



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

# **Preliminary Cost-Benefit and Least-Burdensome Alternative Analyses**

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*Chapter 173-401 WAC  
Operating Permit Regulation*

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# **Preliminary Cost-Benefit and Least-Burdensome Alternative Analyses**

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## **Chapter 173-401 WAC Operating Permit Regulation**

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# Executive Summary

This report presents the economic analyses performed by the Washington State Department of Ecology (“Ecology”) to estimate the costs and benefits of proposed amendments to the *Operating Permit Regulation* rule (chapter 173-401 WAC; “the rule”). 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.

The proposed rule amendments would:

- Update language for the complexity portion of Ecology’s AOP fees to allow for fairer fee distribution to Ecology AOP sources and establish a public process for setting the distribution of fee burden.
- Revise non-statutory audit provisions.
- Clarify applicability requirements to allow non-major sources with Air Operating permits to have permit requirements only for the subset of their units that made them subject to the permit.
- Form and function: Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Ecology determined that, compared to the baseline discussed in Chapter 2 of this document, the proposed rule has the following costs and benefits:

Costs:

- Zero fee reallocation costs: Complexity fees are likely to be reallocated, but the proposed rule does not affect the total permit fees collected.
- Unregulated unit emissions will not increase.

Benefits:

- Fair distribution of fee burden: Establishing a complexity fee process that would better reflect real workload and public input.
- Audit cost-savings: Reduction in audit frequency and streamlining of audit content requirements.
  - 65 percent reduction in present-value costs of routine/overview performance audits.
  - At least 2 percent reduction in present-value costs of extensive/intensive performance audits.
  - Possible reductions in individual audit costs, and improved efficiency of information gathered through audits.
  - Elimination of the random 5-percent in-depth permit review.
- AOP program efficiencies through reduced scope of AOPs for non-major sources.
- Public notice efficiencies through expansion of sufficient public notice types.

Ecology concludes, based on reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the proposed rule, that the benefits of the proposed rule amendments are greater than the costs.

After considering alternatives to the proposed rule's contents, as well as the goals and objectives of the authorizing statute, Ecology determined that the proposed rule represents the least-burdensome alternative of possible rule contents meeting these goals and objectives.



# Chapter 1: Background and Introduction

## 1.1 Introduction

This report presents the economic analyses performed by the Washington State Department of Ecology (“Ecology”) to estimate the costs and benefits of proposed amendments to the *Operating Permit Regulation* rule (chapter 173-401 WAC; “the rule”). 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.

The Washington Administrative Procedure Act (APA; 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 through 5 of this document describe that determination.

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 of this document describes that determination.

### 1.1.1 Air operating permits

Title V of the federal Clean Air Act requires states to develop and implement an air operating permit program in accordance with 40 CFR Part 70 for businesses and industries that are the largest sources of air pollution. These operating permits are often referred to as Air Operating Permits (AOPs), Title V Permits, or Part 70 Permits. An AOP combines into one document requirements for operations, procedures, applicable regulations, emissions standards, monitoring, recordkeeping, and reporting applicable to a given source. The purpose of the air operating permit is to make it easier to comply with and enforce air pollution laws. Ecology, the Energy Facility Site Evaluation Council (EFSEC), and the seven local clean air agencies have received EPA approval to administer Washington’s air operating permit program. Washington’s (Air) Operating Permit Regulation is chapter 173-401 WAC. The regulation requires a facility to have an air operating permit if it has the potential to emit any of the following:

- More than 100 tons per year of any criteria pollutant, such as nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), and particulate matter smaller than 10 microns in diameter (PM<sub>10</sub>), particulate matter smaller than 2.5 microns in diameter (PM<sub>2.5</sub>), lead, and any ozone depleting substance. Lower thresholds may apply in nonattainment areas;
- More than 10 tons per year of any hazardous air pollutant (HAP), as listed in subsection 112(b) of the federal Clean Air Act; or
- More than 25 tons per year of a combination of any HAPs.

