



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**Concise Explanatory Statement**  
**Chapter 173-455 WAC**  
**Air Quality Fee Rule**

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*Summary of rule making and response to comments*

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## Publication and Contact Information

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# **Concise Explanatory Statement**

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## **Chapter 173-455 WAC Air Quality Fee Rule**

Air Quality Program  
Washington State Department of Ecology  
Olympia, Washington 98504-7600

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# Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: Air Quality Fee Rule  
WAC Chapter: 173-455  
Adopted date: November 30, 2012  
Effective date: December 31, 2012

To see more information related to this rule making or other Ecology rule makings please visit our web site: <http://www.ecy.wa.gov/laws-rules/index.html>

## Reasons for Adopting the Rule

There are three parts to this rule making.

### **Part 1. Increasing fees for annual and periodic registration program sources**

Fees from annual and periodic registration program sources are insufficient to cover the costs of operating the program. The registration program applies to small- and medium-sized businesses. This program helps ensure that businesses comply with air quality requirements. The registration program helps keep the air healthy for all Washingtonians.

RCW 70.94.151(2) provides authority to establish fees that cover the cost of administering the registration program. The 2011 Legislature authorized fee increases for annual and periodic registration program sources as necessary to meet the actual costs of conducting business, but not more than 36 percent (Chapter 50, Laws of 2011 (partial veto), Section 302(2)). Section (302)(9) in Chapter 158, Laws of 2012 that passed on April 11, 2012 provides Legislative authority to re-establish fees for sources emitting gasoline vapors.

The adopted rule amendments for periodic registration program fees increase yearly fees for periodic sources (businesses that report their emissions every three years) from a flat fee of \$400 to a fee based on their emission rates (small, medium, large). The \$400 fee has been unchanged for 17 years so revenue from the periodic and annual registration program sources covered around 60 percent of the cost of the program.

Periodic Registration Source Fees	
Small source	\$450
Medium source	\$700
Large source	\$1000

The adopted amendments for annual registration program fees replace the current process in the rule with the 2012 fee rates.

Annual Registration Source Fee Rates	
Flat fee	\$1057 per year
Complexity	\$469, \$938 or \$1407 depending on complexity
Emissions	\$16 per ton

The 2012 rates are established by following the existing method in the rule and then increased by 36 percent as directed by the 2011 Legislature.

Registration program late fees may be assessed at the larger of \$68 (the flat fee) or ten percent of the fee. The adopted amendments increase the flat fee by 36 percent from \$50 to \$68. The ten percent language is unchanged.

**Part Two. Re-establishing registration program fees for gasoline dispensing facilities**

Ecology is re-establishing the gasoline vapor recovery inspection program in counties within Ecology’s authority. This includes most of central and eastern Washington as well as San Juan County. A gasoline station regulated by a local air agency is *not* covered under this rule making.

This action applies to a gasoline dispensing facility that is located in these counties:

- Eastern Regional Office: Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Stevens, Walla Walla, Whitman County
- Central Regional Office: Chelan, Douglas, Kittitas, Klickitat, Okanogan County
- Northwest Regional Office: San Juan County

Gasoline vapor recovery systems that are not routinely inspected for compliance with air quality requirements are much more likely to fail, putting people’s health at risk. Gasoline vapors contain benzene, a carcinogenic chemical. Gasoline vapors also contain volatile organic compounds that contribute to ground-level ozone (contributor to smog), another human health hazard. If safety measures are not in place, these harmful fumes can escape as gasoline is transferred into storage tanks or dispensed at the pump.

The state rule requires gasoline dispensing facilities in counties regulated by Ecology to register with Ecology (WAC 173-400-100 and WAC 173-491-040). In the early 2000’s, Ecology discontinued its registration program due to budget constraints. Ecology wants to keep the cost of this program to a minimum so Ecology’s Underground Storage Tank (UST) Program and the Air Quality Program worked together and will be sending one Ecology (UST) inspector to each site. This is more efficient, minimizes travel, supervisory, and administrative costs which results in lower fees.



The adopted amendments establish a fee per gasoline storage tank. The yearly fee will be due starting July 1, 2013 and will be collected by the Department of Revenue Business Licensing Service as part of a business license.

Gasoline dispensing facility fee	
Fee per gasoline storage tank	\$130

### Part Three. Other rule changes

The adopted amendments establish a new process for increasing most fees in the future. This change will not result in any additional fee increases at this time. Ecology proposes to link fee increases to the Washington fiscal growth factor based on the cost of running the program without going through rule making. This means smaller, more frequent increases instead of larger, infrequent increases.

The adopted rule changes improve the readability of the rule and clarify the rule's intent by making "housekeeping" changes such as:

- Consolidating registration program fees in one location.
- Clarifying that an applicant can use the existing \$200 fee for pre-application assistance with the Prevention of Significant Deterioration permit. Ecology is continuing our current practice of holding a pre-application meeting between applicants and staff;
- Updating the list of general orders.
- Correcting word use.
- Changing the title of the Chapter.

## Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on August 21, 2012 and the adopted rule filed on November 30, 2012. Ecology made these changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes and Ecology's reasons for making them. Where a change was made solely for editing or clarification purposes, we did not include it in this section.

### WAC 173-455-036(2) Fee increases

We added a new sentence to clarify that the Legislature, as directed by statute, must authorize all fee increases:

(2) Ecology may propose fee increases in even-numbered years for each year in the upcoming biennium. A workload analysis must support the fee increase. Prior to making any changes, ecology will post the new fees on the agency web site no later than November 30th of the year preceding the date on which the new fees will take place. If directed by RCW 43.135.055, fee increases will only occur after the legislature authorizes the increase.

**Reason for change**

We clarified that there is another step in a fee increase. That is, legislative approval is required before a fee increase can occur. The language also acknowledges the possibility that a statute can change.

WAC 173-455-040(7) Fee reductions for economic hardship

We expanded the existing fee reduction for extreme economic hardship provision to include gasoline dispensing facilities.

(7) Fee reductions for economic hardship. If a small business owner who is subject to a periodic registration program fee under subsection (4) or a gasoline dispensing facility subject to subsection (6) of this section thinks the registration fee results in an extreme economic hardship, the small business owner may request a fee reduction. The owner or operator must provide-sufficient evidence to support a claim of an extreme hardship. The registration fee may be reduced by no more than fifty percent.

**Reason for change**

We expanded the existing small business fee reduction provision to include gasoline dispensing facilities in response to comments on the impact of the fees.

