
ARTICLE 10

Fees and Charges

ADOPTED: 17-Feb-2005

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[Statutory Authority RCW 70A.15.2200, RCW 70A.15.2210]

Section 10.01 Fees and Charges Required

- A. Unless otherwise provided, any fee assessed by the Agency must be paid within thirty (30) days of assessment. Failure to pay a fee may result in the commencement of a formal enforcement action.
- B. Upon approval by the Board as part of the annual budget process, fees may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.
- C. Electronic Payment of Fees. A convenience fee, charged by the fee processor, may be charged to a source for the electronic payment of all or part of the fee at the rates set by the processor.

Section 10.02 Fees Otherwise Provided

All fees and charges provided for in this Article must be in addition to fees otherwise provided for or required to be paid by Regulation 1, provided the Control Officer waives payment of any fee or service charge hereby required if such fee duplicates a fee charged or required to be paid by another Article of this Regulation.

Section 10.03 Fee Exemptions

- A. The Control Officer may waive or reduce the registration fee for an operation provided a source presents sufficient demonstration of hardship circumstances.
- B. Stationary sources subject to the Operating Permit Regulation, Chapter 173-401 WAC.

Section 10.04 General Administrative Fees

A fee, according to the fee schedule, will be assessed for any check written to the Agency returned due to non-sufficient funds.

Section 10.05 Registered Source Fees

- A. The Agency will charge an annual registration fee pursuant to RCW 70A.15.2200 for services provided in administering the registration program. Fees received under the registration program will not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.
- B. All registrants must pay a fee in accordance with the current Fee Schedule.
- C. Fee Payment.
 1. Fee Payment.

The annual registration fee is due and payable by the date on the invoice, unless otherwise specified in writing to the source by the Agency.

2. Late Payment of Fees.

A late fee will be charged to a source for late payment of all or part of its annual registration fee at the following rates:

- a. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
- b. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
- c. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

3. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its annual registration fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee. Failure to pay all or part of an annual registration fee after the ninety first day past the due date may result in enforcement action.

4. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

5. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual registration fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

6. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

Section 10.06 Fees for Application for Notice of Construction (NOC) for Stationary and Portable Sources, and Notice of Intent to Operate (NIO) Relocating Portable Sources

A. NOC Application Filing Fee.

An application filing fee will be due and payable at the time of filing the NOC application. The filing fee is non-refundable and is contained in the Fee Schedule.

B. Portable Source NIO Filing Fee.

A Filing fee will be due and payable at the time of filing the NIO form. The fee is contained in the Fee Schedule. The filing fee is non-refundable. NIO must be received at least 15 days prior to starting operation.

1. Notice of Intent to Operate: The owner or operator of a portable source with a valid permit per WAC 173-400-036 must notify the Agency of the intent to relocate and operate within the jurisdiction of the Agency at least 15 days prior to starting operation by submitting a complete Notice of Intent to Operate (NIO). You must receive an Approval to Operate Portable Source from Benton Clean Air Agency prior to starting operation.
- C. NOC or NIO Engineering Examination and Inspection Fee.
 1. An examination and inspection fee will be charged according to the Fee Schedule. The engineering and inspection fee will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.
 2. Emergency application or expedited review fee will be two (2) times the normal application and review fee.
- D. Additional Fees.

Additional fees may be charged according to the Fee Schedule. Fees are cumulative. The additional fees will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

 1. Fee amounts in the Fee Schedule listed as "Actual" are based upon the Agency's actual cost to complete a review or task and will be determined using the actual or direct hours expended completing the specific review or task.
 2. If an NOC or NIO applicability determination fee is received by the Agency and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee will be the actual time expended at the current engineering charge rate in dollars per hour.
- E. Any NOC or NIO application received by the Agency without the accompanying fee will be rejected and returned to sender. Such action will not constitute a determination of completeness or incompleteness as per WAC 173-400-111.

Note: Tables 10-1 and 10-2 have been deleted. The Fee Schedule for the Registration and Notice of Construction Programs is approved by the board per Article 2.8 D.

Section 10.07 State Environmental Policy Act (SEPA) Fees

- A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to Chapter 197-11 WAC is required, in association with an NOC or a NIO, the applicant will pay a review fee of the greater of:
 1. A fee as listed in the fee schedule for SEPA review; or
 2. Actual costs to complete the review or task and will be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each staff person directly involved. Actual costs will be billed by the Agency to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued.
- B. Additional fees may be charged according to the Fee Schedule. Fees are cumulative. The additional fees will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

Section 10.08 **Asbestos Fees and Waiting Periods**

- A. Any fee required for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.
- B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

The notification waiting period begins on the workday on which a complete notification is received

Note: Table 10-3 has been deleted. The Fee Schedule for the Asbestos Program is approved by the board per Article 2.8 D.