A facility may also be required to have an air operating permit if it is subject to certain federal air quality requirements, including:

- Title IV Acid Rain Program;
- Certain New Source Performance Standards (NSPS); or
- Certain National Emission Standard for Hazardous Air Pollutants (NESHAP).

### **1.1.2 Authority**

Agencies with authority to issue air operating permits in Washington are:

- Ecology, including:
  - Three regional offices
  - Waste 2 Resources Program, Industrial Section, which works statewide with pulp and paper mills and aluminum smelters
  - Nuclear Waste Program
- Seven local clean air agencies
- Energy Facility Site Evaluation Council (EFSEC)
- EPA (Tribal only)

Some parts WAC 173-401 apply to all clean air agencies in Washington, while others apply to only Ecology or delegated agencies.

## **1.2 Description of the proposed rule amendments**

The Operating Permit Regulation rule governs the Operating Permit program administered by Ecology and delegated to local clean air agencies. The proposed rule amendments would:

- Update language for the complexity portion of Ecology's AOP fees to allow for fairer fee distribution to Ecology AOP sources and establish a public process for setting the distribution of fee burden.
- Revise non-statutory audit provisions.
- Clarify applicability requirements to allow non-major sources with Air Operating permits to have permit requirements only for the subset of their units that made them subject to the permit.
- Form and function: Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

## 1.3 Reasons for the proposed rule amendments

The overall reasons for the proposed rule amendments include:

- Fees – Sources are required under state and federal law to pay fees that cover the full cost of the AOP program. The proposed rule amendments:
  - Update language for the complexity portion of Ecology’s AOP fee.
  - Allow flexibility for Ecology to develop fairer fee distribution associated with Ecology’s work load for Ecology AOP sources.
  - Establish annual public process for setting the distribution of fee burden.
- Audits – Audits of permitting agencies are required by state law. The proposed rule amendments:
  - Update fiscal and performance audit requirements to better align with needs of a mature program.
  - Reduce the frequency of performance audits to match the needs of a mature program. This also reduces unnecessary program costs.
  - Remove audit questions from the rule and redesign the focus of audits. This provides more meaningful feedback to each permitting agency and its regulated communities.
- Applicability – Determines which sources must comply with AOP requirements. The proposed rule amendments:
  - Update applicability to align with the federal operating permit rule.
- Form and function – The proposed rule amendments update the rule language to align with federal rules, lessen confusion, increase usability of the rule in a modern context, and correct errors.

## 1.4 Document organization

The remainder of this document is organized in the following chapters:

- Baseline and the proposed rule amendments ([Chapter 2](#)): Description and comparison of the baseline (what would occur in the absence of the proposed rule amendments) and the proposed changes to rule requirements.
- Likely costs of the proposed rule amendments ([Chapter 3](#)): Analysis of the types and sizes of costs we expect impacted entities to incur as a result of the proposed rule amendments.
- Likely benefits of the proposed rule amendments ([Chapter 4](#)): Analysis of the types and size of benefits we expect to result from the proposed rule amendments.
- Cost-benefit comparison and conclusions ([Chapter 5](#)): Discussion of the complete implications of the CBA, and comments on the results.

- Least-Burdensome Alternative Analysis ([Chapter 6](#)): Analysis of considered alternatives to the contents of the proposed rule amendments.

# Chapter 2: Baseline and the Proposed Rule Amendments

## 2.1 Introduction

We analyzed the impacts of the proposed rule relative to the baseline of the existing rule, within the context of all existing requirements (federal and state laws and rules). This context for comparison is called the baseline, and reflects the most likely regulatory circumstances that entities would face if the proposed rule were not adopted. It is discussed in detail in Section 2.2, below.

## 2.2 Baseline

The baseline for our analyses generally consists of existing rules and laws, and their requirements. For economic analyses, the baseline also includes the implementation of those regulations, including any guidelines and policies that result in behavior changes and real impacts. This is what allows us to make a consistent comparison between the state of the world with or without the proposed rule amendments.