WAC 173-455-040(8) Fee payment.

We deleted subsection (b) stating that all fees collected under this section must be payable to Ecology.

~~All fees collected under this regulation shall be made payable to the Washington department of ecology.~~

**Reason for change**

We deleted this statement because Ecology intends to have Department of Revenue collect gasoline dispensing fees as part of a business license (new or renewal).

WAC 173-455-040(8) Fee payment.

We deleted a statement that the payment plan would not apply to fees collected by the Department of Revenue.

(d) A source may request to pay a fee on a payment plan. ~~A payment plan does not apply to fees collected by the department of revenue.~~ A late fee will not apply for fees paid by a payment plan as long as the following two conditions are met:

- (i) The source requests a payment plan within thirty days of the receipt of ecology's billing statement.
- (ii) The source pays the fee on time as outlined in the payment plan.

### **Reason for change**

We expanded the provision to include gasoline dispensing facilities in response to comments on the impact of the fees. Ecology will provide the same options for a gasoline dispensing facility as it does for other registration program sources. Providing a payment plan allows a business to spread out the cost of the fee over four months.

## **Response to Comments**

Ecology accepted comments until October 2, 2012. We held one public hearing in three Ecology locations: Ecology headquarters in Lacey, Eastern Regional Office in Spokane and Central Regional Office in Yakima. People could also participate via the telephone. This section provides verbatim comments that we received during the public comment period and our responses. The comments are organized alphabetically by commenter. You can see the original content of the comments we received in Appendix A of this document. (RCW 34.05.325(6)(a)(iii))

### **Thomas Bean, Mission Support Alliance and US Department of Energy, email**

#### **Comment #1**

Per WAC 173-400-099(1)(b) and -101(7), air operating permit program (AOP) sources are not subject to registration program requirements of WAC 173-400-100 through -104. ... The Hanford Site is a major source subject to WAC 174-401 and operates a gasoline dispensing facility subject to WAC 173-491 that is included as a emission source in the Hanford Site AOP. ... It is unclear whether a gasoline dispensing facility located on an air operating permit program site would be subject to this fee. ... Please clarify that the US Department of Energy will not be required to pay any “air contaminant source registration fees” outlined in the proposed WAC 173-455-040, consistent with the Hanford Site’s status as an AOP source, the exemption in WAC 173-400-099(1)(b), and the fact that USDOE already pays appropriate fees to cover necessary air emission source inspection activities by Ecology.

#### **Response**

We thank you for comments and for expressing your concerns. Ecology agrees that the Hanford Site, as an air operating permit program source, is not subject to the registration program requirements and associated fees. A business is either an air operating permit program source or a registration program source. The air operating permit fee pays for the compliance work associated with managing a facility’s permit, including inspecting gasoline dispensing facilities and any other area sources located on the site.

#### **Comment #2**

Because gasoline dispensing facilities are not specifically identified in the list of sources subject to registration in WAC 173-400-100, it is not clear that the proposed new fee in WAC 173-455-040(6) is explicitly considered to be a “source registration” fee that AOP sources are exempt from. This leaves open the possibility of duplicate payments by the USDOE for purposes of Ecology’s inspection source inspection program.

### Response

WAC 173-400-099(1)(b) exempts the USDOE from registration program requirements because it is an Air Operating Permit Program source. The state rule does not permit a duplicate payment.

To clarify, gasoline dispensing facilities are registration program sources subject to the per tank fee in this rule making. Two different rule provisions establish applicability.

1. WAC 173-491-030 requires annual registration.
2. WAC 173-400-100(1)(e) requires registration because gasoline dispensing facilities are subject to a federal National Emission Standard for Hazardous Air Pollutant for Source Categories. EPA adopted 40 CFR Part 63, [Subpart CCCCCC](#).

### Comment #3

Please clarify whether the new gasoline dispensing station fee proposed in WAC 173-455-040(6) will only apply to those facilities subject to WAC 173-491.

### Response

The fee is broader than applicability under Chapter 173-491 WAC. WAC 173-400-100(1)(e) requires registration because gasoline dispensing facilities are subject to 40 CFR Part 63, [subpart CCCCCC](#).

40 CFR Part 63, subpart CCCCCC says:

*Gasoline dispensing facility (GDF)* means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.

### Comment #4

It is also not clear whether [the proposed fee] would apply only to underground storage tanks or also to above ground tanks. ... [Please clarify] whether the number of underground storage tanks will be used to calculate the total fee.

### Response

These fees apply to both aboveground and underground storage tanks. A business with an above ground tank would also be charged the \$130 per storage tank fee. At this time we have limited knowledge of the location of any above ground storage tanks.

## Patricia Blackburn, email

### Comment #5

I would like to comment on the proposed fees for regulating the gas stations air quality, and fees r/t to this. I think it's a great idea and I also think the fees should include stiff penalties if in violation. These should also be an incentive for places to improve their air quality. It is time the businesses pay their fair share to the improvement of our air quality.

### **Response**

Thank you for your comment and for expressing your concerns. It is Ecology's intent that registration program sources pay for the cost of operating the program as much as possible. We think that initial permitting is the most appropriate location for providing an incentive to improve air quality.

## **Mary Bradley Marinkovich, email**

### **Comment #6**

The relatively small proposed hike in fees that have not changed in years is a step in the right direction.

### **Response**

Thank you for your comment and for expressing your viewpoint.

## **Ben Cedarbloom, Wondrack Distributing, Incorporated, hearing testimony**

### **Comment #7**

The average station with three tanks at \$130 fee per tank equals \$390 a year. An inspection once every three years equals \$1,170. This fee seems a bit exorbitant for an inspection that may take as little as 20 minutes. How can you justify that cost to smaller stations?

### **Response**

We thank you for comments and for expressing your concerns. The state Legislature directed Ecology to establish the inspection program so businesses that are subject to a program pay for the cost of that program. Small- and medium-sized businesses in rural eastern and central Washington and San Juan County make up the universe of sources that must pay for this program. Basing the fee on number of tank at a location seemed the fairest way to establish the fee and fund the inspection program. Roughly one-third of sites have one tank, one-third of sites have two tanks and one-third of sites have three tanks.

### **Comment #8**

Increasing yearly fees from \$400 to \$450 for the smaller ones is not a huge deal. But increasing to \$700 or a \$1,000 and "you're going to have to be careful how you delineate that or you're going to put some people out of business."

