



DEPARTMENT OF
ECOLOGY
State of Washington

Preliminary Cost-Benefit and Least Burdensome Alternative Analyses

*Chapter 173-455 WAC
Air Quality Fee Rule*

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Preliminary Cost-Benefit and Least Burdensome Alternative Analyses

Chapter 173-455 WAC Air Quality Fee Rule

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Executive Summary

In this rulemaking, Ecology is updating Chapter 173-455 WAC (Air Quality Fee Regulation). This rule action covers fees associated with periodic and annual sources.

Businesses that generate small and moderate amounts of air pollution must participate in the air quality source registration program. The registration program is necessary to ensure that sources of air pollution operate in a way that minimizes emissions to comply with the Clean Air Act and protect human health.

The registration information helps Ecology to:

- Maintain a current and accurate record of air pollution sources in Washington.
- Provide businesses with technical assistance on how to comply with Clean Air Act requirements.
- Verify that businesses are complying with air pollution control requirements.
- Evaluate the effectiveness of air pollution control strategies.
- Gather and verify emissions data.

Businesses generally report emissions either:

- Yearly in the case of annual registration program sources.
- Once every three years for periodic registration program sources.
- Once every six years for exempt registration program sources.

The proposed changes to the fee schedule include:

- Increases to general registration program fees for periodic sources.
- Re-establishing air quality registration fees for gasoline dispensing facilities.
- Clarifying the process for calculating registration program fees.
- Provide a method for making future fee increases.
- Make housekeeping changes to facilitate clarity and compliance.

Probable benefits include:

- Decrease in public risk of benzene exposure.
- Avoided decreases in program services.
- Clarification and improved compliance.
- Avoided decrease in program services.

Probable quantified costs include:

- \$112,980 per year in total increased permit fees.

Chapter 1: Background and Introduction

1.1 Introduction

This report reviews two of the economic analyses performed by the Washington State Department of Ecology (Ecology) to estimate the incremental expected benefits and costs of the proposed amendments to the Air Quality Fee Regulation (chapter 173-455 WAC). These analyses – the Cost-Benefit Analysis (CBA) and Least Burdensome Alternative Analysis (LBA) – are based on the best available information at the time of publication. Ecology encourages the public to comment on this document, and provide any additional pertinent information to improve the accuracy of final estimates or content.

The Washington Administrative Procedure Act (RCW 34.05.328) requires Ecology to evaluate significant legislative rules to “determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the law being implemented.” Chapters 1 – 5 document that determination.

For the proposed amendments to the Air Quality Fee Regulation, this means Ecology must estimate the impacts of the rule changes on individuals, businesses, and the public. This includes changes in costs and changes in the value of the services provided for the fees paid. Estimated impacts are determined as compared to the existing regulatory environment—the way air quality fees would be regulated in the absence of the proposed rule amendments.

The existing regulatory environment is called the “baseline” in this document. It includes only existing regulation through laws and rules at federal, state, and local levels. It does not include elements such as guidance or unofficial standard practices in industry or business.

This document provides the public with an overview of the methods Ecology used to perform its analysis, and the most likely impacts found.

The APA also requires Ecology to “determine, after considering alternative versions of the rule ... that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives” of the governing and authorizing statutes. Chapter 6 documents that determination.

1.2 Description of the proposed rule amendments

The proposed rule amendments:

- Increase general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are periodic registration program sources.
- Re-establish air quality registration fees for gasoline distributing facilities.

- Clarify the process for calculating registration fees.
- Provide a method for making future fee increases.
- Address “housekeeping” changes necessary to improve the understanding and usability of the rule.

1.3 Reasons for the Proposed Rule Amendments

1.3.1 History of existing rule

Air pollution control in Washington is based on federal, state and local laws and regulations. The federal Environmental Protection Agency (EPA), the Department of Ecology (Ecology), and local clean air agencies all regulate air quality. Ecology establishes rules, and implements and enforces air quality regulations in counties without a local clean air agency. Ecology also has statewide jurisdiction over primary aluminum plants, pulp mills, large commercial and industrial facilities subject to the federal Prevention of Significant Deterioration (PSD) Program, and emissions of specific toxic air pollutants that exceed specified levels.

If you are located in one of the following counties, you have a local clean air agency: Benton, Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Whatcom, or Yakima. Local clean air agencies may implement and enforce most state regulations. All local clean air agencies have their own regulations that may be more restrictive than those of Ecology, but not less.

Ecology regulates businesses with air emissions that are located in certain areas:

- Hanford Nuclear Reservation
- **Central Region:** Chelan, Douglas, Kittitas, Klickitat, and Okanogan Counties
- **Eastern Region:** Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Stevens, Walla Walla, Whitman Counties
- **Northwest Region:** San Juan County

Ecology also regulates specific types of businesses, such as:

- Kraft pulp and paper mills
- Primary aluminum mills
- Large industrial or commercial sources subject to the federal PSD program
- Emitters of specific toxic air emissions at rates higher than levels specified by rule.

Businesses that generate small and moderate amounts of air pollution must participate in the air quality source registration program. The registration program is necessary to

ensure that sources of air pollution operate in a way that minimizes emissions to comply with the Clean Air Act and protect human health.

The registration information helps Ecology to:

- Maintain a current and accurate record of air pollution sources in Washington.
- Provide businesses with technical assistance on how to comply with Clean Air Act requirements.
- Verify that businesses are complying with air pollution control requirements.
- Evaluate the effectiveness of air pollution control strategies.
- Gather and verify emissions data.

Businesses generally report emissions either:

- Yearly in the case of annual registration program sources.
- Once every three years for periodic registration program sources.
- Once every six years for exempt registration program sources.

1.3.2 Reasons for Proposed Amendments

The following discusses the reasoning for each of the proposed amendments to Chapter 173-455 WAC.

1.3.2.1: Increases to general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are called periodic registration program sources.

The air quality source registration program currently relies heavily on state tax dollars (the General Fund). Revenue from registration program sources funds about 60 percent of the cost of operating the program. This program is intended to be more self-supporting (RCW 70.94.151). To help cover the cost of the program and to reduce reliance on state taxes, the 2011 Legislature directed Ecology to increase the registration program fees by up to 36 percent (2ESHB 1087). Fees for annual registration program sources went into effect in 2012 following procedures and formula in the rule. This rule making proposes to increase the revenue on a programmatic basis by 35 percent for periodic sources. Exempt sources are not subject to a fee. This fee increase would bring the registration program close to supporting 87 percent of the program.

1.3.2.2: Re-establishing air quality registration fees for gasoline dispensing facilities.

Gasoline recovery systems that are not routinely inspected for compliance with state and federal air quality requirements are much more likely to fail, putting the business and public at risk. Gasoline vapors contain toxic and carcinogenic chemicals. They also contain volatile organic compounds that contribute to ozone, another human health

hazard. If safeguards are not in place, these harmful fumes may escape as gas is transferred into storage tanks or dispensed at the pump.

Controlling gasoline vapors reduces benzene exposures at and near gasoline dispensing facilities, contributes to continuing compliance with federal ozone standards, and conserves gasoline. Benzene exposure can lead to respiratory illness and cancer, particularly among employees.

Ecology is the sole air quality agency in the state that does not currently inspect the air quality requirements at a gasoline dispensing facility. This fee would allow for Ecology to conduct these inspections at facilities the agency regulates. For future years, these fees will be adjusted using the process described in 1.3.2.4.

Ecology discontinued its program due to budget constraints in the early 2000s. The existing \$100 fee remains in the rule. Consistent with Initiative 1053, approved re-establishing the fee in 2012 (3ESHB 2127).

1.3.2.3: Clarifying the process for calculating registration program fees.

The current rule contains a flat fee for periodic sources and a method for increasing fees for annual registration program fees based on the results of a workload model. Yearly annual registration source fees change due to the number of sources and their emissions. This complex fee structure for annual sources is comprised of three components, a flat component based on the number of sources, a complexity component based on a complexity rating of 1, 3 or 5, and an emissions component based on the amount of billable emissions from the source. The proposed amendment simplifies the process and increases transparency by placing in the rule the 2012 fees for both annual and periodic sources as shown in the table below.

Table 1: Proposed 2012 Fee Rates for Annual and Periodic Sources

Annual registration fee rates	
Flat fee component	\$1057 per year
Complexity component	\$469 per complexity rating point of 1, 3, 5
Emissions component	\$16 per ton
Periodic registration fee rates	
Small source	\$450
Medium source	\$700
Large source	\$1,000

For future years, these fees will be adjusted using the process described in 1.3.2.4.

1.3.2.4 Provide a method for making future fee increases.

The current rule provides a method for establishing fees each year for annual registration program sources. Adjusting all other fees in Chapter 173-455 WAC requires a rule change. The proposed rule amendments will simplify the process for increasing all fees in Chapter 173-455 WAC by establishing a uniform and transparent method. Fees could be adjusted on a biennial basis for each year in the biennium as necessary to achieve or maintain cost recovery. Fee increases must be justified by a workload analysis. The statute provides direction on activities that are cost recoverable and can be included in the analysis [RCW 70.94.151 and 152]. It is our intent to increase fees frequently by smaller amounts however, the rule will also allow flexibility to adjust it by larger amounts if justified by the workload analysis. Increases would have to be posted on the Air Quality Program website no later than November 30th of the preceding year an increase would take effect. In addition, a fee increase could be imposed only after the Legislature approves the increase as directed by Initiative 1053 ([RCW 43.135.055](#)).