For this rulemaking, the baseline includes:

- Federal rule:  
Title V of the federal Clean Air Act requires states to develop and implement an air operating permit program in accordance with 40 CFR Part 70 for facilities that are the largest sources of air pollution. These operating permits are often referred to as Air Operating Permits (AOPs), Title V Permits, or Part 70 Permits. These permits combine into one document requirements for operations, procedures, applicable regulations, emissions standards, monitoring, recordkeeping, and reporting. The purpose of the air operating permit is to make it easier to comply with and enforce air pollution laws.
- State law:  
The state Clean Air Act is chapter 70.94 RCW, which directly authorizes Ecology to adopt rules on this subject.
- Existing state rule:  
Washington's (Air) Operating Permit Regulation is in Chapter 173-401 Washington Administrative Code (WAC). The regulation requires a facility to have an air operating permit if it has the potential to emit any of the following:
  - More than 100 tons per year of any criteria pollutant, such as nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), and particulate matter smaller than 10 microns in diameter (PM<sub>10</sub>), particulate matter smaller than 2.5 microns in diameter (PM<sub>2.5</sub>), lead,

- and any ozone depleting substance. Lower thresholds may apply in nonattainment areas;
- More than 10 tons per year of any hazardous air pollutant (HAP), as listed in subsection 112(b) of the federal Clean Air Act; or
  - More than 25 tons per year of a combination of any HAPs.

## 2.3 Proposed rule amendments

The proposed rule amendments that differ from the baseline and are not specifically dictated elsewhere in law or rule include:

- Revising the existing complexity fee structure for Ecology fees, and establishing a public process for setting the distribution of fee burden across permittees.
- Altering the performance audit process and audit timing.
- Allowing non-major sources with Air Operating permits to have permit requirements only for the subset of their units that made them subject to the permit.
- Expanding the types of acceptable public notice.

### 2.3.1 Complexity fee structure

According to Chapter 70.94 RCW, Ecology shall allocate its share of the AOP program costs according to a three-tiered structure and that each tier shall be equally weighted. One of the tiers is based on the complexity of the sources in Ecology's jurisdiction. The proposed rule eliminates the existing structure for the complexity component of fees charged by Ecology, and replaces it with a public process for complexity determination.

#### Baseline

Under the baseline, a complexity level of 1, 2, or 3 is assigned to each source, representing relative difficulty of managing each source. This complexity value is entered into a fee formula that is used to calculate each permittees fee. The formula implementing this is not in rule, but at its simplest, it could generate fees that are twice as large for the middle level as the bottom level, and three times as large for the highest level as the bottom level. Currently, the complexity portion of the fee is calculated using a uniform formula that squares the complexity level, making the relative fees of the middle group four times as large as the bottom group, and the highest fees nine times as large as the bottom group.

Regardless of formula used, the assignment of 1, 2, or 3 complexity points used in a standard formula does not result in fees that necessarily reflect the individual workload and costs required to manage a given permit, relative to other permits.

#### Proposed

The proposed rule develops a public process for Ecology's complexity fee structure. The proposed rule:

- Removes the 1, 2, 3 structure, and instead states that Ecology must annually assign a complexity level to each source based on work activity required.

- Requires a source’s complexity level determination to correspond to the relative difficulty of issuing and maintaining the permit, and the time spent on permit-related activities.
- Requires complexity levels to be annually determined based on real workload.
- Outlines a public process that:
  - Posts the basis for the complexity fee structure online by October 31 of each year, for the following year’s fees.
  - Allows 30 days for public comment.
  - Requires no more than 30 days for Ecology to respond to comments after the close of the public comment period.
  - Requires Ecology to provide revised fee statements based on updated calculations in response to public comments.