### **Response**

Ecology considered the impact of this increase in fees. 76 percent of businesses paying the periodic registration program fee will have a \$50 increase. 24 percent will see increases to \$700 and \$1000. Ecology established an installment plan to help reduce the impact of the fee and spread payment over four months. An extreme hardship fee reduction cuts the fee in half for periodic registration program sources and gasoline dispensing facility owners with a net profit of \$12,000 or less.

## Pearl Hewett, email

### Comment #9

Appointed Ecology proposes a “new process” to eliminate future rule making in WAC 173-455, a procedure that is mandate in law by Washington’s Administrative Procedure Act (APA). The APA sets out exactly what steps an agency DOE has to follow to adopt rules. Are our elected officials totally ignorant of the due process of law? Ecology “new process” provides future fee increases to link fee increases to the Washington fiscal growth factor when possible based on the cost of running the program without going through the rule-making process. ... Unbelievable, the Appointed DOE wants to use their appointed agency to write a DOE WAC to eliminate the Washington’s Administrative Procedure Act.

### Response

We thank you for comments and for expressing your concerns. The Administrative Procedure Act establishes the due process that an agency must follow when adopting a rule. Ecology is following the Administrative Procedure Act due process requirements in adopting this rule. There is no requirement that the amount of a given fee be adopted by rule. Under the Administrative Procedure Act, an agency may adopt a process for making a decision or taking an action, including setting fees. A number of Ecology rules provide procedures for setting fees. For example, the annual registration source fee has been determined for 17 years through a process established in WAC 173-455-040(2) and (3). The fees for electronic recycling in Washington are set using procedures required by rule language in WAC 173-900-960. Like these rules, WAC 173-455-036 provides a process for setting fees. If affected fees are increased in the future, Ecology will be required to follow the procedure in WAC - 173-455-036 and the fee increases must be approved by the Legislature.

### Comment #10

And the most unbelievable part is our elected WA State legislators have “VOTED” and approved DOE’S WAC 173-455 and “NEW PROCESS” that may violate the “DUE PROCESS OF LAW.”

### Response

The Legislature did not vote on Ecology’s rule. As required by Initiative 1053, and codified in RCW 43.135.055, the 2011 Legislature authorized Ecology to increase registration program fees and the 2012 Legislature authorized Ecology to reinstate gasoline dispensing facility fees. Refer to the response to Comment 9 for more detail on how the process works under the Administrative Procedures Act.

### Comment #11

Small Business Economic Impact Statement: Guess WHO did it? Amazing how they always find someone who is willing to cook the BOOKS! The only economic consideration on this WAC is how much money DOE can suck out of businesses, gas stations. When has any increase in fees by DOE EVER had any financial benefit to consumers?

### Response

When considering whether to adopt a rule change, Ecology is required to consider both the expected costs of the change and the expected benefits. These considerations are for society as a whole. An increase in fees must be considered in conjunction with the increased services that the increased revenue generated by the fee increase allows. In this case, the increased services result in anticipated benefits in the form of health benefits, which accrue to everyone, including consumers.

### **Comment #12**

When has any increase in fees for businesses, not been passed down to the consumer?

### **Response**

Whenever businesses see an increase in their costs of production, whether it is caused by increased cost of materials, wages, or fees, they will attempt to pass part of this increase onto their customers. However, what share of the increase, if any, that they are able to pass along depends on how price sensitive their product is. In no case are they able to pass the entire increase onto their customers

### **Comment #13**

The Air Quality Fee Regulation includes fees for a number of air quality activities. This rule-making mainly focusing on adjusting (RAISING) fees for the existing registration program and gas stations. Specifically, the rule-making proposes to:

Increase yearly registration program fees for BUSINESSES-GAS STATIONS that report their emissions every three years (periodic sources) from \$400 a year to \$450, \$700 or \$1000 a year based on emission rates, including increasing late fees from \$50 to \$68. The Legislature directed Ecology to increase these fees. They have not been changed in 17 years since they were adopted in April 1995.

### **Response**

Ecology regrets any confusion created by the rule proposal notice. The commenter copied part of Ecology's rule proposal notice and inserted the underlined and capitalized words. Ecology notes that these specific fees apply only to periodic registration program sources. They do not apply to gas stations (gasoline dispensing facilities). The gasoline dispensing facility fee is \$130 for each storage tank dispensing gasoline and was found in another location in the notice.

## **John Kogler, US Aluminum Castings**

### **Comment #14**

I find your reasoning for the increase absurd, "they have not been changed in 17 years since they were adopted in April 1995." If the Dept of Ecology was providing increased compliance surveys, additional compliance officer training, consolidation of reporting, or some other benefit to air quality I would agree but just to increase the fee with no additional benefit to the manufacturers of Washington is just another example of government gone wild. Give me something of value that I can sell to my customers not just another senseless cost increase.

### **Response**

We thank you for comments and for expressing your concerns. The Washington Legislature has directed Ecology to reduce its use of tax dollars and instead charge fees to users of programs that will fund the actual cost of those programs. We are following through on the Legislature's directive. Existing fees funded around 60 percent of the cost of operating this program. With the increase, Ecology can continue to provide service and ensure that commercial and industrial businesses comply with air quality requirements. The residents of Washington benefit from compliance with state regulations by reducing air pollution and improving air quality. To reduce spending and contain costs, the Air Quality Program has

reduced staffing by 11 positions between July 2007 and July 2012. During this same time, the Air Quality Program budget has decreased by \$6 million dollars.

## Ross Krumpe, email

### Comment #15

I am strongly against ESHB 1721!!

### Response

ESHB 1721 passed in 2011 and is now codified as [Chapter 70.925 RCW](#). It is not related to this rule making. ESHB 1721 prohibits the sale and application of coal tar pavement sealants in Washington State.

Most evidence suggests that coal tar sealants are not widely used in Washington State. Some major retailers no longer sell coal tar sealants because of their negative impact on the environment. Asphalt-based sealants and other alternatives exist and are widely available in Washington.

More information is available at:

<https://fortress.wa.gov/ecy/publications/summarypages/1104021.html>.

## R Thomas Mackay, AgriNorthwest, email

### Comment #16

I operate a farm in rural Walla Walla. On the farm, we have several underground petroleum storage tanks (WA site #4747). We distribute gasoline to our farm equipment. We do not dispense gas to any outside people. I certainly hope and expect that farms in rural Washington, which distribute gas for their own use, will not be subject to the fees and regulations which appear to be intended for (mainly gas stations).