1.3.2.5: Addressing “housekeeping changes” necessary to improve the understanding and usability of the rule.

The Source registration program was established in its current form in 1995. In the ensuing 17 years, the fees for periodic sources have remained at \$400. In 2007, Ecology consolidated air quality fees codified in several different rules into Ch 173-455 WAC without altering any rule language from its original location. Registration fees were re-located to WAC 173-455-040. Currently within Ecology’s jurisdiction there are 19 annual sources, 323 periodic sources and 130 exempt sources.

In general, registration program sources are smaller businesses that fit into three categories. Annual sources represent larger registration sources. Periodic sources run through the middle and exempt are the smallest category. Large industrial and commercial businesses are regulated under the Air Operating Permit Program.

For periodic sources, the proposed amendments establish a three-tiered fee structure, based on the amount of annual emissions of various contaminants, for periodic sources as a better reflection of the workload associated with inspecting the source. Under the proposed amendments, 76 percent of the current periodic sources fall within the small fee category, 14 percent are medium sized and 10 percent are large.

WAC 173-491-030 established fees for gasoline loading terminals, bulk gasoline plants and gasoline dispensing facilities in 1991. These fees have not changed since 1991 and in 2007 were relocated to WAC 173-455-110.

1.4 Document Organization

The remainder of this document is organized into the following sections:

- Baseline and proposed rule amendments (Chapter 2): Description and comparison of the baseline requirements to the proposed rule amendments.

- Likely costs of proposed rule amendments (Chapter 3): Analysis of the types and size of costs Ecology expects impacted entities to incur as a result of the proposed rule amendments.
- Likely benefits of proposed rule amendments (Chapter 4): Analysis of the types and size of benefits Ecology expects to result from the proposed rule amendments.
- Cost-benefit comparison and conclusions (Chapter 5): Discussion of the complete implications of the Cost-Benefit Analysis. Comments on the results.
- Least Burdensome Alternative Analysis (Chapter 6): Analysis of considered alternatives to the proposed rule amendments.

Chapter 2: Baseline and Proposed Rule Amendments

2.1 Introduction

In this chapter, Ecology describes the baseline to which the proposed rule amendments are compared. The baseline is the regulatory context in the absence of the amendments being adopted.

Ecology also describes, in this chapter, the proposed rule amendments, and identifies which will likely result in costs or benefits (or both), and require analysis under the APA. Here, Ecology addresses complexities in the scope of analysis, and indicates how costs and benefits are analyzed and discussed in chapters 3 and 4 of this document.

2.2 Baseline

In most cases, the regulatory baseline for CBAs is the existing rule. Where there is no existing rule, federal and local regulations are the baseline. In the case of the proposed amendments to the Air Quality Fee Regulation, the existing rule comprises the baseline. The regulatory baseline is the way air quality permit fees would be assigned if the proposed rule is not adopted – that is, based on existing laws and rules. The baseline does not include guidance and practices commonly used in existing permit fee determination and behavior if they are not required by a law, rule, permit, et cetera.

The proposed rule amendments:

- Increase general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are periodic registration program sources.
- Re-establish air quality registration fees for gasoline distributing facilities.
- Insert the 2012 fee rates used to calculate the 2012 registration fee and removes the existing process in the rule to calculate these fees. The 2012 rates for sources reflect the 36 percent increase directed by the Legislature. The annual source fee rates were established following the existing method in the rule.
- Provide a new method for making future fee increases for most fee rules in Chapter 173-455 WAC. This change will not result in any additional fee increases at this time.
- Address “housekeeping” changes necessary to improve the understanding and usability of the rule. Housekeeping changes include, but are not limited to, consolidating registration program fees in one location, correcting word use, clarifying that an applicant could use the \$200 PSD applicability determination fee for pre-application assistance beyond the standard pre-application meeting, and updating the general orders. Ecology is continuing our current practice of holding a pre-application meeting between applicants and staff.

2.2.1 Increase periodic registration fees.

Currently, the yearly fee for periodic sources, regardless of their rate of emissions of contaminants is a flat fee of \$400 per year.

The proposed rule amendment would increase fees and establish a three-tiered fee structure, based on the amount of annual emissions of various contaminants, for periodic sources.

This represents a cost to the affected businesses.

2.2.2 Fees for gasoline dispensing facilities regulated by Ecology

Currently, gasoline dispensing facilities regulated by Ecology are subject to a flat fee of \$100 per year. Ecology has not collected this fee since the early 2000's. Even though the fee has not been imposed, the analysis compared the impacts to the existing rule.

The proposed rule amendments would increase fees for gasoline dispensing facilities regulated by Ecology. Facilities would be subject to inspection and yearly fees based on their number of storage tanks dispensing a gasoline-based product.

This represents a cost to the affected businesses and a societal benefit due to the periodic inspections diminishing the likelihood of failure.

2.2.3 Clarification of process for calculating registration program fees.

The current rule contains a flat fee for periodic sources and a method for increasing fees for annual registration program fees based on the results of a workload model. Yearly fees for the annual registration program change due to the number of sources and their emissions.

The proposed amendment increases transparency by placing the 2012 fees and rates in the rule.

This represents a benefit to both affected businesses and Ecology.

2.2.4 Future fee increases

The current rule provides a method for establishing fees each year for annual registration program sources. Adjusting all other fees requires a rule change.

The proposed amendments base fee increases on a workload analysis, linking the fees to the cost of implementing the program. This allows more frequent, smaller increases in fees.

This represents a potential benefit to affected firms and a benefit to Ecology.

2.2.5: “Housekeeping” changes

Housekeeping changes are exempt from analysis. Establishing categories for tiers of fees is exempt from the analysis but the impact of those fees will be discussed related to the fee changes for annual and periodic registration.

Chapter 3: Likely Costs of the Proposed Amendments

3.1 Introduction

The current analysis will focus on only those costs generated by proposed amendments that are not exempt from analysis. These include:

- Increasing periodic registration fees.
- Imposing fees on gasoline dispensing facilities.

3.2 Affected Entities

Within Ecology’s jurisdiction, there are 323 registered periodic businesses and 416 gasoline dispensing facilities.

3.3 Costs

3.3.1 Increase periodic registration fees.

Fees charged to periodic registration sources depend on their level of emissions. Table 1 shows the estimated costs resulting from the fee increases.

Table 2: Aggregate cost of proposed fees on periodic sources

Category	Proposed Yearly Fee	Number of Sources	Aggregate Cost	Cost increase
Small	\$450	245	\$110,250	\$50
Medium	\$700	46	\$32,200	\$250
Large	\$1,000	32	\$32,000	\$600
Total			\$174,450	

Under the current, \$400 fixed fee structure, total costs are \$129,200 annually. Therefore the additional cost attributable to the rule amendment is the difference between the current fee and the proposed new fees – a total of \$45,250 annually.

3.3.2 Implementing fees on gasoline dispensing facilities regulated by Ecology

Under the current \$100 fixed fee structure, total costs are \$41,600 annually. The new fee is \$130 for each storage tank dispensing gasoline. For the 416 facilities within Ecology’s jurisdiction, this will result in total fees of \$109,330 annually. The additional cost attributable to the rule amendment is the difference between the current fee and the proposed new fees – a total of \$67,730 annually.

Table 3: Aggregate annual cost of proposed fees on annual sources

Number of Tanks	Proposed Yearly Fee	# Sites	Aggregate Cost
1	\$130	133	\$17,290
2	\$260	157	\$40,820
3	\$390	111	\$43,290
4	\$520	14	\$7,280
5	\$650	1	\$650
Total		416	\$109,330

3.4 Total Costs

Total costs are estimated to be \$112,980 per year.

Chapter 4: Likely Benefits of the Proposed Amendments

The current analysis will focus on only those benefits generated by proposed amendments that are not exempt from analysis. These include:

- Imposing fees on gasoline dispensing facilities regulated by Ecology.
- Clarification of process for calculating registration program fees.
- Providing a method for future fee increases.
- Additional benefits.

4.1 Implementing fees on gasoline dispensing facilities regulated by Ecology

4.1.1. Decrease in public risk of benzene exposure

Routine inspection of gasoline recovery systems will decrease the chance of failure. This results in benefits in the form of diminished risk of benzene exposure at and near gasoline dispensing facilities. Benzene exposure can lead to respiratory illness and cancer, particularly among employees. Inspection also contributes to continuing compliance with federal ozone standards, and conserves gasoline because loss from evaporation is reduced. While quantifying this benefit with any degree of certainty is not possible with available data, it clearly exists.

4.2 Clarification of the process for calculating registration program fees

By simplifying the fee increase process and stating the fees for 2012 directly in the rule, businesses will benefit by knowing the fees in advance and being better able to plan.