### **2.3.2 Audits**

The proposed rule reduces the frequency of audits, as well as reducing and updating the type of content required in the audits. The content of the audits is intended to better reflect meaningful feedback for what is now a long-standing, mature program. Questions are reduced and streamlined. For timing of audits:

- Fiscal audits are streamlined under the proposed rule, and are performed every two years under both the baseline and proposed rule.
- Routine performance audits are streamlined and renamed Overview performance audits. They are performed annually under the baseline, but reduced to every three years under the proposed rule.
- The proposed rule eliminates the requirement for annual in-depth review of the contents of five percent of permits.
- Extensive performance audits are streamlined and renamed Intensive performance audits. They are performed every five years under the baseline, but reduced to being performed by request at most every six years.

### **2.3.3 Non-major sources**

The proposed rule refines the applicability of the permit program.

#### Baseline

The air operating permit program applies uniformly to all emission units at a source. That is, the permit includes all applicable requirements for all relevant emissions units in the source.

#### Proposed

The baseline applicability still holds for major sources – as defined identically in the baseline and proposed rules. Under the proposal, non-major sources, however, are not required to have their AOPs include all of their emissions units, but rather only the emissions units that cause the source to be subject to the AOP program. This means AOPs for non-major sources could exclude requirements for all the emission units at minor sources that do not trigger

coverage under the AOP program. These emission units would still be covered by NSR permits (NOC Approval Orders). Remember that an AOP does not add substantive requirements to a source. It merely collects into one document all the air quality-related requirements applicable to that source.

### **2.3.4 Public notice**

The proposed rule expands the types of public notice that meet the requirements of the rule.

#### Baseline

Public notice of permit review, under the baseline, must be provided in the newspaper of largest general circulation in the area of the facility applying for the permit.

#### Proposed

The proposed rule allows for the baseline public notice, but allows for “prominent advertisement” in the area affected by the facility applying for the permit, which would not necessarily be a newspaper notice. It states that publication in Ecology’s Operating Permit Register does not satisfy this requirement.



# **Chapter 3: Likely Costs of the Proposed Rule Amendments**

## **3.1 Introduction**

We estimated the likely costs associated with the proposed rule amendments, as compared to the baseline. Amendments and the baseline are discussed in detail in Chapter 2 of this document. We do not expect costs to result from the proposed rule.

## **3.2 Zero fee reallocation costs**

For this analysis, the APA is not concerned with the distribution or redistribution of costs; only that total costs not exceed total benefits. The total cost of permit fees would not increase as a result of the proposed rule (it is determined by the cost of the program). Therefore any individual fee increases or decreases due to redistribution of fees, using the public process for developing the fee distribution, are considered a zero net change for this analysis.

## **3.3 Non-AOP emissions would not increase**

We do not expect significant increases in missed emissions from emission units not covered by the AOP at non-major sources, as a result of the proposed rule's allowance for non-major source permits to govern only those emissions units that made the source subject to the AOP program. This is because the emissions units not included in the AOP would be addressed by Washington State minor new source permits (NOC approval orders).

For example, a sewage incinerator unit at a treatment plant is subject to a federal NSPS that requires it to obtain an AOP even though the sewage treatment plant may be a minor source. Any other emission units at the sewage treatment plant, as well as fugitive emissions and odors, would be permitted under a minor NSR NOC approval order.

## **3.4 Summary of the likely costs of the proposed rule amendments**

We estimated the costs of the proposed rule relative to the baseline. Likely costs included:

- Zero fee reallocation costs: Complexity fees are likely to be reallocated, but the proposed rule does not affect the total permit fees collected.

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# Chapter 4: Likely Benefits of the Proposed Rule Amendments

## 4.1 Introduction

We estimated the likely benefits associated with the proposed rule amendments, as compared to the baseline (both described in Chapter 2 of this document).

Likely benefits include:

- Fair distribution of fee burden
- Audit cost-savings
- Permit and inspection efficiencies
- Public notice efficiencies

## 4.2 Fair distribution of fee burden

The authorizing statute directs Ecology to charge fees based on the workload required to develop and manage each permit. While the baseline rule attempts to do this using a relative administrative burden grouping (terming permits to be complexity levels 1, 2, or 3), this method was developed during the early days of the AOP permit program. It was adopted in 1993, soon after the program came into being. Since then, Ecology has significantly improved its knowledge and ability to reflect the complexity and workload required to support the permits, and the proposed rule sets up a public process and structure to develop a workload-based fee allocation that better reflects actual work required.