Please do not include rural agricultural equipment into this fee requirement. Rural farms do not sell gasoline and only has fuel to operate the equipment used to produce food or fiber. To place additional fees on agriculture will only increase the cost of food, thus reducing and lessening the growth of our economy.

### Response

We thank you for comments and for expressing your concerns. Ecology recognizes that the new fees may impact a small farm so we changed the rule language to allow a gasoline dispensing facility to apply for an extreme hardship fee reduction and request a payment plan.

The inspection program applies to each gasoline storage tank at a gasoline dispensing facility as defined by the federal rule:

*Gasoline dispensing facility (GDF)* means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.



## **Theron Soderlund, Country Corner, email**

### **Comment #17**

Most branded retail outlets have three underground storage tanks to receive deliveries of the three grades of gasoline that their brand requires be sold. The total volume of the tanks will vary, but almost all will have a cumulative volume sufficient enough to take a full truck load of fuel from their supplier. Even small neighborhood gas stations will have three tanks even though their throughput is much, much smaller than high volume outlets such as those on reservations or in big box stores like Costco.

Charging a per tank fee of \$130 is a simplistic way to collect revenue, but it will adversely penalize those locations that don't have the huge volumes. I would propose that the fees be commensurate with volume throughput per location rather than the number of fuel tanks. Stations doing less than 50,000 gallons per month may only pay a site fee of \$50, while those selling between 50K and 100K might pay \$100, and those selling between 100K and 150K may pay \$150, etc. A high volume box store will do 250,000 gallons or more per month. There fee should be higher than the neighborhood store doing 15 to 20% of that volume.

Further, out of the 17 locations listed with underground storage tanks in San Juan County, few of them are even neighborhood stores. Most are small volume marinas and cardlocks or county shops that only sell seasonally or very small volumes. These locations would indeed feel a greater hardship. On Orcas Island, my Chevron station is the highest volume location, and in 2011 we sold an average of 46,070 gallons per month. With the proposed fee schedule I would pay \$260 (two underground gas tanks) whereas our other neighborhood station which is a Shell, has three tanks and would be charged \$390 even though the monthly volume there is well below 30,000 gallons a month. It simply is not an equitable way to charge the fees.

### **Response**

We thank you for comments and for expressing your concerns. Ecology considered several approaches to establishing the fee. We chose to use the same fee method as the underground storage tank fees, in part because we don't have information on the volume of gasoline sold by each station. Without accurate data, we couldn't establish accurate fees for specific stations. Using a fee per tank, 32 percent of the locations have one gasoline storage tank, 38 percent have two tanks, and 27 percent have three tanks.

Gasoline dispensing facilities will report their yearly volume of gasoline sales as part of their business license so Ecology will have throughput information in a year. Based on this information, Ecology may consider revising the fee structure in the future.

To accommodate stores that are struggling, Ecology expanded the extreme hardship fee reduction provision to include gas stations. Station owners making \$12,000 or less net profit can apply to cut their fee in half. Any gas station owner can ask to pay this fee on a payment plan.

## Janice R. Sullivan, Sullivan Petrol, Incorporated, hearing testimony

### Comment #18

My concern is that I am small. I have maybe an average of 28 cars per day at this station. It's not quite break-even so all of these fees add up to a no profit for me.

### Response

We thank you for comments and for expressing your concerns. To accommodate stores that are struggling, Ecology expanded the extreme hardship fee reduction provision to include gas stations. Stations owners making \$12,000 or less net profit can apply to cut their fee in half. Any gas station owner can ask to pay this fee on a payment plan.

Ecology expects to begin rule making in 2013 on updating the requirements in Emission Standards and Controls for Sources Emitting Gasoline Vapor, Chapter 173-491 WAC for compliance with federal rules. Ecology may consider establishing applicability thresholds as part of this rule making.

## Commenter Index

The table below lists the names of organizations or individuals who submitted a comment on the rule proposal and where you can find Ecology's response to the comment(s).

<b>Commenter</b>	<b>Representing</b>	<b>Comment number</b>	<b>Location (page number)</b>
Thomas Bean and US Department of Energy	Mission Support Alliance and US Department of Energy	1, 2, 3, 4	7, 8
Patricia Blackburn	Private Citizen	5	8
Mary Bradley Marinkovich	Private Citizen	6	9
Ben Cedarbloom	Wondrack Distributing, Incorporated	7, 8	9
Pearl Hewett	Private Citizen	9, 10, 11, 12, 13	10, 11
John Koegler	US Aluminum Castings	14	11, 12
Ross Krumpe	Private Citizen	15	12
R Thomas Mackay	AgriNorthwest	16	12
Theron Soderlund	Country Corner	17	13
Janice R Sullivan	Sullivan Petrol, Incorporated	18	14

# Appendix A: Copies of all written comments

**From:** Beam, Thomas G [mailto:Thomas\_G\_Beam@rl.gov]  
**Sent:** Monday, October 01, 2012 5:51 PM  
**To:** ECY RE AQComments  
**Cc:** Guilfoil, Elena (ECY); Gent, Philip (ECY); Jackson, Dale E; Rasmussen, James; Beam, Thomas G  
**Subject:** Comments on Proposed Revision to WAC 173-455 "Air Quality Fee Regulation"

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Ms. Elena Guilfoil  
Air Quality Program  
State of Washington  
Department of Ecology

Dear Elena,

Attached for your consideration, in accordance with Washington State Register (WSR) Item 12-17-127 (dated 8/21/2012), are comments on Ecology's proposed revision of WAC 173-455 "Air Quality Fee Regulation". Mission Support Alliance (MSA), in cooperation with the U.S. Department of Energy (DOE), is submitting these comments as DOE's integrating contractor on the Hanford Site. We appreciate the opportunity to provide comments on the proposed rule.

The changes suggested by our comments should provide additional clarification to assist the regulated community with better understanding which air quality fees are applicable to air operating permit program sources. They will also clarify which gasoline dispensing facilities will be subject to the proposed new source registration fee and exactly which fuel tanks will be used to calculate the registration fee. We look forward to receiving Ecology's responses to our comments. If you have questions or would like to discuss any of the comments further, please give me a call at the number below. Thank you.

Sincerely,

Tom Beam, Manager  
Site-wide Environmental Permits, Policy and Reporting  
Mission Support Alliance, LLC  
509-376-4876

PS. Reply confirmation of your receipt of these comments to meet Ecology's 10/2/2012 deadline would be much appreciated. Thanks.

