

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 section 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.]