4.3 Providing a method for future fee increases

Should a fee increase require formal rule change, the process can be costly, requiring hundreds of staff-hours on the part of Ecology. Avoiding this process, as included in the proposed rule, results in a benefit. The proposed amendments further simplify the process and allow flexibility in setting fees.

4.4 Additional benefits

4.4.1 Avoided decreases in program services.

The proposed rule amendments raise registration fees in order to maintain funding for the source registration program. In light of the current budget situation for the State's General Fund, and the Legislature's choice to authorize fee changes and increases, the

baseline scenario (no fee increases) would likely result in cuts to staff, program services, or both.

With current coverage of about 60 percent of program costs coming from fees (based on internal analysis of the historic ratio of collected fees to program costs), with the remainder subsidized by the General Fund, these cuts could be significant. In addition, the degree of the cuts is unclear, (as the General Fund funds numerous agencies and programs). Uncertainty exists in future levels of available state funds as well, both nominally and relative to expenditures.

Reducing the number of staff in the program would likely result in a reduced ability to maintain current levels of service, increasing the possibility that businesses were not in compliance with air pollution control requirements with a possible increase in emissions of air pollutants, and decreasing provision of technical assistance for businesses on how to comply with Clean Air Act requirements.

Ecology could not confidently quantify the costs resulting from a reduced and over-capacity program. The benefit of avoiding these costs, under the proposed rule, was considered qualitatively in this analysis.

Chapter 5: Cost-Benefit Comparison and Conclusions

Ecology separately calculated the qualitative and quantified net benefits of the proposed rule amendments, accounting for likely costs and benefits of the proposed changes.

Probable benefits include:

- Decrease in public risk of benzene exposure.
- Avoided decreases in program services.
- Clarification and improved compliance.
- Avoided decrease in program services.

Probable net quantified costs include:

- Updated periodic registration source fees.
- Gasoline vapor inspection system fees for facilities regulated by Ecology.

The proposed amendments result in a total of \$112,980 per year in increased fees.

Conclusion

Based on the combined qualitative and quantitative net benefits that Ecology finds to be likely under the proposed rule (as compared to the existing rule), Ecology concluded that the benefits of the proposed rule will most likely exceed the probable costs.

Chapter 6: Least Burdensome Analysis

RCW 34.05.328(1)(e) requires Ecology to “determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection.”

6.1 Conclusion

Based on research and analysis required by RCW 34.05.328(1)(e) the Department of Ecology determines:

There is sufficient evidence that the proposed rule is the least burdensome version of the rule for those who are required to comply, given the goals and objectives of the law for Ecology to propose the rule.

6.2 Alternatives Considered

There were nine alternatives considered:

- Do nothing;
- Increase existing flat fee for periodic sources by 36%;
- Charge a fee for exempt registration sources;
- Fee per gasoline dispensing facility;
- Fee per filling point (compartment) in gasoline dispensing facility;
- Alternative fee for tiered periodic fee sources;
- Performance-based fees for periodic sources;
- Activity-based fees (time and materials) for periodic sources; and
- The proposed rule revisions.

Alternative 1: Do nothing

Maintaining the existing periodic source fee would likely result in reducing the number of staff in the program. This would likely result in a reduced ability to maintain current levels of service, increasing the possibility that businesses were not in compliance with air pollution control requirements with a possible increase in emissions of air pollutants, and decreasing provision of technical assistance for businesses on how to comply with Clean Air Act requirements.

Alternative 2: Increase existing flat fee for periodic sources by 36 percent.

This approach provides an across-the-board increase so all sources pay the same fee. This one-size-fits-all model is simple and easy to understand. However, this option fails to take into account differing complexities at sources. A complex source pays the same as a simple one so smaller business tends to subsidize the fee for the few larger sources.

Alternative 3: Charge a fee for exempt registration sources.

When we began this rule-making, exempt sources paid no fee though once every six years they submitted an emissions inventory and were inspected by Ecology. We considered charging this group a fee that was half of the periodic fee because their workload was half of the periodic source category. In evaluating the workload, we determined that inspecting a source results in the bulk of the ongoing work. We evaluated the value gained from inspecting this source category compared to the cost of imposing a new fee, and decided to discontinue routine inspections of this group. Routine inspections of exempt sources will occur when the source switches to the periodic or annual source category due to increased emissions (possibly due to increased production). Submitting an emissions inventory every six years remains a requirement.

Alternative 4: Fee per gasoline dispensing facility.

A fee per station is a simple fee and easily understood because all sources pay the same fee. The one-size-fits-all model fails to take into account differing complexities at sources. A station with more tanks and fill points takes longer to inspect. A complex station pays the same as a simple one so smaller business tends to subsidize larger sources.

Alternative 5: Fee per filling point (compartment) in gasoline dispensing facility.

A fee per filling point is the best reflection of the cost of conducting the inspection. However, this method is the most complicated to understand and explain, and results in the most fees. The number of tanks vary from one to five, and the number of compartments or gasoline fill points vary from one to three fill points per tank. This alternative presents a lower fee minimum and highest fee than the per tank fee. However fewer stations would pay the lowest fee (eight percent compared to 32 percent). The two lowest fee represent 45 percent of the stations compared to 70 percent of the stations for the per tank fee.

Alternative 6: Alternative fee for tiered periodic fee sources.

We considered setting the fees for the small, medium and large source categories at \$400, \$800 and \$1200. Leaving the small fee at \$400 means that 74 percent of the sources would not have a fee increase while fees for the other two categories would double or triple. Our stakeholders requested that the small source fee be increased so all categories share in the impact of the increase.

Alternative 7: Performance-based fees for periodic sources.

Sources that were not complying with the terms of their permit (air quality requirements) would pay a higher fee for a year or two after they came back into compliance. This would place the additional cost of compliance on the sources generating the additional workload. The base fee would (flat fee or tiered-fee) need continue to fund the program because the number of sources that might be subject to this fee is unknown and would vary from year to year. To accommodate the increased revenue from this add-on fee, we would need to reduce the percentage increase for the base fee to stay within the Legislatively assigned constraint. It was not possible to determine this figure.

Alternative 8: Activity-based fees (time and materials) for periodic sources.

Activity based fees require agency staff to carefully track their time and bill sources after the work is completed. Periodic sources lose the certainty of knowing what their yearly fee is in advance so it is not possible to plan for the bill. The yearly bills would vary widely depending on what work Ecology conducted. A bill for preparing and reviewing the emissions inventory information would be considerably smaller than the cost of an inspection (preparing for an inspection, traveling to the inspection, conducting the inspection, and post-inspection work).

Alternative 9: Proposed rule revisions

Periodic source fee

The three-tiered structure separates the sources into three groupings based on their emissions. Emissions are a reasonable surrogate for the complexity of the source. Under this structure, 76% of the businesses will see a 13 percent fee increase, which is significantly lower than the fee increase resulting from Alternative 2.

Gasoline dispensing facilities

A fee per storage tank dispensing gasoline aligns with the existing fee structure for the fee for an Underground Storage Tank. Business is familiar with this structure because that is the basis for their existing Underground Storage Tank fee. The smallest businesses appear to benefit the most from this alternative. These stations tend to have one tank with multiple compartments for different grades of gasoline. A larger station will have multiple tanks because they can afford the installation costs. 70 percent of stations will have a fee of \$260 or \$130.

Appendix A: Proposed Rule Amendments



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Preliminary Cost-Benefit and Least Burdensome Alternative Analyses

Chapter 173-455 WAC Air Quality Fee Rule

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Executive Summary

In this rulemaking, Ecology is updating Chapter 173-455 WAC (Air Quality Fee Regulation). This rule action covers fees associated with periodic and annual sources.

Businesses that generate small and moderate amounts of air pollution must participate in the air quality source registration program. The registration program is necessary to ensure that sources of air pollution operate in a way that minimizes emissions to comply with the Clean Air Act and protect human health.

The registration information helps Ecology to:

- Maintain a current and accurate record of air pollution sources in Washington.
- Provide businesses with technical assistance on how to comply with Clean Air Act requirements.
- Verify that businesses are complying with air pollution control requirements.
- Evaluate the effectiveness of air pollution control strategies.
- Gather and verify emissions data.

Businesses generally report emissions either:

- Yearly in the case of annual registration program sources.
- Once every three years for periodic registration program sources.
- Once every six years for exempt registration program sources.

The proposed changes to the fee schedule include:

- Increases to general registration program fees for periodic sources.
- Re-establishing air quality registration fees for gasoline dispensing facilities.
- Clarifying the process for calculating registration program fees.
- Provide a method for making future fee increases.
- Make housekeeping changes to facilitate clarity and compliance.

Probable benefits include:

- Decrease in public risk of benzene exposure.
- Avoided decreases in program services.
- Clarification and improved compliance.
- Avoided decrease in program services.

Probable quantified costs include:

- \$112,980 per year in total increased permit fees.

Chapter 1: Background and Introduction

1.1 Introduction

This report reviews two of the economic analyses performed by the Washington State Department of Ecology (Ecology) to estimate the incremental expected benefits and costs of the proposed amendments to the Air Quality Fee Regulation (chapter 173-455 WAC). These analyses – the Cost-Benefit Analysis (CBA) and Least Burdensome Alternative Analysis (LBA) – are based on the best available information at the time of publication. Ecology encourages the public to comment on this document, and provide any additional pertinent information to improve the accuracy of final estimates or content.