**U. S. Department of Energy (USDOE) Comments—Proposed WAC 173-455 Rule Revision**

Comment Number	Proposed Rule Section/Citation	Comment	Recommended Action(s)/ Requested Change(s)
USDOE-01	General; WAC 173-455-040	<p>Per WAC 173-400-099(1)(b) and -101(7), air operating permit program (AOP) sources subject to WAC 173-401 are not subject to the source registration program requirements of WAC 173-400-100 through -104. WAC 173-400-104 contains reference to the source registration fees in WAC 173-455. The Hanford Site is a major source subject to WAC 173-401 and operates a gasoline dispensing facility subject to WAC 173-491 that is included as an emission source in the Hanford Site AOP. The U.S. Department of Energy (USDOE) pays annual AOP fees that reflect emissions from this source, as well as annual underground storage tank licensing fees for the gasoline dispensing station tanks (currently approximately \$160/tank), and the emission source is regularly inspected by Ecology as part of the AOP program. Because gasoline dispensing facilities are not specifically identified in the list of sources subject to registration in WAC 173-400-100, it is not clear that the proposed new fee in WAC 173-455-040(6) is explicitly considered to be a “source registration” fee that AOP sources are exempt from. This leaves open the possibility for duplicate payments by the USDOE for purposes of Ecology’s inspection source inspection program.</p>	<p>Please clarify that the U.S. Department of Energy will not be required to pay any “Air contaminant source registration fees” outlined in the proposed WAC 173-455-040, consistent with the Hanford Site’s status as an AOP source, the exemption in WAC 173-400-099(1)(b), and the fact that USDOE already pays appropriate fees to cover necessary air emission source inspection activities by Ecology.</p>
USDOE-02	WAC 173-455-040(6)	<p>Ecology’s proposed rule language in WAC 173-455-040(6) establishes a gasoline dispensing facility registration fee of \$130 for each storage tank dispensing gasoline as a replacement for the current \$100 registration fee outlined in WAC 173-455-110, which is being proposed for deletion as part of this rulemaking. It is not clear whether this proposed fee would only apply to gasoline dispensing facilities subject to WAC 173-491. It is also not clear whether it would apply only to underground storage tanks or also to above ground tanks.</p>	<p>Please clarify whether the new gasoline dispensing station fee proposed in WAC 173-455-040(6) will only apply to those facilities subject to WAC 173-491; and whether only the number of underground storage tanks will be used to calculate the total fee.</p>

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**From:** Blackburn, Patricia (DSHS/WSH)  
**Sent:** Saturday, August 25, 2012 3:09 PM  
**To:** ECY RE AQComments  
**Subject:** air quality fees

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Hello,

I would like to comment on the proposed fees for regulating the gas stations air quality, and fees r/t to this.

I think it's a great idea and I also think the fees should include stiff penalties if in violation. There should also

Be an incentive for places to improve their air quality.

It is time the businesses pay their fair share to the improvement of our air quality.

Patricia Blackburn.

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**From:** harmony23fem@aol.com [mailto:harmony23fem@aol.com]  
**Sent:** Tuesday, August 28, 2012 7:20 PM  
**To:** AQComments@ecy.wa.gov.  
**Subject:** Re: Cleaner Air in Washington State? State Ecology seeks feedback

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The relatively small proposed hike in fees that have not changed in years is a step in the right direction.

We have seen windfall profits for shareholders, and windfall salaries for the heads of industry. And yet, when it comes to being good citizens and complying with regulators, the howl is always a threat to shut down or slash jobs.

Citizens of the State of Israel are free of kidnapping threats, because the State of Israel will not bow to kidnappers. Let the State of Washington be free of commercial terrorism, by not bowing to corporate threats to take their ball and bat and go elsewhere.

Responsibility can no longer be a concern only to the family that struggles to pay its parking fines, and sales tax, and report its income fairly. We are destroying our country with our lack of justice and fairness.

The hike you suggest is almost humorous. But nevertheless, a step in the right, the moral, the direction of justice.

Mary Bradley Marinkovich  
Port Townsend WA  
360-379-3733

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**From:** pearl hewett [mailto:phew@wavecable.com]  
**Sent:** Sunday, September 02, 2012 9:18 AM  
**To:** Guilfoil, Elena (ECY); jim.hargrove@leg.wa.gov; Van De Wege, Rep. Kevin  
**Cc:** Tharinger, Steve; Lois Perry; Sue Forde; Karl Spees; marv chastain; Frank M Penwell; Brian and Brooke; Delane Hewett; joni howard; Randy Dutton; Ed B; Keith Olson  
**Subject:** MY COMMENT ON Revisions to Air Quality Fee Regulation

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**THIS IS MY COMMENT ON Revisions to Air Quality Fee Regulation  
Chapter 173-455 WAC  
Chapter 173-455 WAC - Air Quality Fee Regulation  
<http://www.ecy.wa.gov/laws-rules/wac173455/1107.html>**

**APPOINTED ECOLOGY PROPOSES A "NEW PROCESS" TO ELIMINATE FUTURE RULE MAKING in WAC 173-455, a procedure that is mandated in law by [Washington's Administrative Procedure Act \(APA\)](#). The APA sets out exactly what steps an agency DOE has to follow to adopt rules.**

**Are our elected officials TOTALLY IGNORANT OF THE DUE PROCESS OF LAW?**

**Ecology "NEW PROCESS" provides future fee increases to link fee increases to the Washington fiscal growth factor when possible based on the cost of running the program **without going through the rule-making process.****

**The Washington Administrative Code — are adopted by agencies DO through a process mandated in law by [Washington's Administrative Procedure Act \(APA\)](#).**

**IS THIS RULE NECESSARY? NO-NO-NO**

Is rule necessary because of a:		<b><u>No</u></b>
Federal Law?	Yes	
Federal Court Decision?	Yes	<b><u>No</u></b>
State Court Decision?	Yes	<b><u>No</u></b>
If yes, CITATION:		

**IS IT LEGISLATED by our Elected WA State Officials? YES**

Again, I will ask do our actually read the legislation that they vote on?

