

WSR 22-21-041
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 22-07—Filed October 10, 2022, 8:53 a.m.]

Subject of Possible Rule Making: To protect the residents, visitors, air, water (both potable and nonpotable), and soil of Washington state, environmental laboratories provide sample analysis of various matrices that investigate, measure, and/or monitor for known, or suspected, harmful environmental pollutants. Washington state laboratory accreditation is required to assure [ensure] that the laboratory submitting data to the state has demonstrated their ability of producing accurate and defensible analytical data.

Washington state department of ecology developed and codified chapter 173-50 WAC, Accreditation of environmental laboratories, and created the Laboratory Accreditation Unit (LAU) to maximize efficacy of the state, federal, or other relevant regulations. Previous rule making was done to adapt the rule sections and fees as the environmental laboratory industry grew and evolved over time. The last rule making occurred in 2010. Rule making is needed to adjust for increased costs associated with a larger industry and emerging pollutants.

We have two major goals with this rule making:

(1) Add/amend wording in existing sections to increase clarity of accreditation decisions.

(a) For example, codifying targeted requirements from the LAU Procedural Manual, TNI standards, other agency rules, good laboratory practices, etc.

(2) Amend the fee-structure to meet the following objectives:

(a) Account for work that is missing, in part or whole, by the current fee structure. This includes, but is not limited to, mid-year revisions to add/remove parameters, mid-year revisions for a laboratory to correct issues from a previous renewal or audit, when laboratories ask for direct assistance to help gain/maintain accreditation or troubleshoot issues, and laboratories that request accreditation but are unable to complete the accreditation process.

(b) The premise is for the LAU to be cost-neutral upon initial roll-out of the revised rule, and can remain so in the future without requiring rule making.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.21A RCW, environmental certification programs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The following challenges are the most critical for the rule making to address:

- Our current rule has gaps that prevent some necessary accreditation recommendations/actions from having codified standards that we can use as reference. Without this regulatory support, the LAU is unable to correct issues that can/did lead to harm on either the citizens or environment of Washington state.
- Currently, the LAU is unable to keep cost-neutral from the fee structure. The fee structure is no longer able to cover the work that has steadily increased and gained complexity since the last rule making that implemented the current fees.
- The fee structure is only applicable once accreditation has been granted either initially or during the renewal process. The fee structure does not cover the work performed in unsuccessful or prolonged accreditations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Under a memorandum of understanding with the Washington department of health, the LAU administers accreditation for laboratories analyzing public drinking water samples.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of 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 Ryan Zboralski, Department of Ecology, Environmental Assessment Program, 300 Desmond Drive S.E., Lacey, WA 98503, phone 360-764-9364, Washington relay service or TTY 711 or 877-833-6341, email rzbo461@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-50>.

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.

October 10, 2022
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