The Washington Administrative Procedure Act (RCW 34.05.328) requires Ecology to evaluate significant legislative rules to “determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the law being implemented.” Chapters 1 – 5 document that determination.

For the proposed amendments to the Air Quality Fee Regulation, this means Ecology must estimate the impacts of the rule changes on individuals, businesses, and the public. This includes changes in costs and changes in the value of the services provided for the fees paid. Estimated impacts are determined as compared to the existing regulatory environment—the way air quality fees would be regulated in the absence of the proposed rule amendments.

The existing regulatory environment is called the “baseline” in this document. It includes only existing regulation through laws and rules at federal, state, and local levels. It does not include elements such as guidance or unofficial standard practices in industry or business.

This document provides the public with an overview of the methods Ecology used to perform its analysis, and the most likely impacts found.

The APA also requires Ecology to “determine, after considering alternative versions of the rule ... that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives” of the governing and authorizing statutes. Chapter 6 documents that determination.

1.2 Description of the proposed rule amendments

The proposed rule amendments:

- Increase general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are periodic registration program sources.
- Re-establish air quality registration fees for gasoline distributing facilities.

- Clarify the process for calculating registration fees.
- Provide a method for making future fee increases.
- Address “housekeeping” changes necessary to improve the understanding and usability of the rule.

1.3 Reasons for the Proposed Rule Amendments

1.3.1 History of existing rule

Air pollution control in Washington is based on federal, state and local laws and regulations. The federal Environmental Protection Agency (EPA), the Department of Ecology (Ecology), and local clean air agencies all regulate air quality. Ecology establishes rules, and implements and enforces air quality regulations in counties without a local clean air agency. Ecology also has statewide jurisdiction over primary aluminum plants, pulp mills, large commercial and industrial facilities subject to the federal Prevention of Significant Deterioration (PSD) Program, and emissions of specific toxic air pollutants that exceed specified levels.

If you are located in one of the following counties, you have a local clean air agency: Benton, Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Whatcom, or Yakima. Local clean air agencies may implement and enforce most state regulations. All local clean air agencies have their own regulations that may be more restrictive than those of Ecology, but not less.

Ecology regulates businesses with air emissions that are located in certain areas:

- Hanford Nuclear Reservation
- **Central Region:** Chelan, Douglas, Kittitas, Klickitat, and Okanogan Counties
- **Eastern Region:** Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Stevens, Walla Walla, Whitman Counties
- **Northwest Region:** San Juan County

Ecology also regulates specific types of businesses, such as:

- Kraft pulp and paper mills
- Primary aluminum mills
- Large industrial or commercial sources subject to the federal PSD program
- Emitters of specific toxic air emissions at rates higher than levels specified by rule.

Businesses that generate small and moderate amounts of air pollution must participate in the air quality source registration program. The registration program is necessary to

ensure that sources of air pollution operate in a way that minimizes emissions to comply with the Clean Air Act and protect human health.

The registration information helps Ecology to:

- Maintain a current and accurate record of air pollution sources in Washington.
- Provide businesses with technical assistance on how to comply with Clean Air Act requirements.
- Verify that businesses are complying with air pollution control requirements.
- Evaluate the effectiveness of air pollution control strategies.
- Gather and verify emissions data.

Businesses generally report emissions either:

- Yearly in the case of annual registration program sources.
- Once every three years for periodic registration program sources.
- Once every six years for exempt registration program sources.

1.3.2 Reasons for Proposed Amendments

The following discusses the reasoning for each of the proposed amendments to Chapter 173-455 WAC.

1.3.2.1: Increases to general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are called periodic registration program sources.

The air quality source registration program currently relies heavily on state tax dollars (the General Fund). Revenue from registration program sources funds about 60 percent of the cost of operating the program. This program is intended to be more self-supporting (RCW 70.94.151). To help cover the cost of the program and to reduce reliance on state taxes, the 2011 Legislature directed Ecology to increase the registration program fees by up to 36 percent (2ESHB 1087). Fees for annual registration program sources went into effect in 2012 following procedures and formula in the rule. This rule making proposes to increase the revenue on a programmatic basis by 35 percent for periodic sources. Exempt sources are not subject to a fee. This fee increase would bring the registration program close to supporting 87 percent of the program.

1.3.2.2: Re-establishing air quality registration fees for gasoline dispensing facilities.

Gasoline recovery systems that are not routinely inspected for compliance with state and federal air quality requirements are much more likely to fail, putting the business and public at risk. Gasoline vapors contain toxic and carcinogenic chemicals. They also contain volatile organic compounds that contribute to ozone, another human health

hazard. If safeguards are not in place, these harmful fumes may escape as gas is transferred into storage tanks or dispensed at the pump.

Controlling gasoline vapors reduces benzene exposures at and near gasoline dispensing facilities, contributes to continuing compliance with federal ozone standards, and conserves gasoline. Benzene exposure can lead to respiratory illness and cancer, particularly among employees.

Ecology is the sole air quality agency in the state that does not currently inspect the air quality requirements at a gasoline dispensing facility. This fee would allow for Ecology to conduct these inspections at facilities the agency regulates. For future years, these fees will be adjusted using the process described in 1.3.2.4.

Ecology discontinued its program due to budget constraints in the early 2000s. The existing \$100 fee remains in the rule. Consistent with Initiative 1053, approved re-establishing the fee in 2012 (3ESHB 2127).

1.3.2.3: Clarifying the process for calculating registration program fees.

The current rule contains a flat fee for periodic sources and a method for increasing fees for annual registration program fees based on the results of a workload model. Yearly annual registration source fees change due to the number of sources and their emissions. This complex fee structure for annual sources is comprised of three components, a flat component based on the number of sources, a complexity component based on a complexity rating of 1, 3 or 5, and an emissions component based on the amount of billable emissions from the source. The proposed amendment simplifies the process and increases transparency by placing in the rule the 2012 fees for both annual and periodic sources as shown in the table below.

Table 1: roposed 2012 Fee Rates for Annual and Periodic Sources

Annual registration fee rates	
Flat fee component	\$1057 per year
Complexity component	\$469 per complexity rating point of 1, 3, 5
Emissions component	\$16 per ton
Periodic registration fee rates	
Small source	\$450
Medium source	\$700
Large source	\$1,00

For future years, these fees will be adjusted using the process described in 1.3.2.4.

1.3.2.4 Provide a method for making future fee increases.

The current rule provides a method for establishing fees each year for annual registration program sources. Adjusting all other fees in Chapter 173-455 WAC requires a rule change. The proposed rule amendments will simplify the process for increasing all fees in Chapter 173-455 WAC by establishing a uniform and transparent method. Fees could be adjusted on a biennial basis for each year in the biennium as necessary to achieve or maintain cost recovery. Fee increases must be justified by a workload analysis. The statute provides direction on activities that are cost recoverable and can be included in the analysis [RCW 70.94.151 and 152]. It is our intent to increase fees frequently by smaller amounts however, the rule will also allow flexibility to adjust it by larger amounts if justified by the workload analysis. Increases would have to be posted on the Air Quality Program website no later than November 30th of the preceding year an increase would take effect. In addition, a fee increase could be imposed only after the Legislature approves the increase as directed by Initiative 1053 ([RCW 43.135.055](#)).

1.3.2.5: Addressing “housekeeping changes” necessary to improve the understanding and usability of the rule.

The Source registration program was established in its current form in 1995. In the ensuing 17 years, the fees for periodic sources have remained at \$400. In 2007, Ecology consolidated air quality fees codified in several different rules into Ch 173-455 WAC without altering any rule language from its original location. Registration fees were re-located to WAC 173-455-040. Currently within Ecology’s jurisdiction there are 19 annual sources, 323 periodic sources and 130 exempt sources.

In general, registration program sources are smaller businesses that fit into three categories. Annual sources represent larger registration sources. Periodic sources run through the middle and exempt are the smallest category. Large industrial and commercial businesses are regulated under the Air Operating Permit Program.

For periodic sources, the proposed amendments establish a three-tiered fee structure, based on the amount of annual emissions of various contaminants, for periodic sources as a better reflection of the workload associated with inspecting the source. Under the proposed amendments, 76 percent of the current periodic sources fall within the small fee category, 14 percent are medium sized and 10 percent are large.

WAC 173-491-030 established fees for gasoline loading terminals, bulk gasoline plants and gasoline dispensing facilities in 1991. These fees have not changed since 1991 and in 2007 were relocated to WAC 173-455-110.

1.4 Document Organization

The remainder of this document is organized into the following sections:

- Baseline and proposed rule amendments (Chapter 2): Description and comparison of the baseline requirements to the proposed rule amendments.

- Likely costs of proposed rule amendments (Chapter 3): Analysis of the types and size of costs Ecology expects impacted entities to incur as a result of the proposed rule amendments.
- Likely benefits of proposed rule amendments (Chapter 4): Analysis of the types and size of benefits Ecology expects to result from the proposed rule amendments.
- Cost-benefit comparison and conclusions (Chapter 5): Discussion of the complete implications of the Cost-Benefit Analysis. Comments on the results.
- Least Burdensome Alternative Analysis (Chapter 6): Analysis of considered alternatives to the proposed rule amendments.

