WAC 173-401-900  Fee determination—Ecology.  (1) Fee determination. Ecology shall develop a fee schedule, consistent with the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover ecology's permit administration costs and its share of ecology's development and oversight costs. The fee schedule shall also indicate the shares of ecology's development and oversight costs that are to be collected by each delegated local authority. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in WAC 173-401-920(1).

(2) Fee eligible activities. The costs of the permit administration and development and oversight activities are fee eligible.

(a) Permit administration. Permit administration costs are those incurred by each permitting authority, including ecology, in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Permit administration costs are those enumerated in WAC 173-401-940(1).

(b) Development and oversight. Development and oversight costs are those incurred by ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are those enumerated in WAC 173-401-940(2).

(3) Workload analysis. Ecology shall conduct a workload analysis projecting resource requirements, organized by categories of fee-eligible activities, for the purpose of preparing the budget. Ecology shall, for the two-year period corresponding to each biennium, identify the permit administration and development and oversight activities that it will perform during that biennium. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities enumerated in WAC 173-401-940(1) and the development and oversight activities enumerated in WAC 173-401-940(2). Ecology shall publish a draft workload analysis together with the draft budget for the following biennium on or before February 28 of each even-numbered year and shall provide opportunity for public comment thereon in accordance with WAC 173-401-920(1). Ecology shall publish a final workload analysis together with the final budget for the following biennium on or before June 30 of each even-numbered year.

(4) Budget development. Ecology shall, for the two-year period corresponding to each biennium, prepare an operating permit program budget for that biennium. The budget shall be based on the resource requirements identified in the workload analysis for the biennium and shall take into account the projected operating permit program account balance at the start of the biennium. Ecology shall publish a draft budget for the following biennium together with the draft workload analysis on or before February 28 of each even-numbered year and shall provide opportunity for public comment thereon in accordance with WAC 173-401-920(1). The draft budget shall include data on unit costs (e.g., salary schedules and the indirect cost rate) used in preparing budget projections. Ecology shall publish a final budget together with the final workload analysis for the following biennium on or before June 30 of each even-numbered year.

(5) Allocation methodology.

(a) Development and oversight costs. Ecology shall allocate its development and oversight costs among all permitting authorities, including ecology, based upon the number of permit program sources under
the jurisdiction of each permitting authority, except that extraor-
dinary costs or other costs readily attributable to a specific permit-
ting authority may be assessed by that authority.

(b) Permit administration costs and ecology's share of develop-
ment and oversight costs.

(i) Fee allocation. Ecology shall allocate its permit administra-
tion costs and its share of ecology's development and oversight costs
among the permit program sources for whom it acts as permitting au-
thority, according to a three-tiered structure based upon:

(A) Tier 1: The number of sources under its jurisdiction;
(B) Tier 2: The complexity of the sources under its jurisdiction;
and
(C) Tier 3: The size of the sources under its jurisdiction, as
measured by the quantity of each regulated pollutant (for fee calcula-
tion) emitted.

(ii) Each of the three tiers shall be equally weighted.

(iii) Complexity level determination in (b)(i)(B) of this subsec-
tion.

(A) Ecology must annually assign a complexity level to each
source based on ecology's operating permit related work activity.

(B) A source's complexity level determination must correspond to
the relative difficulty of issuing and maintaining an operating permit
and the time spent in permit related activities.

(C) Ecology must annually determine the complexity portion of the
fee for each source.

(iv) Public process for complexity determination. Ecology must
use the following process when determining the complexity portion of
the fee:

(A) Ecology must post on ecology's web site on or about October
31st of each year the basis for the complexity level determination.

(B) Ecology must provide thirty days for public comment.

(C) Ecology has thirty days to respond to comments after the
close of the public comment period.

(D) If ecology concludes adjustments are necessary, ecology will
provide revised fee statements based on updated calculations.

(v) The quantity of each regulated pollutant emitted by a source
shall be determined based on the annual emissions data during the most
recent calendar year for which data is available.

(c) WAC 173-401-300(7) Sources. Ecology shall allocate to permit
program sources that qualify for an exemption pursuant to WAC
173-401-300(7) after the effective date of the date of the state oper-
ating permit program the portion of ecology's permit administration
costs and ecology's share of its development and oversight costs that
results from including such sources in the first tier of the alloca-
tion structure described in (b)(i) of this subsection. After legally
and practicably enforceable limits have been established and for so
long as a source continues to meet the requirements for exemption un-
der WAC 173-401-300(7), that source shall pay registration program
fees pursuant to RCW 70.94.015(2) in lieu of paying operating permit
program fees.

(6) Fee schedule. Ecology shall issue annually a fee schedule re-
flecting the permit administration fee and the share of the develop-
ment and oversight fee to be paid by each permit program source under
its jurisdiction and reflecting the development and oversight assess-
ment to be paid by each permitting authority. The fee schedule shall
be based on the information contained in the final source data state-
ments, as provided in WAC 173-401-925(3), for each year; the final
source data statements shall be issued after opportunity for petition and review has been afforded in accordance with WAC 173-401-925. Ecology shall publish the fee schedule for the following year on or before October 31 of each year.

[Statutory Authority: RCW 70.94.011, 70.94.161, 70.94.162, 70.94.331, and 70.94.510. WSR 16-05-003 (Order 13-12), § 173-401-900, filed 2/3/16, effective 3/5/16. Statutory Authority: Chapter 70.94 RCW. WSR 94-02-041 (Order 93-19), § 173-401-900, filed 12/30/93, effective 1/30/94.]