Section 10.09 Title 5 Air Operating Permit Fees

[Statutory Authority RCW 70A.15.2260]

All eligible sources under Chapter 173-401 WAC will be subject to the annual fees described in this Section.

A. Permanent annual fee determination and certification.

1. Fee Determination.

a. Fee Determination.

The Agency will develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees will be sufficient to cover all permit administration costs. The Agency will also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule will differentiate as separate line items the Agency and Ecology's fees. Opportunities for public participation will be afforded throughout the fee determination process, as provided in Section 10.09.A.3 of this Regulation.

b. Fee Eligible Activities.

The costs of permit administration and development and oversight activities are fee eligible.

i. Permit Administration.

Permit administration costs are those incurred by the Agency in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

- (a) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;
- (b) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;
- (c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;
- (d) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;
- (e) Modeling necessary to establish permit limits or to determine compliance with permit limits;
- (f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;
- (g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;
- (h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

- (i) The share attributable to permitted sources of the development and maintenance of emissions inventories;
 - (j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;
 - (k) Training for permit administration and enforcement;
 - (l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;
 - (m) Required fiscal audits, periodic performance audits, and reporting activities;
 - (n) Tracking of time, revenues and expenditures, and accounting activities;
 - (o) Administering the permit program including the costs of clerical support, supervision, and management;
 - (p) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the Federal Clean Air Act; and
 - (q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.
- ii. Ecology 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.
- c. Workload Analysis.
 - i. The Agency will conduct an annual workload analysis of the previous years' work, to projecting resource requirements for the purpose of preparation for permit administration. The workload analysis will include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.09.A.1.b.i of this Regulation.
 - ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.09.A.1.b.ii of this Regulation.
 - d. Budget Development.

The Agency will annually prepare an operating permit program budget. The budget will be based on the resource requirements identified in an annual workload analysis and will take into account the projected fund balance at the start of the calendar year. The Agency will publish a draft budget for the following calendar year on or before May 31 and will provide opportunity for public comment in accordance with Chapter 173-401 WAC Operating Permit Regulation. The Agency will publish a final budget for the following calendar year on or before June 30.
 - e. Allocation Method.
 - i. Permit Administration Costs.

The Agency will allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for which it acts as permitting authority, according to a three-tiered model based upon:

 - (a) The number of sources under its jurisdiction;

- (b) The complexity of the sources under its jurisdiction, and
 - (c) The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source will be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers will be equally weighted.
 - ii. Ecology Development and Oversight Costs.

Ecology will allocate its development and oversight costs among all permitting authorities, including the Agency based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.
 - f. Fee Schedule.

The Agency will issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule will be based on the information contained in the final source data statements for each year; the final source data statements will be issued after opportunity for petition and review has been afforded in accordance with Section 10.09.A.4 of this Regulation.
2. Fee Collection - Ecology and Benton Clean Air Agency.
 - a. Collection from Sources.

The Agency, as a delegated local authority, will collect the fees from the permit program sources under its jurisdiction.

 - i. Permit Administration Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.
 - ii. Ecology Development and Oversight Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.
 - b. Dedicated Account.

All receipts from fees collected by the Agency, as a delegated local authority, from permit program sources will be deposited in - dedicated account -. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70A.15.2270.
3. Accountability.
 - a. Public Participation during Fee Determination Process.

The Agency will provide for public participation in the fee determination process described under Section 10.09.A of this Regulation which provision will include but not be limited to the following:

 - i. The Agency will provide opportunity for public review of and comment on:
 - (a) Each annual AOP fee calculation;
 - (b) Each annual Agency budget; and
 - (c) Each annual Agency fee schedule

- ii. The Agency will make available for public inspection and to those requesting opportunity for review copies of its draft:
 - (a) Annual AOP fee calculation on or before May 31;
 - (b) Annual Agency budget on or before May 31; and
 - (c) Annual Agency fee schedule on or before May 31.
 - iii. The Agency will provide a minimum of thirty (30) days for public comment on the draft annual budget. Such thirty-day period for comment will run from the date of publication of notice in the Permit Register as provided in this Section.
- b. Tracking of Revenues, Time and Expenditures.
- i. Revenues.
The Agency will track revenues on a source-specific basis.
 - ii. Time and Expenditures.
The Agency will track time and expenditures on the basis of functional categories as follows:
 - (a) Application review and permit issuance;
 - (b) Permit modification;
 - (c) Permit maintenance;
 - (d) Compliance and enforcement;
 - (e) Business assistance;
 - (f) Regulation and guidance development;
 - (g) Management and training; and
 - (h) Technical support.
 - iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.
The Agency will use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.09.A.1.d of this Regulation.
 - iv. The information obtained from tracking revenues, time, and expenditures will not provide a basis for challenge to the amount of an individual source's fee.
- c. Periodic Fiscal Audits, Reports and Performance Audits.
A system of regular, periodic fiscal audits, reports and performance audits will be conducted in order to evaluate Ecology's and the Agency's operating permit program administration, as follows:
- i. Fiscal Audits.
The Agency will contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.
 - ii. Annual Routine Performance Audits.
The Agency will be subject to annual routine performance audits, except that the routine audit will be incorporated into the extensive performance audit, conducted pursuant to Section 10.09.A.3.c.v of this Regulation in each year during which an extensive performance is conducted. Ecology will issue guidance regarding the content of the routine performance audits and will conduct the Agency audits.
 - iii. Annual Random Individual Permit Review.