Chapter 2: Baseline and Proposed Rule Amendments

2.1 Introduction

In this chapter, Ecology describes the baseline to which the proposed rule amendments are compared. The baseline is the regulatory context in the absence of the amendments being adopted.

Ecology also describes, in this chapter, the proposed rule amendments, and identifies which will likely result in costs or benefits (or both), and require analysis under the APA. Here, Ecology addresses complexities in the scope of analysis, and indicates how costs and benefits are analyzed and discussed in chapters 3 and 4 of this document.

2.2 Baseline

In most cases, the regulatory baseline for CBAs is the existing rule. Where there is no existing rule, federal and local regulations are the baseline. In the case of the proposed amendments to the Air Quality Fee Regulation, the existing rule comprises the baseline. The regulatory baseline is the way air quality permit fees would be assigned if the proposed rule is not adopted – that is, based on existing laws and rules. The baseline does not include guidance and practices commonly used in existing permit fee determination and behavior if they are not required by a law, rule, permit, et cetera.

The proposed rule amendments:

- Increase general registration program fees for businesses that release small amounts of emissions and report those emissions every three years. These are periodic registration program sources.
- Re-establish air quality registration fees for gasoline distributing facilities.
- Insert the 2012 fee rates used to calculate the 2012 registration fee and removes the existing process in the rule to calculate these fees. The 2012 rates for sources reflect the 36 percent increase directed by the Legislature. The annual source fee rates were established following the existing method in the rule.
- Provide a new method for making future fee increases for most fee rules in Chapter 173-455 WAC. This change will not result in any additional fee increases at this time.
- Address “housekeeping” changes necessary to improve the understanding and usability of the rule. Housekeeping changes include, but are not limited to, consolidating registration program fees in one location, correcting word use, clarifying that an applicant could use the \$200 PSD applicability determination fee for pre-application assistance beyond the standard pre-application meeting, and updating the general orders. Ecology is continuing our current practice of holding a pre-application meeting between applicants and staff.

2.2.1 Increase periodic registration fees.

Currently, the yearly fee for periodic sources, regardless of their rate of emissions of contaminants is a flat fee of \$400 per year.

The proposed rule amendment would increase fees and establish a three-tiered fee structure, based on the amount of annual emissions of various contaminants, for periodic sources.

This represents a cost to the affected businesses.

2.2.2 Fees for gasoline dispensing facilities regulated by Ecology

Currently, gasoline dispensing facilities regulated by Ecology are subject to a flat fee of \$100 per year. Ecology has not collected this fee since the early 2000's. Even though the fee has not been imposed, the analysis compared the impacts to the existing rule.

The proposed rule amendments would increase fees for gasoline dispensing facilities regulated by Ecology. Facilities would be subject to inspection and yearly fees based on their number of storage tanks dispensing a gasoline-based product.

This represents a cost to the affected businesses and a societal benefit due to the periodic inspections diminishing the likelihood of failure.

2.2.3 Clarification of process for calculating registration program fees.

The current rule contains a flat fee for periodic sources and a method for increasing fees for annual registration program fees based on the results of a workload model. Yearly fees for the annual registration program change due to the number of sources and their emissions.

The proposed amendment increases transparency by placing the 2012 fees and rates in the rule.

This represents a benefit to both affected businesses and Ecology.

2.2.4 Future fee increases

The current rule provides a method for establishing fees each year for annual registration program sources. Adjusting all other fees requires a rule change.

The proposed amendments base fee increases on a workload analysis, linking the fees to the cost of implementing the program. This allows more frequent, smaller increases in fees.

This represents a potential benefit to affected firms and a benefit to Ecology.

2.2.5: “Housekeeping” changes

Housekeeping changes are exempt from analysis. Establishing categories for tiers of fees is exempt from the analysis but the impact of those fees will be discussed related to the fee changes for annual and periodic registration.

Chapter 3: Likely Costs of the Proposed Amendments

3.1 Introduction

The current analysis will focus on only those costs generated by proposed amendments that are not exempt from analysis. These include:

- Increasing periodic registration fees.
- Imposing fees on gasoline dispensing facilities.

3.2 Affected Entities

Within Ecology’s jurisdiction, there are 323 registered periodic businesses and 416 gasoline dispensing facilities.

3.3 Costs

3.3.1 Increase periodic registration fees.

Fees charged to periodic registration sources depend on their level of emissions. Table 1 shows the estimated costs resulting from the fee increases.

Table 2: Aggregate cost of proposed fees on periodic sources

Category	Proposed Yearly Fee	Number of Sources	Aggregate Cost	Cost increase
Small	\$450	245	\$110,250	\$50
Medium	\$700	46	\$32,200	\$250
Large	\$1,000	32	\$32,000	\$600
Total			\$174,450	

Under the current, \$400 fixed fee structure, total costs are \$129,200 annually. Therefore the additional cost attributable to the rule amendment is the difference between the current fee and the proposed new fees – a total of \$45,250 annually.

3.3.2 Implementing fees on gasoline dispensing facilities regulated by Ecology

Under the current \$100 fixed fee structure, total costs are \$41,600 annually. The new fee is \$150 for each storage tank dispensing gasoline. For the 416 facilities within Ecology’s jurisdiction, this will result in total fees of \$109,330 annually. The additional cost attributable to the rule amendment is the difference between the current fee and the proposed new fees – a total of \$67,730 annually.

Table 3: Aggregate annual cost of proposed fees on annual sources

Number of Tanks	Proposed Yearly Fee	# Sites	Aggregate Cost
1	\$130	133	\$17,290
2	\$260	157	\$40,820
3	\$390	111	\$43,290
4	\$520	14	\$7,280
5	\$650	1	\$650
Total		416	\$109,330

3.4 Total Costs

Total costs are estimated to be \$112,980 per year.

Chapter 4: Likely Benefits of the Proposed Amendments

The current analysis will focus on only those benefits generated by proposed amendments that are not exempt from analysis. These include:

- Imposing fees on gasoline dispensing facilities regulated by Ecology.
- Clarification of process for calculating registration program fees.
- Providing a method for future fee increases.
- Additional benefits.

4.1 Implementing fees on gasoline dispensing facilities regulated by Ecology

4.1.1. Decrease in public risk of benzene exposure

Routine inspection of gasoline recovery systems will decrease the chance of failure. This results in benefits in the form of diminished risk of benzene exposure at and near gasoline dispensing facilities. Benzene exposure can lead to respiratory illness and cancer, particularly among employees. Inspection also contributes to continuing compliance with federal ozone standards, and conserves gasoline because loss from evaporation is reduced. While quantifying this benefit with any degree of certainty is not possible with available data, it clearly exists.

4.2 Clarification of the process for calculating registration program fees

By simplifying the fee increase process and stating the fees for 2012 directly in the rule, businesses will benefit by knowing the fees in advance and being better able to plan.

4.3 Providing a method for future fee increases

Should a fee increase require formal rule change, the process can be costly, requiring hundreds of staff-hours on the part of Ecology. Avoiding this process, as included in the proposed rule, results in a benefit. The proposed amendments further simplify the process and allow flexibility in setting fees.

4.4 Additional benefits

4.4.1 Avoided decreases in program services.

The proposed rule amendments raise registration fees in order to maintain funding for the source registration program. In light of the current budget situation for the State's General Fund, and the Legislature's choice to authorize fee changes and increases, the

baseline scenario (no fee increases) would likely result in cuts to staff, program services, or both.

With current coverage of about 60 percent of program costs coming from fees (based on internal analysis of the historic ratio of collected fees to program costs), with the remainder subsidized by the General Fund, these cuts could be significant. In addition, the degree of the cuts is unclear, (as the General Fund funds numerous agencies and programs). Uncertainty exists in future levels of available state funds as well, both nominally and relative to expenditures.

Reducing the number of staff in the program would likely result in a reduced ability to maintain current levels of service, increasing the possibility that businesses were not in compliance with air pollution control requirements with a possible increase in emissions of air pollutants, and decreasing provision of technical assistance for businesses on how to comply with Clean Air Act requirements.

Ecology could not confidently quantify the costs resulting from a reduced and over-capacity program. The benefit of avoiding these costs, under the proposed rule, was considered qualitatively in this analysis.

Chapter 5: Cost-Benefit Comparison and Conclusions

Ecology separately calculated the qualitative and quantified net benefits of the proposed rule amendments, accounting for likely costs and benefits of the proposed changes.

Probable benefits include:

- Decrease in public risk of benzene exposure.
- Avoided decreases in program services.
- Clarification and improved compliance.
- Avoided decrease in program services.

Probable net quantified costs include:

- Updated periodic registration source fees.
- Gasoline vapor inspection system fees for facilities regulated by Ecology.

The proposed amendments result in a total of \$112,980 per year in increased fees.

Conclusion

Based on the combined qualitative and quantitative net benefits that Ecology finds to be likely under the proposed rule (as compared to the existing rule), Ecology concluded that the benefits of the proposed rule will most likely exceed the probable costs.