1. The purpose of this WAC is to raise fees on **GAS STATIONS** etc.
2. Specifically to increase fees from **\$400 a year to \$450, \$700 or \$1000 a year**
3. Specifically to increase FEES for **GAS STATIONS AND BUSINESSES**

The Air Quality Fee Regulation includes fees for a number of air quality activities. This rule-making mainly focuses on adjusting **(RAISING) fees** for the existing registration program and **gas stations**. Specifically, the rule-making proposes to:

1. **Increase yearly registration program fees for BUSINESSES-GAS STATIONS** that report their emissions every three years (periodic sources) from **\$400 a year to \$450, \$700 or \$1000 a year** based on emission rates, including **increasing late fees from \$50 to \$68. The Legislature directed Ecology to increase these fees.** They have not been changed in 17 years since they were adopted in April 1995.

**Small Business Economic Impact Statement:** Guess WHO did it? Amazing how they always find someone who is willing to cook the BOOKS!

The only economic consideration on this WAC is **how much money DOE can suck out of businesses, gas stations.**

When has any increase in fees by DOE EVER had any financial benefit to consumers?

When has any increase in fees for businesses, not been passed down to the consumer?

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Air Quality Fee Regulation includes fees for a number of air quality activities. **This rule-making mainly focuses on adjusting**

**(RAISING) fees** for the existing registration program and **gas stations**. Specifically, the rule-making proposes to:

The 2012 rates are established following the existing method in the rule **WAC** and then increased by 36 percent as directed **by the Legislature**.

A legislated **36% increase in FEES** to gas stations and businesses. What economic impact?

DOE provides a **"NEW PROCESS"** for making future fee increases for most fees in Chapter 173 – 455 WAC. This change will not result in any additional fee increases at this time. Ecology proposes to link **fee increases** to the Washington fiscal growth factor when possible based on the cost of running the program without going through rule-making. This translates to smaller and more frequent increases compared to larger and infrequent increases.

**Unbelievable, the Appointed DOE wants to use their appointed agency to write a DOE WAC to ELIMINATE THE [Washington's Administrative Procedure Act \(APA\)](#).**

And the most unbelievable part is our elected WA State legislators have "VOTED" and approved DOE'S WAC 173-455 and "NEW PROCESS" that may violate the "DUE PROCESS OF LAW"

Pearl Rains Hewett

on line

The Washington Administrative Code — are adopted by agencies through a process mandated in law by Washington's Administrative Procedure Act (APA).

A rule (or regulation) is a written policy or procedure by a state agency that is generally applicable to a group of people, industries, activities, or circumstances.

Rulemaking Process | Expedited Rulemaking | Emergency Rulemaking

Rules are used by agencies to “fill in the gaps” of legislation. They implement, interpret, apply or enforce a state or federal law or court



decision. A rule is adopted by an agency; a statute is a law that is passed by the state Legislature. In both cases, state law provides for citizen participation before a rule or law is approved.

## **Rulemaking Process**

After laws, or statutes, are passed by the state Legislature and signed by the Governor, they are compiled in the Revised Code of Washington, or RCWs. Rules to carry out those laws — which are sometimes called regulations and sometimes called WACs, for the Washington Administrative Code — are adopted by agencies through a process mandated in law by Washington’s Administrative Procedure Act (APA).

The APA sets out exactly what steps an agency has to follow to adopt rules. Different processes are provided for different kinds of rules. The same basic process is used to adopt, amend, or repeal a rule. It has three formal steps:

**Step 1: Notice of intent to change, adopt, or repeal a rule.**

The first step is called a pre-notice inquiry. An agency files a notice with the Office of the Code Reviser explaining that it is considering a rule adoption or amendment. The Code Reviser then publishes the notice in the Washington State Register (Register), which is published twice a month. The Register is available at the Code Reviser’s web site, <http://www.leg.wa.gov/CodeReviser/Pages/default.aspx>.

The agency also sends copies of the pre-notice inquiry, either electronically or in hard copy, to any person who has asked for such notice. Agencies may have a public meeting where interested parties can comment on the proposal, or they may request written comments only at this stage. The agency will take any comments it receives into consideration as it decides whether to go forward with the rulemaking.

**Step 2: Proposed new or revised rule language.**

If the agency decides to go forward with rulemaking, it will develop a draft considering all the comments it has received. Agencies may also involve the public through meetings with interested parties, surveys, circulating working drafts, or forming drafting committees. The drafting process can take anywhere from months to years before the agency proposes the rule for formal comment. During this time an agency must also decide if the rule proposal will require a “small business economic impact statement”.

This statement is required if a rule will impose more than minor costs

on business or industry, or if the legislative Joint Administrative Rules Review Committee requests a statement. If possible, the agency must reduce the costs that the rule imposes on small businesses. This requirement does not apply to costs imposed by legislation or by court directive. Some rules, called “significant legislative rules”, require a more detailed analysis to be done. These rules require that the agency make a more complete explanation of why it is proposing this rule, including performing a qualitative and quantitative cost-benefit analysis of the proposal.

When the agency believes it has developed a final rule, it files a “Notice of Proposed Rulemaking” and a copy of the proposed rule with the Code Reviser, which is published in the Register. The agency also sends the notice to interested parties and schedules a public hearing at which anyone can make comments about the proposal. Written comments can also be submitted to the agency. After the hearing, the agency considers the comments and makes any changes it thinks necessary to the proposed rule. If the changes are substantial, the agency may revise the draft rule, file another Notice of Proposed Rulemaking, send out a new notice, and hold another hearing.

Prior to the adoption of the rule, the agency also prepares a document called a “concise explanatory statement”. This statement summarizes the agency’s reasons for adopting the rule, any comments received on the rule proposal, and the agency’s responses to those comments.

### **Step 3: Final Adoption of the Rule.**

When the agency is ready, it will adopt the rule. The rule adoption is not a public process, but consists of filing the final rule, along with the “Rulemaking Order” with the Code Reviser. Rules normally become effective 31 days after they are filed. The Code Reviser publishes the order and the final rule in the Register. The agency normally sends a notice to its stakeholders that it has adopted the rule.

The Department of Ecology proposes to adopt amendments to the Air Quality Fee Regulation, Chapter 173-455 WAC. Among other items, Ecology proposes to **increase fees** for air quality registration program sources and re-establish air quality inspection fees for gasoline distribution facilities in Ecology's jurisdiction. Chapter 173-455 WAC - Air Quality Fee Regulation

**Sponsor** Dept of Ecology  
AIR QUALITY P]

**Contact** Elena Guilfoil  
[\(360\) 407-6855](tel:(360)407-6855) / [egui461@ecy.wa.gov](mailto:egui461@ecy.wa.gov)

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**From:** John Koegler [mailto:JKoegler@us-castings.com]  
**Sent:** Monday, August 27, 2012 10:55 AM  
**To:** ECY RE AQComments  
**Subject:** Air Quality Program - Air Quality Fee Regulation

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To Whom It May Concern:

I find your reasoning for the increase absurd, "They have not been changed in 17 years since they were adopted in April 1995." If the Dept of Ecology was providing increased compliance surveys, additional compliance officer training, consolidation of reporting, or some other benefit to air quality I would agree but just to increase the fee with no additional benefit to the manufacturers of Washington is just another example of government gone wild.