One permit issued by the Agency will be subject to review in conjunction with the annual routine performance. The permit to be reviewed will be selected at random. Ecology will issue guidance regarding the content of the random individual permit review and will conduct the Agency's review.

iv. Periodic Extensive Performance Audits.

The Agency will be subject to extensive performance audits every five years. In addition, the Agency may be subject to an extensive performance audit more frequently under the conditions of Section 10.09.A.3.c.v of this Regulation. Ecology will issue guidance regarding the content of the extensive performance audits and will conduct the audits of this agency.

v. Finding of Inadequate Administration or Need for Further Evaluation.

If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the Agency is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit will be conducted, as provided in Section 10.09.A.3.c.iv of this Regulation.

vi. Annual Reports.

The Agency will prepare an annual report evaluating its operating permit program administration. Such report will include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The Agency will submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data.

The Agency will provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the Agency intends to base its allocation determination under Section 10.09.A.1.e of this Regulation. Such preliminary statement will be provided to the permit program sources on or before September 30 of each year. Such preliminary statement will indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.09.A. 4.b of this Regulation regarding the accuracy of the data contained therein.

b. Petition for Review of Statement.

A permit program source or other individual under the jurisdiction of the Agency as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.09.A.4.a of this Regulation. Such petition will be lodged on or before October 31 of each year. Such petition will be in writing, directed to the individual indicated on the statement of source data. Such petition will indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition will, in addition, state the name, address and telephone number of the person or persons to whom the Agency may direct inquiries regarding the request. Upon receipt of such a petition, the Agency, as a

delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response will state the conclusions of the review and the reasons therefore, and will contain a new preliminary source data statement, revised to reflect any changes necessitated by the Agency's response.

c. Final Source Data Statement.

The Agency will provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the Agency will base its allocation determination under Section 10.09.A.1 of this Regulation along with an invoice reflecting the fee billed to that source on or before February 20th of each year.

5. Fee Payment and Penalties.

a. Fee Payment.

Each permit program source will pay a fee in the amount reflected in the invoice issued under Section 10.09.A.4.c of this Regulation. Fees will be invoiced by February 20th of each year. Such fee will be due on or before April 15th of each year.

b. Late Payment of Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

- i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
- ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
- iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. Other Penalties.

The penalties authorized in Section 10.09.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

f. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

6. Development and Oversight Remittance by Local Authorities to Ecology.
 - a. Ecology will provide to the Agency a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.
 - b. The Agency will remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and will remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.
- B. Air Operating Permit sources are not subject to fees under the Registration Program.

Section 10.10 **Special Burning Permit Fees**

[Statutory Authority RCW 70A.15.5090]

- A. An application fee as listed in the fee schedule is due and payable at the time of submittal of a request for special burning permit. The application fee is non-refundable. A fee will be charged for each additional inspection that's required.
- B. An additional fee will be calculated based upon the volume of the material to be burned. The additional fee will not exceed the amount listed in the fee schedule per cubic yard or the adjusted amount according to Chapter 173-425 WAC.
- C. The additional fee will be due and payable within thirty (30) days of issuance of the special burning permit. Special burning permit fees will be due within thirty (30) days of issuance of the special burning permit.
- D. A late fee as listed in the fee schedule may be charged for special burning permit fees that have not been paid within thirty (30) days of issuance of the special burning permit. Failure to pay said fee within sixty (60) days of the issuance of the special burning permit may result in the commencement of a formal enforcement action.

Section 10.11 **Agricultural Burning Permit Fees**

- A. An application fee for an agricultural burning permit will be due and payable at the time of submittal of the application. Refunds may be issued by the Agency for acres or tons not burned under each permit provided the adjusted fee after subtracting refunds is no less than the minimum fee.
- B. Permit Fee Schedule.

The agricultural burning permit fee schedule established through Chapter 173-430 WAC applies in the Agency.