Chapter 6: Least Burdensome Analysis

RCW 34.05.328(1)(e) requires Ecology to “determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection.”

6.1 Conclusion

Based on research and analysis required by RCW 34.05.328(1)(e) the Department of Ecology determines:

There is sufficient evidence that the proposed rule is the least burdensome version of the rule for those who are required to comply, given the goals and objectives of the law for Ecology to propose the rule.

6.2 Alternatives Considered

There were nine alternatives considered:

- Do nothing;
- Increase existing flat fee for periodic sources by 36%;
- Charge a fee for exempt registration sources;
- Fee per gasoline dispensing facility;
- Fee per filling point (compartment) in gasoline dispensing facility;
- Alternative fee for tiered periodic fee sources;
- Performance-based fees for periodic sources;
- Activity-based fees (time and materials) for periodic sources; and
- The proposed rule revisions.

Alternative 1: Do nothing

Maintaining the existing periodic source fee would likely result in reducing the number of staff in the program. This would likely result in a reduced ability to maintain current levels of service, increasing the possibility that businesses were not in compliance with air pollution control requirements with a possible increase in emissions of air pollutants, and decreasing provision of technical assistance for businesses on how to comply with Clean Air Act requirements.

Alternative 2: Increase existing flat fee for periodic sources by 36 percent.

This approach provides an across-the-board increase so all sources pay the same fee. This one-size-fits-all model is simple and easy to understand. However, this option fails to take into account differing complexities at sources. A complex source pays the same as a simple one so smaller business tends to subsidize the fee for the few larger sources.

Alternative 3: Charge a fee for exempt registration sources.

When we began this rule-making, exempt sources paid no fee though once every six years they submitted an emissions inventory and were inspected by Ecology. We considered charging this group a fee that was half of the periodic fee because their workload was half of the periodic source category. In evaluating the workload, we determined that inspecting a source results in the bulk of the ongoing work. We evaluated the value gained from inspecting this source category compared to the cost of imposing a new fee, and decided to discontinue routine inspections of this group. Routine inspections of exempt sources will occur when the source switches to the periodic or annual source category due to increased emissions (possibly due to increased production). Submitting an emissions inventory every six years remains a requirement.

Alternative 4: Fee per gasoline dispensing facility.

A fee per station is a simple fee and easily understood because all sources pay the same fee. The one-size-fits-all model fails to take into account differing complexities at sources. A station with more tanks and fill points takes longer to inspect. A complex station pays the same as a simple one so smaller business tends to subsidize larger sources.

Alternative 5: Fee per filling point (compartment) in gasoline dispensing facility.

A fee per filling point is the best reflection of the cost of conducting the inspection. However, this method is the most complicated to understand and explain, and results in the most fees. The number of tanks vary from one to five, and the number of compartments or gasoline fill points vary from one to three fill points per tank. This alternative presents a lower fee minimum and highest fee than the per tank fee. However fewer stations would pay the lowest fee (eight percent compared to 32 percent). The two lowest fee represent 45 percent of the stations compared to 70 percent of the stations for the per tank fee.

Alternative 6: Alternative fee for tiered periodic fee sources.

We considered setting the fees for the small, medium and large source categories at \$400, \$800 and \$1200. Leaving the small fee at \$400 means that 74 percent of the sources would not have a fee increase while fees for the other two categories would double or triple. Our stakeholders requested that the small source fee be increased so all categories share in the impact of the increase.

Alternative 7: Performance-based fees for periodic sources.

Sources that were not complying with the terms of their permit (air quality requirements) would pay a higher fee for a year or two after they came back into compliance. This would place the additional cost of compliance on the sources generating the additional workload. The base fee would (flat fee or tiered-fee) need continue to fund the program because the number of sources that might be subject to this fee is unknown and would vary from year to year. To accommodate the increased revenue from this add-on fee, we would need to reduce the percentage increase for the base fee to stay within the Legislatively assigned constraint. It was not possible to determine this figure.

Alternative 8: Activity-based fees (time and materials) for periodic sources.

Activity based fees require agency staff to carefully track their time and bill sources after the work is completed. Periodic sources lose the certainty of knowing what their yearly fee is in advance so it is not possible to plan for the bill. The yearly bills would vary widely depending on what work Ecology conducted. A bill for preparing and reviewing the emissions inventory information would be considerably smaller than the cost of an inspection (preparing for an inspection, traveling to the inspection, conducting the inspection, and post-inspection work).

Alternative 9: Proposed rule revisions

Periodic source fee

The three-tiered structure separates the sources into three groupings based on their emissions. Emissions are a reasonable surrogate for the complexity of the source. Under this structure, 76% of the businesses will see a 13 percent fee increase, which is significantly lower than the fee increase resulting from Alternative 2.

Gasoline dispensing facilities

A fee per storage tank dispensing gasoline aligns with the existing fee structure for the fee for an Underground Storage Tank. Business is familiar with this structure because that is the basis for their existing Underground Storage Tank fee. The smallest businesses appear to benefit the most from this alternative. These stations tend to have one tank with multiple compartments for different grades of gasoline. A larger station will have multiple tanks because they can afford the installation costs. 70 percent of stations will have a fee of \$260 or \$130.

Appendix A: Proposed Rule Amendments

Appendix A: Proposed Amendments to Chapter 173-455 WAC

AIR QUALITY FEE ~~REGULATION~~ RULE

Comment [EG1]: Editing change to use simpler language.

	WAC	
Amended	173-455-010	Overview.
	173-455-020	Definitions.
Amended	173-455-030	Applicability.
	173-455-035	Fee requirement.
New section	173-455-036	Fee increases.
Amended	173-455-038	Fees not included.
Amended	173-455-040	Air contaminant source registration fees.
	173-455-050	Carbon dioxide mitigation program fees.
	173-455-060	Solid fuel retail sales fee.
	173-455-070	Weather modification fees.
Amended	173-455-100	Control technology fees.
Amended	173-455-110	Registration fees for sources emitting gas vapors.
Amended	173-455-120	New source review fees.
	173-455-130	Air pollution standards variance fee.
	173-455-140	Nonroad engine permit fee.

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

Comment [EG2]: Editing change.

WAC 173-455-030 Applicability.

(1) The provisions of this chapter apply to air quality related activities regulated by the department of ecology.

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

Comment [EG3]: Changes in this section clarify rule intent.

WAC 173-455-036. Fee increases.

(1) Ecology must follow the process in this section for increasing any of the following fees:

- (a) Air contaminant source registration fees in WAC 173-455-040;
- (b) Carbon dioxide mitigation program fees in WAC 173-455-050;
- (c) Weather modification fees in WAC 173-455-070;
- (d) Control technology fees in WAC 173-455-100;
- (e) New source review fees in WAC 173-455-120;
- (f) Air pollution standards variance fee in WAC 173-455-130; and
- (g) Nonroad engine permit fee in WAC 173-455-140.

(2) Ecology may increase fees for one or more fee eligible programs at any one time as necessary to achieve or maintain cost recovery. A workload analysis must support the fee increase.

Comment [EG4]: Section added to provide a method to increase fees in this rule without going through rulemaking. Fees can be increased by either applying the Washington State fiscal growth factor (as demonstrated by a workload analysis) or use the results of a workload analysis. This process will simplify future fee increases while maintaining the requirement that a workload analysis demonstrates the need for a fee increase. We intend to use the fiscal growth factor whenever possible.

(3) Ecology may adjust fees by the fiscal growth factor calculated under chapter 43.135 RCW.

Where:

New fee = Existing fee x (1+FGF)

Where FGF means the annual fiscal growth factor calculated under chapter 43.135 RCW (expressed as a percentage)

(4) Ecology may propose fee increases in even numbered years for each year in the upcoming biennium. Prior to making any changes, Ecology will post the new amounts on the agency web site no later than November 30th of the preceding year in which the fee will take place.

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

- (1) Air eOperating permit programregulation (air operating permit) - fees can be found in chapter 173-401 WAC.
- (2) Agricultural burning - fees can be found in chapter 173-430 WAC.
- (3) Motor vehicle emission inspection - fees can be found in chapter 173-422A WAC.

Comment [EG5]: Changes in this section reflect correct title of the rule.

Comment [EG6]: Updated to reflect new rule effective on July 1, 2012.

WAC 173-455-040 Air contaminant source registration fees.

~~(1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.~~

Comment [EG7]: Deleted as unnecessary because the fees will not be determined each year based on a workload model. New (1) replaces this provision.

Comment [EG8]: Redundant. Taken from RCW 70.94.151.

~~(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173 400 099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.~~

Comment [EG9]: Annual registration fees change each year depending on the number of sources, their emissions, and Ecology's costs of implementing the program. Initiative 1053 requires Legislative authorization to increase a fee so we decided to place the 2012 annual source fee rates in the rule. Future increases will occur via the process in new section 036. Even with the fee increases directed by the Legislative, fees do not fully fund the registration program.

~~(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:~~

- ~~(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.~~

(1) Ecology will charge a yearly registration fee to cover the cost of implementing the program.

