers; and

(D) Average annual profits.

(c) Application for fee reduction.

(i) One of the following representatives of the small business must sign the application:

(A) An authorized corporate officer in the case of a corporation;

(B) An authorized partner in the case of a limited or general partnership; or

(C) The proprietor in the case of a sole proprietorship.

(ii) Ecology may request additional information as needed to verify the application information. If ecology determines the owner or operator has made false statements in the application, ecology may deny the fee reduction request and revoke any previously granted fee reductions for that business.

(d) In no case will ecology reduce a permitting fee below \$125.

(13) Fee reductions for pollution prevention initiatives. Ecology may reduce the permitting fees identified in subsections (2) through (6) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(14) Tracking revenues, time, and expenditures. Ecology must track revenues from the fees collected under this subsection on a source-specific basis.

[Statutory Authority: RCW 70A.15.2210, 70A.15.2230, and 70A.15.6270. WSR 23-07-014 (Order 21-08), § 173-455-120, filed 3/3/23, effective 7/1/23. Statutory Authority: RCW 70.94.151, chapter 70.94 RCW, 2011 1st sp.s. c 50 § 302(2), and section 302(9), chapter 158, 2012 2nd sp.s. c 7. WSR 12-24-051 (Order 11-07), § 173-455-120, filed 11/30/12, effective 12/31/12. Statutory Authority: RCW 70.94.152 and 2011 c 5 § 301(28). WSR 11-12-077 (Order 10-04), § 173-455-120, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. WSR 07-11-018 (Order 06-14), § 173-455-120, filed 5/3/07, effective 6/3/07.]

WAC 173-455-150 Clean fuels program fees. (1) Fee determination. Credit and deficit generators as defined in WAC 173-424-110 must pay an annual fee. Ecology must establish fees based on workload using the process outlined below. The fees must be sufficient to cover ecology's costs to administer the clean fuels program.

(2) Fee eligible activities. All costs of activities associated with implementing and administering the clean fuels program are fee eligible.

(3) Ecology identifies deficit and credit generators based on the following:

(a) In 2023, ecology determines deficit and credit generators based on registration information.

(b) In 2024, ecology determines deficit and credit generators based on quarterly reports submitted in 2023.

(c) For all subsequent years, ecology determines deficit and credit generators based on the annual compliance reports required by WAC 173-424-430 and covering deficits generated during the previous compliance year.

(4) Workload analysis and budget development. Each biennium, ecology, along with the department of commerce, must conduct a workload analysis and develop a budget for administration of the clean fuels program. The workload analysis must project resource requirements for administering the clean fuels program. Ecology must publish the workload analysis and provide an opportunity for public review and comment on the workload analysis. The budget must be based on the resource requirements identified in the workload analysis.

(5) Allocation methodology. Ecology must allocate the clean fuels program budget among credit and deficit generators.

(a) For fees assessed in 2023, ecology may collect a participation fee only. Ecology must allocate the participation fee as follows:

(i) Ninety-five percent of the annual budget is to be paid by deficit generators.

(ii) Five percent of the annual budget is to be paid by credit generators.

(b) For fees assessed in 2024 and later, ecology may collect both a participation fee and a deficit generation fee.

(i) The participation fee must equal five percent of the annual budget, and ecology must split the fee equally amongst deficit and credit generators.

(ii) The deficit generation fee must equal 95 percent of the annual budget, and ecology must allocate the fee based on the number of deficits generated by an entity as follows:

(A) Category 1 (highest fee): Top 30 percent of deficit generators. Category 1 is 70 percent of the deficit generation fee.

(B) Category 2 (middle fee): Middle 30 percent of deficit generators. Category 2 is 20 percent of the deficit generation fee.

(C) Category 3 (lowest fee): Lower 30 percent of deficit generators. Category 3 is 10 percent of the deficit generation fee.

(D) Category 4 (fee exemption): The lowest 10 percent of deficit generators will be exempt from the deficit generation fee.

(6) Fee schedule.

(a) In 2023, ecology must prepare an annual budget that reflects the estimated cost of administering the clean fuels program. Following preparation of the annual budget, ecology must:

(i) Post the draft annual budget and estimated fees on ecology's website by February 1, 2023.