While the proposed rule does not establish a specific method to calculate the complexity component of the fees, it does explicitly support the goals and requirements of the statute, to base relative fees on workload.

## 4.3 Audit cost-savings

In terms of direct expenditures and workload for Ecology, contractors, auditors, and delegated clean air agencies, the proposed rule reduces the costs of auditing permit programs. By reducing the frequency of audits to only those necessary for a long-standing, mature permit program, the proposed rule reduces the present value cost of these audits.

Over the next 20 years, the proposed rule's reduced audit frequency:

- Reduces routine/overview performance audit costs nominally by 2/3 (audits are 1/3 as frequent), and by nearly 65 percent in real (time and inflation-adjusted) present value terms using a 1.21 percent discount rate.<sup>1</sup>
- Eliminates the entire cost of in-depth permit reviews of 5 percent of permits.
- Reduces extensive/intensive performance audit costs by nearly 2 percent in real (time and inflation-adjusted) present value terms using a 1.21 percent discount rate.<sup>2</sup>

The proposed rule also streamlines the content required in the fiscal and performance audits to better collect and reflect meaningful and useful information about the modern permit program. This may also reduce actual costs of performing audits, but is particularly an improvement in efficiency of information gathering by collecting more pertinent information.

## 4.4 Permit and inspection efficiencies

By limiting the AOPs for non-major sources to cover only the emissions units that make the sources subject to the AOP program, the proposed rule improves the efficiency of the AOP program. Under the proposed rule, non-major sources and Ecology or delegated clean air authorities could experience a cost-savings in complying with the AOP program requirements for the minor sources included in the program. However, the minor NSR and registration programs continue to apply to all the emission units at those sources. As such, they would continue to be inspected, but the costs of those inspections would not be chargeable to the AOP program.

## 4.5 Public notice efficiencies

By expanding the possible ways to comply with public notice requirements for permits, the proposed rule allows for cost-savings in cases where the specific newspaper notice required under the baseline is not the lowest cost option for providing effective public notice. We expect that in some areas the newspaper with the largest circulation would still be the best means of public notice for permits, in which case the proposed rule has zero impact. In other areas, public notice may be less costly via other periodicals, industry communications, smaller local press, websites, or direct communication (for example). Under both the baseline and proposed rule, public notices must still be sufficiently accessible and reach the audiences likely affected by or interested in a permit.

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<sup>1</sup> Ecology uses a general social discount rate based on the past 17 years of US Treasury Department I-Bond real interest rates. These rates of return on short-term bonds are adjusted for expected inflation, and reflect risk-free rates of return over time.

<sup>2</sup> Ibid.

## 4.6 Summary of the likely benefits of the proposed rule amendments

The proposed rule provides the following likely benefits, as compared to the baseline (both discussed in-depth in Chapter 2 of this document).

- Fair distribution of fee burden: Establishing a complexity fee process that would better reflect real workload and public input.
- Audit cost-savings: Reduction in audit frequency and streamlining of audit content requirements.
  - 65 percent reduction in present-value costs of routine/overview performance audits.
  - At least 2 percent reduction in present-value costs of extensive/intensive performance audits.
  - Possible reductions in individual audit costs, and improved efficiency of information gathered through audits.
  - Elimination of the random 5-percent in-depth permit review.
- AOP program efficiencies through reduced scope of AOPs for non-major sources.
- Public notice efficiencies through expansion of sufficient public notice types.

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# Chapter 5: Cost-Benefit Comparison and Conclusions

## 5.1 Summary of the costs and benefits of the proposed rule amendments

Ecology determined that, compared to the baseline discussed in Chapter 2 of this document, the proposed rule has the following costs and benefits:

### Costs:

- Zero fee reallocation costs: Complexity fees are likely to be reallocated, but the proposed rule does not affect the total permit fees collected.
- Unregulated unit emissions would not increase.