Comment [EG10]: Clarification of intent.

(2) Ecology will determine fee eligibility based on the most current emissions inventory information available.

Comment [EG11]: Clarification of intent.

(3) A registration program source that shut down during the previous year and is not operating in the current year is not subject to a fee for the current calendar year.

Comment [EG12]: Clarification of intent.

(4) Periodic registration program source fee schedule.

(a) Determining periodic registration fee category and fee.

Comment [EG13]: These fees reflect a programmatic increase of 35%, which is 1% less than the Legislature allowed.

(i) Ecology will determine the periodic registration fee category of small, medium, or large based on the sources' most current emissions inventory information.

Comment [EG14]: Clarification of intent.

(ii) If Ecology has emissions information on more than one air contaminant, Ecology will determine the sources' category based on the emission rate of the air contaminant that falls in the largest category.

Comment [EG15]: Clarification of intent on how the emission rates apply.

(b) A source is a periodic registration program source if all of these statements are true:

Comment [EG16]: Applicability clarification based on requirements in WAC 173-400-102.

(i) A source is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2).

(ii) Emissions information.

(A) The source emits at least one pollutant in Table 173-455-040(4)(c) within the rates in the table; and

(B) The source does not emit any pollutant at a rate higher than those in Table 173-455-040(4)(c).

(c) A periodic registration program source must pay a yearly registration fee based on the periodic registration fee table (Table 173-455-040(4)(c)).

Table 173-455-040(4)(c) Periodic registration fee table			
Yearly periodic registration fee	\$450	\$700	\$1,000
Category	Small Periodic Source	Medium Periodic Source	Large Periodic Source
Air Contaminant	Emission Rates		
	Tons per year	Tons per year	Tons per year
Carbon monoxide	5 to < 15	15 to < 30	30 to < 100
Lead	0.005 to < 0.3	0.3 to < 0.45	0.45 to < 0.6
Nitrogen oxides	2 to < 5	5 to < 14	14 to < 40
Particulate matter (TSP)	1.25 to < 6	6 to < 12	12 to < 25
Particulate matter ₁₀	0.75 to < 3.5	3.5 to < 7	7 to < 15
Particulate matter _{2.5}	0.5 to < 2	2 to < 5	5 to < 10
Sulfur dioxide	2 to < 5	5 to < 14	14 to < 40

<u>Volatile organic compounds</u>	<u>2 to < 5</u>	<u>5 to < 14</u>	<u>14 to < 40</u>
<u>Toxic air pollutant</u>	<u>> de minimis emissions*</u>	<u>--</u>	<u>--</u>

* "De minimis emissions" means trivial levels of toxic air emissions that do not pose a threat to human health or the environment. WAC 173-460-150 contains the de minimis emission rate of a toxic air pollutant in pounds per averaging period (year, 24-hour, 1-hour).

(5) Annual registration program source fee schedule.

(a) Ecology will determine the annual registration fee based on the most current emissions inventory information.

(b) A source that is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2) is an annual registration program source if it meets any of the following criteria:

(i) The source emits one or more air pollutants in Table 173-455-040(5)(b) at rates greater than those in the table; or

<u>Air Pollutant</u>	<u>Emission rate</u>
<u>Carbon monoxide</u>	<u>100 tons per year</u>
<u>Lead</u>	<u>0.6 tons per year</u>
<u>Flourides</u>	<u>3 tons per year</u>
<u>Nitrogen oxides</u>	<u>40 tons per year</u>
<u>Particulate matter</u>	<u>25 tons per year</u>
<u>Particulate matter ₁₀</u>	<u>15 tons per year</u>
<u>Particulate matter _{2.5}</u>	<u>10 tons per year</u>
<u>Reduced sulfur compounds (including H₂S)</u>	<u>10 tons per year</u>
<u>Sulfur dioxide</u>	<u>40 tons per year</u>
<u>Sulfuric acid mist</u>	<u>7 tons per year</u>
<u>Total reduced sulfur (including H₂S)</u>	<u>10 tons per year</u>

(ii) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

(iii) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or

(iv) The director of ecology determines that the source poses a potential threat to human health and the environment.

(c) Annual registration program sources must pay a yearly registration fee comprised of the following three components:

Comment [EG17]: Clarification of intent.

Comment [EG18]: Applicability clarification based on requirements in WAC 173-400-102.

Annual registration fee components

Component	Fee Rate
Flat	\$1,057 per year
Complexity	\$469 per complexity rating point
Emissions	\$16 per ton

Comment [EG19]: To increase a fee we must get Legislative authorization. The existing methodology results in different fee rates each year. Consequently, we decided to put the 2012 rates in the rule which reflect the 36 percent increase directed by the 2011 Legislature. Under the proposed structure, fees rates remain constant, though a source's actual fee may change from year to year based on their emissions.

~~(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:~~

~~(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration. Each source must pay the flat component fee plus the other fees.~~

~~(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. The source's complexity rating is multiplied by the complexity fee rate to determine the complexity portion of the yearly registration fee.~~

~~(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate. The source's billable emissions are multiplied by the emissions fee rate to determine the emissions portion of the yearly registration fee.~~

~~(6) Registration fees for sources emitting gas vapors. Gasoline dispensing facilities must pay a yearly registration fee of \$150 dollars for each tank.~~

Comment [EG20]: Relocated fee in this section because it is a registration program fee.

~~(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.~~

Comment [EG21]: Clarification of intent. This fee belongs in the permitting category not as a registration fee category. Provision duplicates section 110(7).

~~(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.~~

Comment [EG22]: Fee reduction for a pollution prevention initiative is more appropriately captured as part of the initial permitting of a source, not as part of its on-going maintenance.

~~(6) Fee reductions for economic hardships. If a small business owner subject to a periodic registration program fee under subsection (4) in this section believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must~~

Comment [EG23]: Clarification of intent. Hardship requests have always come from periodic sources. An annual source has never asked for this provision so we aligned rule language with actual practice.

provide sufficient evidence to support a claim of an extreme hardship. ~~The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits; and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.~~The registration fee may be reduced by no more than fifty percent.

(78) Fee payments.

~~(a) Fees specified~~A source subject to fees in this section shall be paid ~~must pay those fees~~ within thirty days of receipt of ecology's billing statement.

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

~~(c) A late fee surcharge of fifty~~ ~~sixty-eight~~ dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received ~~after~~ within the thirty-day period.

~~(d) A source may request to pay an ecology bill on a payment plan. A late fee surcharge will not apply for bills paid by a payment plan as long as these two conditions apply:~~

~~(i) The source requests a payment plan within thirty days of the receipt of the bill.~~

~~(ii) The source pays the bill on time as outlined in the payment plan.~~

~~(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.~~

~~(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.~~

~~(109) Additional registration fee for fossil-fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter. Registration fees for fossil-fueled electric generating facilities apply in addition to carbon dioxide mitigation program fees in WAC 173-455-050.~~

WAC 173-455-100 Control technology fees. (1) General.

Ecology may assess and collect a fee as authorized in RCW 70.94.154 ~~or RCW 70.94.153~~ and described in subsections (2) through (5) of this section.

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

(a) Basic RACT analysis and determination fee:

Comment [EG24]: Clarification of intent.

Comment [EG25]: Clarification of intent.

Comment [EG26]: Reflects a 36% increase directed by Legislature.

Comment [EG27]: Payment plan added to offset the impact from the fee increase at the request of a small business stakeholder.

Comment [EG28]: Unnecessary repeat of direction in statute (Ch 70.94 RCW)

Comment [EG29]: Unnecessary as this reflects agency practice.

Comment [EG30]: Clarification of intent.

Comment [EG31]: Clarification of intent includes statutory authority for subsection 4.

(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, a fee will be required 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, the following fees will be required 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 ten 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 ten tons per year of any toxic air pollutant - Two thousand dollars.

(3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology.

(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, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred 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, the following fees will be required 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 ten 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 ten tons per year of any toxic air pollutant - One thousand dollars.

(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - Three hundred fifty dollars.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - Five hundred dollars.

(5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined 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 twenty 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 twenty tons per year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten 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 one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - One hundred thousand dollars.

(b) If an emission unit is being evaluated 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.

(6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; 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 average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.

(7) 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.

(8) Fee payments. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified

in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule-making effort is commenced as noted by publication of the CR-101 form in the *Washington State Register*. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.

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

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892. 07-11-018 (Order 06-14), § 173-455-100, filed 5/3/07, effective 6/3/07.]

~~WAC 173-455-110 Registration fees for sources emitting gas vapors. Registration fees shall accompany the registration form outlined in WAC 173-491-030 and are as follows: Gasoline loading terminals: Five hundred dollars; bulk gasoline plants: Two hundred dollars; gasoline dispensing facilities: One hundred dollars, or a greater amount duly adopted by a local air pollution authority. The amount of the fees collected shall only be used to administer the registration program for facilities subject to this chapter.~~

Comment [EG32]: Relocated to section 040. Gasoline loading terminals and bulk gasoline plants become regular registration program sources.

WAC 173-455-120 New source review fees. (1) General requirements.