(ii) Provide a 30-day public comment period on the draft budget and fees.

(iii) Post the final budget and fees by March 15, 2023.

(b) In 2024, ecology must prepare an annual budget that reflects the estimated cost of administering the clean fuels program. Following preparation of the annual budget, ecology must:

(i) Post the draft 2024 workload analysis, annual budget, estimated fees, and list of deficit generators on ecology's website by February 1, 2024.

(ii) Provide a 30-day public comment period on the draft workload analysis, budget, fees, and deficit generator list.

(iii) Post the final workload analysis, budget, fees, and deficit generator list by March 15, 2024.

(c) For all subsequent years, ecology must prepare an annual budget that reflects the estimated cost of the program. Following preparation of the annual budget, ecology must:

(i) Post the draft workload analysis applicable to that year, annual budget, estimated fees, and list of deficit generators on ecology's website by May 15th.

(ii) Provide a 30-day public comment period on the draft workload analysis, budget, fees, and deficit generator list.

(iii) Post the final workload analysis, budget, fees, and deficit generator list by June 30th.

(7) Fee payments. Fees specified in this section must be paid within 30 calendar days of receipt of ecology's billing statement. All fees collected under this section must be made payable to the Washington department of ecology. Ecology may assess a late fee surcharge of \$50 or 10 percent of the fee, whichever is more, for any fee received after 60 calendar days past the due date for fee payment.

(8) Dedicated account. Ecology must deposit all clean fuels program fees and penalties in the clean fuels program account.

[Statutory Authority: Chapter 70A.535 RCW. WSR 22-24-004 (Order 21-04), § 173-455-150, filed 11/28/22, effective 12/29/22.]

WAC 173-455-160 Refrigerant management program fees. (1) Entities subject to fees. Each owner or operator of a refrigeration system or an air conditioning system with a full charge greater than or equal to 200 pounds of a high GWP refrigerant, as defined in WAC

173-443-030, in a single refrigerant circuit is subject to fees under the refrigerant management program.

(2) **Types of fees.** Ecology will charge fees to cover the direct and indirect costs of administering and enforcing the refrigerant management program.

(a) Initial implementation fee. Ecology will charge a one-time fee of \$150 for each refrigeration or air conditioning system with a full refrigerant charge greater than or equal to 1,500 pounds.

(b) Annual implementation fee. Ecology will charge an annual implementation fee each year based on the refrigeration or air conditioning system's refrigerant charge size. For a facility with multiple refrigeration and/or air conditioning systems, the owner or operator must pay an annual implementation fee for each system pursuant to (b) (i) and (ii) of this subsection.

(i) The annual implementation fee is \$370 for a refrigeration or air conditioning system with a refrigerant charge greater than or equal to 1,500 pounds.

(ii) The annual implementation fee is \$170 for a refrigeration or air conditioning system with a refrigerant charge greater than or equal to 200 pounds, but less than 1,500 pounds.

(3) All fees collected under this section will be deposited into the refrigerant emission management account in accordance with RCW 70A.60.050.

(4) **Fee modifications.** Ecology may adjust the amount of the annual implementation fees set forth in subsection (2) (b) of this section based on the sufficiency of funds generated by the program over the previous year, as needed to cover program costs for the following year. Before changing a fee, ecology will:

(a) Prepare a draft workload analysis and budget that reflects the anticipated cost of administering and enforcing the refrigerant management program over the coming year compared to the total fees collected under this section during the previous year;

(b) Post the draft workload analysis, budget, and proposed fee change on ecology's website by August 1st of the year before the calendar year in which the change will take effect;

(c) Provide a 30-day public comment period on the draft workload analysis, budget, and proposed fee change; and

(d) Post the final workload analysis, budget, and new annual implementation fee by December 1st of the year before the new fee takes effect.

(5) **Payment of fees.** Fees identified in this section must be paid within 30 calendar days of receipt of ecology's billing statement. All fees must be made payable to the Washington state department of ecology. Ecology may assess a late fee surcharge for any fee payment received after 60 calendar days past the due date.

[Statutory Authority: Chapter 70A.60 RCW. WSR 23-24-041 (Order 21-02), § 173-455-160, filed 11/30/23, effective 12/31/23.]