Give me something of value that I can sell to my customers not just another senseless cost increase.

John M. Koegler, Jr.

President  
US Aluminum Castings, LLC  
PO Box 678  
14351 Shamel Street  
Entiat, WA 98822  
Business Phone 509-784-4230  
Cell Phone 509-630-8611  
Fax 509-784-1201

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**From:** rossk@q.com [mailto:rossk@q.com]  
**Sent:** Friday, August 31, 2012 9:38 AM  
**To:** ECY RE AQComments  
**Subject:** ESHB1721

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To Who it should concern,  
Lets start creating Jobs and STOP Killing jobs.. I am strongly against ESHB- 1721 !!

Ross Krumpe  
360-928-3467  
[rossk@q.com](mailto:rossk@q.com)

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**From:** Mackay, Tom [mailto:tmackay@agrinw.com]  
**Sent:** Friday, August 31, 2012 11:22 AM  
**To:** ECY RE AQComments  
**Subject:** GASOLINE DISPENSING FACILITIES

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Attention: Elena Guilfoil:

I operate a farm in rural Walla Walla County. On the farm we have several underground petroleum storage tanks (WA site # 4747. We distribute gasoline to our farm equipment. We do not dispense gas to any outside people.

I certainly hope and expect that farms in rural Washington which distribute gas for their own use, will not be subject to the fees and regulations which appear to be intended for (mainly gas stations).

Please do not include rural agriculture into this fee requirement. Rural farms do not sell gasoline and only has fuel to operate the equipment used to produce food or fiber. To place additional fees on agriculture will only increase the cost of food, thus reducing and lessening the growth in our economy.

Please include my comments in your record.

Thank you,

*R Thomas Mackay*

R Thomas Mackay  
General Manager-AgriNorthwest

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**From:** Theron Soderlund [mailto:theron@rockisland.com]  
**Sent:** Friday, September 28, 2012 5:12 PM  
**To:** Guilfoil, Elena (ECY)  
**Cc:** 'Ginny Hawker'; theron@rockisland.com  
**Subject:** RE: federal rules for dispensing gasoline

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Hi Elena,

Thank you for this information.

As a follow up to our conversation, let me offer some thoughts on the proposed fee structure.

Most branded retail outlets have three underground storage tanks to receive deliveries of the three grades of gasoline that their brand requires be sold. The total volume of the tanks will vary, but almost all will have a cumulative volume sufficient enough to take a full truck load of fuel from their supplier. Even small neighborhood gas stations will have three tanks even though their throughput is much, much smaller than high volume outlets such as those on reservations or in big box stores like Costco.

Charging a per tank fee of \$130 is a simplistic way to collect revenue, but it will adversely penalize those locations that don't have the huge volumes. I would propose that the fees be commensurate with volume throughput per location rather than the number of fuel tanks. Stations doing less than 50,000 gallons per month may only pay a site fee of \$50, while those selling between 50K and 100K might pay \$100, and those selling between 100K and 150K may pay \$150, etc. A high volume box store will do 250,000 gallons or more per month. There fee should be higher than the neighborhood store doing 15 to 20% of that volume.

Further, out of the 17 locations listed with underground storage tanks in San Juan County, few of them are even neighborhood stores. Most are small volume marinas and cardlocks or county shops that only sell seasonally or very small volumes. These locations would indeed feel a greater hardship. On Orcas Island, my Chevron station is the highest volume location, and in 2011 we sold an average of 46,070 gallons per month. With the proposed fee schedule I would pay \$260 (two underground gas tanks) whereas our other neighborhood station which is a Shell, has three tanks and would be charged \$390 even though the monthly volume there is well below 30,000 gallons a month. It simply is not an equitable way to charge the fees.

As we proceed, I would like to argue the fact that San Juan County should in fact have its 17 locations participate in Stage I requirements at all. That is for another day.

Sincerely,

Theron Soderlund  
Country Corner

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**From:** Guilfoil, Elena (ECY) [<mailto:egui461@ECY.WA.GOV>]  
**Sent:** Friday, September 28, 2012 4:23 PM  
**To:** [theron@rockisland.com](mailto:theron@rockisland.com)  
**Cc:** Guilfoil, Elena (ECY)  
**Subject:** federal rules for dispensing gasoline

Mr. Soderlund:

Thank you for talking with me regarding the proposed fees for inspecting gasoline dispensing facilities. Information on the rulemaking is found here: <http://www.ecy.wa.gov/laws-rules/wac173455/1107.html>.

I will add you to the list of interested people for the upcoming rule making to revise our state rule, Chapter 173-491 WAC, for compliance with the federal rules that are referenced in this email. I expect to begin this effort in 2013.

Here is the link to information on the federal gasoline dispensing rules:

1. Gasoline dispensing facilities brochure: <http://www.epa.gov/ttn/atw/area/gdfb.pdf>

**Federal rule:**

[40 CFR Part 63, Subpart CCCCCC](#)— National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

In case the hyperlink doesn't work, the rules are here: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=ef0cfc5285b9cca648ea2bcc4761a6bc&rgn=div6&view=text&node=40:15.0.1.1.1.16&idno=40>

2. Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Brochure:

<http://www.epa.gov/ttn/atw/area/gasb.pdf>

[40 CFR Part 63, Subpart BBBBBB](#) – National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

In case the hyperlink doesn't work, the rules are here: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=ef0cfc5285b9cca648ea2bcc4761a6bc;rgn=div6;view=text;node=40%3A15.0.1.1.1.15;idno=40;cc=ecfr>

Regards,  
Elena Guilfoil

Elena Guilfoil  
Air Quality Program  
Dept. of Ecology  
PO Box 47600  
Olympia, WA. 98504-7600  
[elena.guilfoil@ecy.wa.gov](mailto:elena.guilfoil@ecy.wa.gov)  
360-407-6855

## Appendix 3B: Transcript from public hearings.

Lacey – September 25, 2013

### Washington Department of Ecology Transcript of Public Hearing for Rule Proposal Chapter 173-455 WAC September 25, 2012

LYDIA WAGNER: Okay, looks like it's going. My name is Lydia Wagner, and I'm the lead hearing officer for this public hearing. This afternoon we are conducting a hearing on the rule proposal for Chapter 173-455 WAC -- Air Quality Fee Regulation. Let the record show it is 2:00 p.m. on Tuesday, September 25, 2012. Ecology is conducting this hearing using video conferencing at the following locations: the Department of Ecology Headquarters Office Auditorium, 300 Desmond Drive Southeast, Lacey, Washington 98503; the Department of Ecology Central Regional Office, Room 204A, at 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902; Department of Ecology Eastern Regional Office, Room NW18, North 4601 Monroe, Spokane, Washington 99205; lastly, we have a dedicated telephone conference line available for callers.