(a) The fees in this section apply to:

(i) Permit applications received on or after July 1, 2011.

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(ii) Requests for ecology review of other actions covered by this section received by ecology on or after July 1, 2011.

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

(c) A project may be subject to multiple fees. For example, a project may be subject to both minor and major new source review permit fees and second or third tier review.

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

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

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

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

(e) If the initial fee paid by an applicant does not cover the cost of processing the application, notice or request, then ecology shall assess a fee based on the actual costs for review in excess of the hours specified in each fee. The assessed fee must be a rate of ninety-five dollars per hour of ecology staff time expended.

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

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

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

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

(j) Fees assessed under this section apply without regard to whether ecology approves or denies a request.

Permit fees.

Minor new source review.

(2) Review of new source or modification of an existing source with an emissions increase. (WAC 173-400-110 and 173-400-110(3).)

(a) Basic project: One thousand five hundred dollars plus an hourly rate of ninety-five dollars after sixteen hours.

This fee covers up to sixteen hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above sixteen hours.

(b) Complex project: Ten thousand dollars plus an hourly rate of ninety-five dollars after one hundred six hours.

(i) This fee covers up to one hundred six hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above one hundred six hours.

(ii) An application is considered complex if the emissions associated with the application include at least one pollutant for which emissions increases are greater than the levels in the following table:

Emission threshold table (WAC 173-400-030).

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

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

- (A) Number and complexity of emission units;
- (B) Volume of emissions, including toxicity of emissions;
- (C) Amount and complexity of modeling; or
- (D) Number and kind of applicable state and federal requirements.

(3) Change to an existing order of approval. (WAC

173-400-111(8).)

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

(b) Administrative or simple change: Two hundred dollars plus an hourly rate of ninety-five dollars after three hours.

(i) This fee covers up to three hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above three hours.

(ii) An administrative or simple change means:

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

(B) The reissued approval order requires one hour or less of engineering evaluation and no physical modification of equipment; and

(C) Changes in permit conditions are based on actual operating conditions and the operating conditions require one hour or less of engineering evaluation and the change does not cause a change in allowable emissions.

(c) Complex changes: Eight hundred seventy-five dollars plus an hourly rate of ninety-five dollars after ten hours.

(i) This fee covers up to ten hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above ten hours.

(ii) This fee excludes an administrative or simple change and changes to an existing permit that result in an emissions increase.

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

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

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

(C) Request for review of a permit action that is exempt under WAC 173-400-110(5) (Table 110(5) emission-based exemption levels); or

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

(d) The fee for a permit modification (as defined in WAC 173-400-030) is located in subsection (2)(a) or (b) of this section.

(4) Request to extend approval to construct or modify a stationary source issued under minor new source review that is set to expire (WAC 173-400-111(7)): One hundred dollars.

An applicant may request an eighteen-month extension of an approval to construct.

(5) Review of general order of approval (WAC 173-400-560).

(a) Category A general order.

(i) SEPA review complete: Five hundred dollars.

(ii) SEPA review required: Seven hundred eighty-five dollars.

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

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

(B) Diesel-powered emergency electrical generators (No. 06-AQG-006);

(C) Rich burn, spark ignition, gaseous fossil fuel-powered emergency electrical generators (No. 06-AQG-005);

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

(E) Rock crusher, stationary (06-AQG-004);

(F) Rock crusher, portable (07-AQG-001);

(G) Small water heaters and steam generating boilers (No. 08-AQG-003); and

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

(b) Category B general order.

(i) SEPA review complete: Eight hundred seventy-five dollars.

(ii) SEPA review required: One thousand one hundred sixty dollars.

(iii) Category B includes a general order of approval developed on or after January 1, 2011. This covers, but is not limited to, portable and stationary asphalt plants (No. 10AQ-G0-01).

(6) Review of relocation of portable source under WAC 173-400-036, 173-400-110 or 173-400-560.

(a) This fee applies to a portable source who intends to relocate in ecology's jurisdiction with an approval order from another permitting authority.

(i) SEPA review complete: One hundred fifty dollars.

(ii) SEPA review required: Four hundred thirty-five dollars.

(b) This fee applies to a portable source who intends to relocate in ecology's jurisdiction and has operated under an ecology issued approval order or is approved for coverage under an ecology issued general order of approval.

(i) SEPA review complete: No fee.

(ii) SEPA review required: Two hundred eighty-five dollars.

(7) Request to establish a voluntary emission limit (WAC 173-400-091): Five hundred dollars plus an hourly rate of ninety-five dollars after six hours.

(a) This fee covers up to six hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above six hours.

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

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

(ii) This fee does not apply when an emission limit is included

as a condition in an approval order for a notice of construction application.

(8) Request to replace or substantially alter control technology: Refer to WAC 173-455-100(4) for fee schedule.

Major new source review preapplication and permit fees.

(9) Request for a written prevention of significant deterioration applicability determination (WAC 173-400-720) or pre-application assistance: Five hundred dollars plus an hourly rate of ninety-five dollars after six hours.

This fee covers up to six hours of staff time to review the request and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above six hours.

(10) Prevention of significant deterioration (PSD) (WAC 173-400-720 and 173-400-730).

(a) PSD permit application: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.

This fee covers one hundred fifty-eight hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above one hundred fifty-eight hours.

(b) PSD permit application where greenhouse gases are the sole PSD pollutant being reviewed: Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.

This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.

(11) Revision to a prevention of significant deterioration permit (WAC 173-400-750).

(a) Administrative revision as defined in WAC 173-400-750(3): One thousand nine hundred dollars plus an hourly rate of ninety-five dollars after twenty hours.

This fee covers twenty hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above twenty hours.

(b) All other revisions (except major modification): Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.

This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.

(c) The fee for a major modification of a PSD permit (as defined in WAC 173-400-720) is located in subsection (10)(a) of this section.

Comment [EG33]: Clarification of intent. This provision provides the opportunity for an applicant who wants to continue discussions with Ecology after they have used their free pre-application meeting and are not prepared to submit a PSD application.

(12) Request to extend the following major source approvals that are set to expire: Five hundred dollars. This provision applies to each of the following:

- (a) PSD permit, including a major modification;
- (b) PSD permit revision;
- (c) Approval order for major source nonattainment area permitting; and
- (d) A change to an approval order for major source nonattainment area permitting.

(13) Nonattainment area major new source review.

(a) A notice of construction application subject to WAC 173-400-830: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.

This fee covers one hundred fifty-eight hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above one hundred fifty-eight hours.

(b) Change to an approval order issued under WAC 173-400-830:

(i) Request to change permit conditions under WAC 173-400-111(8) that is not subject to mandatory public comment in WAC 173-400-171: One thousand nine hundred dollars plus an hourly rate of ninety-five dollars after twenty hours.

This fee covers twenty hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above twenty hours.

(ii) All other permit changes (except major modification):

Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.

This fee covers seventy-nine hours of staff time to review the application and issue a final decision. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the application above seventy-nine hours.

(iii) The fee for a major modification (as defined in WAC 173-400-810) of an approval order is located in subsection (13)(a) of this section.

(14) Plant-wide applicability limits (WAC 173-400-720).

(a) Request to establish new plant-wide applicability limits: Fifteen thousand dollars plus an hourly rate of ninety-five dollars after one hundred fifty-eight hours.

This fee covers up to one hundred fifty-eight hours of staff time to review the request and establish a plant-wide applicability limit. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above one hundred fifty-eight hours.

(b) All other requests, such as increase or renew plant-wide applicability limits; or process an expired plant-wide applicability

limit: Seven thousand five hundred dollars plus an hourly rate of ninety-five dollars after seventy-nine hours.

This fee covers up to seventy-nine hours of staff time to increase, renew or process a retired plant-wide applicability limit. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the request above seventy-nine hours.

Other fees.

(15) Second tier review (WAC 173-460-090): Ten thousand dollars plus an hourly rate of ninety-five dollars after one hundred six hours.

(a) This fee covers up to one hundred six hours of staff time to evaluate the health impact assessment protocol and second tier petition, and make a recommendation. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the second tier petition above one hundred six hours.

(b) A second tier petition that becomes subject to third tier review during the course of evaluation continues as a second tier petition for billing purposes. Staff must sum the time spent on this petition and bill the applicant if the total hours exceed one hundred six hours.

(16) Third tier review (WAC 173-460-100): Ten thousand dollars plus an hourly rate of ninety-five dollars after one hundred six hours.

(a) This fee covers up to one hundred six hours of staff time to evaluate the health impact assessment protocol and third tier petition, and make a recommendation. Ecology will bill the applicant ninety-five dollars per hour for each additional hour spent on the second tier petition above one hundred six hours.

(b) This fee does not apply to a second tier petition that becomes a third tier petition.

(17) Ecology may enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085. Ecology will be reimbursed at a rate of ninety-five dollars per hour.

(18) Small business fee reduction. The new source review fee identified in subsections (2) through (7) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and, if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

(i) Fifty percent of the new source review fee; or

(ii) Two hundred fifty dollars.

(e) If, due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(19) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) through (7) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

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

(21) Periodic review. To ensure that fees cover the cost of processing the actions in this section, ecology shall review and update this section as necessary.