### Benefits:

- Fair distribution of fee burden: Establishing a complexity fee process that would better reflect real workload and public input.
- Audit cost-savings: Reduction in audit frequency and streamlining of audit content requirements.
  - 65 percent reduction in present-value costs of routine/overview performance audits.
  - At least 2 percent reduction in present-value costs of extensive/intensive performance audits.
  - Possible reductions in individual audit costs, and improved efficiency of information gathered through audits.
  - Elimination of the random 5-percent in-depth permit review.
- AOP program efficiencies through reduced scope of AOPs for non-major sources.
- Public notice efficiencies through expansion of sufficient public notice types.

## 5.2 Conclusion

Ecology concludes, based on reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the proposed rule, that the benefits of the proposed rule amendments are greater than the costs.

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# Chapter 6: Least-Burdensome Alternative Analysis

## 6.1 Introduction

RCW 34.05328(1)(e) requires Ecology to “...[d]etermine, 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.” The referenced subsections are:

- (a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;
- (b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;
- (c) Provide notification in the notice of proposed rule making under RCW [34.05.320](#) that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW [34.05.340](#), the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW [34.05.360](#);
- (d) 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 statute being implemented;

In other words, Ecology is required to determine that the contents of the rule are the least burdensome set of requirements that still achieve the goals and objectives of the authorizing statute(s).

Ecology assessed alternatives to elements of the proposed rule, and determined whether they met the goals and objectives of the authorizing statutes. Of those that would meet these goals and objectives, Ecology determined whether those chosen for the proposed rule were the least burdensome.

## **6.2 Goals and objectives of authorizing statute: Washington State Clean Air Act – chapter 70.94 RCW**

The state Clean Air Act is the authorizing statute for this rulemaking, and delineates much of the Air Operating Permit program. Its goals and objectives include to:

- Fully fund the program using permit fees.
- Establish workload-driven fees.
- Preserve, protect, and enhance the air quality for current and future generations. Air is an essential resource that must be protected from harmful levels of pollution. Improving air quality is a matter of statewide concern and is in the public interest.
- Secure and maintain levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal Clean Air Act, to prevent injury to plant, animal life, and property, to foster the comfort and convenience of Washington's inhabitants, to promote the economic and social development of the state, and to facilitate the enjoyment of the natural attractions of the state.
- Protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.
- Share the costs of protecting the air resource and operating state and local air pollution control programs as equitably as possible among all sources whose emissions cause air pollution.
- Use best available control technology (BACT) or reasonably available control technology (RACT), which both include consideration of the viability of costs of permit requirements.
- Adopt rules that establish a process for development and review of its operating permit program fee schedule, a methodology for tracking program revenues and expenditures, and, for the department and the delegated local air authorities, a system of fiscal audits, reports, and periodic performance audits.

## 6.3 Alternatives considered and why they were not included

As part of this rulemaking, Ecology considered alternatives to the rule content being proposed. These include:

- The status quo:  
Not doing this rulemaking, or retaining elements of the existing (baseline) rule that Ecology is proposing to change, would not meet the goals and objectives of the authorizing statute, and would potentially be more burdensome. Specifically, it would not equitably share the costs of the program, and would not have the various cost-reductions discussed in the benefits section of this document.
- Specifying a formula or calculation method for complexity fee distribution:  
Instead of setting out a public process for determining complexity fees, Ecology could have included a specific calculation methodology in the proposed rule. The authorizing statute, however, states that Ecology will establish a process for the development and review of the permit fee schedule. Ecology looked at a number of options to try to develop a calculation methodology, including the approximate number of hours spent regulating a source, the size of the source, the number of emission points at a source, the size of the office regulating the source, and the number of federal rules applying to a source.

## 6.4 Conclusion

After considering alternatives to the proposed rule's contents, as well as the goals and objectives of the authorizing statute, Ecology determined that the proposed rule represents the least-burdensome alternative of possible rule contents meeting these goals and objectives.