Ecology published legal notices of this hearing in the Washington State Register on September 25, 2012, Washington State Register number 12-17-127. In addition, notices were mailed to about 900 interested people. Email notices of the hearing were sent to over 2,795 interested people. Ecology issued a news release on August 24, 2012. And Ecology published this notice in the *Bellevue Journal-American* on September 20, 2012.

The hearing officers at each location will call speakers in the order in which they signed in. Actually, we don't have anybody at the other regional offices or this one, so we will go right to the telephone callers in just a moment. Once everyone who has indicated they would like to testify has had the opportunity, we will give other attendees the chance to speak. Actually, I'm going to skip that, because we don't have anybody else here. We ask that comments be limited to three to five minutes. When you are close to the end of this time, the hearing officer will ask you to summarize your comments so we can move on to the next person who wishes to testify. When we call your name, please speak clearly. Give us your name and address for the record. Speak clearly and slowly so we can get a good recording of your testimony. So since we don't have anyone in the headquarters building, the eastern building, or the central building, telephone callers, we're going to you. Would either of you like to testify at this time?

JANICE SULLIVAN: Oh, I'll testify.

LYDIA WAGNER: Okay. Please state your name.

JANICE SULLIVAN: This is Janice R. Sullivan with Sullivan Petrol, Inc. My address is 445 Northeast Main, Washtucna, Washington, 99371.

LYDIA WAGNER: Thank you. Go ahead.

JANICE SULLIVAN: My concern is that I am small. I have probably an average somewhere in 28 cars per day. [phone call breaks up] -- to worry about here.

LYDIA WAGNER: I'm sorry, that just cut out. Could you --?

JANICE SULLIVAN: Okay.

LYDIA WAGNER: Sorry.

WOMAN: We heard "per day."

LYDIA WAGNER: We heard "per day," but we didn't hear what came right before that.

JANICE SULLIVAN: We have maybe an average of 28 cars per day at this station. It's not quite break-even. So all of these fees add up to a no profit for me.

LYDIA WAGNER: Is there anything else? Janice, did you have anything else?

JANICE SULLIVAN: No, that's it.

LYDIA WAGNER: That's it? Okay. I didn't want to cu--

JANICE SULLIVAN: I appreciate what you've done.

LYDIA WAGNER: Okay, well, thank you, Janice. And Ben, was that the other gentleman, the other person?

BEN CEDARBLOOM: Yes.

LYDIA WAGNER: Ben, would you wish to testify right now?

BEN CEDARBLOOM: Sure.

LYDIA WAGNER: Okay.

BEN CEDARBLOOM: My name is Ben Cedarbloom. I'm the operations manager for Wondrack Distributing, Incorporated. We're located at 529 East Kennewick Avenue in Kennewick, Washington, zip code 99336. And the only thing I really have to say is for the average station with three tanks and a \$130 fee per tank, that's \$390 a year. If we're going to inspect them every three years, so that's \$1,170. And by your own admission, it may take as little as 20 minutes every three years, and costing the station owners \$1,170. Seems a bit exorbitant. I'm not sure you can justify that major increase in cost to particularly smaller stations like the lady in Washtucna. That being said, you know, you're also increasing the yearly fee from \$400 to \$450 for the smaller ones, so that's not a huge deal. But you go to \$700 or a \$1,000, and, you know, you're going to have to be careful how you delineate that or you're going to put some people out of business. Thanks for your time.

LYDIA WAGNER: Okay, thank you. Last call if you have any additional comments that you'd like or questions that you'd like to make? Janice?

JANICE SULLIVAN: No, I'm fine. Thank you.



LYDIA WAGNER: Okay. And Ben?

BEN CEDARBLOOM: I said my piece.

LYDIA WAGNER: Okay. Then I will move forward. Looking up, I still see nobody in eastern and central regional offices, and we don't have anyone here. So I'm going to move along. If you would like to send Ecology written comments, please remember they are due by Tuesday, October 2, 2012. Send them to Elena Guilfoil, Department of Ecology, P.O. Box 47600, Olympia, Washington 98504-7600. Or email them to [aqcomments@ecy.wa.gov](mailto:aqcomments@ecy.wa.gov). All testimony received at this hearing held in Lacey, Spokane, Yakima, and by telephone, along with all written comments received no later than Tuesday, October 2, 2012, will be part of the official hearing record for this proposal.

Ecology will send notice about the concise explanatory statement publication to everyone who provides written comments or oral testimony on this rule proposal, providing we have your contact information, everyone who signed in for today's hearing that provided an email address, or other interested parties on Ecology's mailing list for this rule. The concise explanatory statement will, among other things, contain the agency's response to questions and issues of concern that were submitted during the public comment period. If you would like to receive a copy but did not give us your contact information, please let one of the staff at this hearing know or contact Elena Guilfoil at the contact information provided.

The next step is to review the comments and make a determination whether to adopt the rule. Ecology Director Ted Sturdevant will consider the rule documentation and staff recommendations and will make a decision about adopting the proposal. Adoption of chapter 173-455 WAC -- Air Quality Fee Regulation is currently scheduled for no earlier than November 30, 2012. If Ecology adopts the proposed rule on this day and files the appropriate paperwork with the code reviser, the rule goes into effect 31 days later.

If we can be of further help to you, please do not hesitate to ask. If you have other questions about this proposed rule, you can contact Elena Guilfoil at 360-407-6855 or by email at [Elena.guilfoil@ecy.wa.gov](mailto:Elena.guilfoil@ecy.wa.gov). On behalf of the Department of Ecology, thank you for coming this afternoon. We appreciate your comments, consideration, and courtesy. Let the record show we are adjourning this hearing at 2:10 p.m.

[end of recorded material]