

WSR 22-19-037
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 22-02—Filed September 14, 2022, 12:18 p.m.]

Subject of Possible Rule Making: The Washington state department of ecology (ecology) plans to amend chapter 173-305 WAC, Hazardous waste fee regulation. This rule making will specifically focus on amending WAC 173-305-220, the hazardous waste planning fee (planning fee). We will also update citations in this chapter to match new statutory references per the requirements of SHB 2246, chapter 20, Laws of 2020.

The planning fee in WAC 173-305-220 doesn't state which risk factor to apply to an individual waste stream that designates as both dangerous waste (DW) and extremely hazardous waste (EHW). This rule making will clarify how ecology calculates the planning fee by adding language that directs ecology to apply a risk factor of one to a waste stream that designates as both DW and EHW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70A.218.030 Voluntary reduction plan—Fees.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology establishes the planning fee in part on the risk associated with the type of waste generated. Fees for EHW are subject to a risk factor (a multiplier) that is 10 times higher than for DW. However, WAC 173-305-220 doesn't state which risk factor applies to an individual waste stream that is both DW and EHW. This lack of clarity leads to inequitable fees for some businesses. Businesses that generate and report a waste stream that is both DW and EHW pay a higher fee than businesses that generate the same waste stream but don't report the EHW code. We will consider adding language to WAC 173-305-220 to clarify that fees for these waste streams should be calculated as DW only.

In this rule making, we intend to:

- Prevent an inequitable financial impact to facilities that report both DW and EHW codes for an individual waste stream without changing how those facilities manage waste.
- Increase transparency by clarifying how ecology applies risk factors to the planning fee formula.
- Codify the practice outlined in the interim policy for the hazardous waste planning fee, or closely related modifications to this practice.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of the rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Megan Hillyard, Department of Ecology, Hazardous Waste and Toxics Reduction Program, P.O. Box 330316, Shoreline, WA 98133-9716, phone 425-559-5463, Washington relay service or TTY call 711 or 877-833-6341, email hwtrrulemaking@ecy.wa.gov, website <https://ecology.wa.gov/HW-Planning-Fee-Rule>, sign up to receive email notices Hazardous Waste Planning Fee Rulemaking ListServ [contact agency for link].

Additional comments: Interested parties can stay informed about the rule-making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

September 14, 2022
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Hazardous Waste and Toxic Reduction Program