

**WSR 23-23-170**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**

[Order 22-02—Filed November 22, 2023, 8:13 a.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 focus on clarifying how we implement the hazardous waste fee regulation, including the hazardous waste planning fee (planning fee). We will also make updates throughout the chapter to reflect new statutory references and improve clarity.

The planning fee does not clarify how we calculate the fee for an individual waste stream that designates as both dangerous waste (DW) and extremely hazardous waste (EHW). This rule making will clarify how we calculate the planning fee for this type of waste stream. It will also better explain how we implement chapter 173-305 WAC by making the current language concise and easier to understand.

Ecology previously filed a CR-101 to amend this chapter on September 14, 2022 (WSR 22-19-037). We withdrew that CR-101 on October 13, 2023 (WSR 23-21-072). This new CR-101 filing will improve clarity, consistency, and plain language throughout the chapter rather than in one section.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.218 RCW, Hazardous waste fees.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology establishes the planning fee based on several factors, including the risk associated with the type of waste generated by a facility. Fees for EHW are subject to a risk factor (a multiplier) that is 10 times higher than the risk factor 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. We will consider adding language to WAC 173-305-220 and related sections to clarify how we calculate the planning fee, including a statement 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 calculates the planning fee; and improve clarity, consistency, and plain language throughout the chapter.

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 Megan Hillyard, Department of Ecology, Hazardous Waste and Toxics Reduction Program, P.O. Box 330316, Shoreline, WA 98133-9716, phone 425-559-5463, for Washington relay service or TTY call 711 or 877-833-6341, email [hwfeerule@ecy.wa.gov](mailto:hwfeerule@ecy.wa.gov), website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-305>, 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.

Ecology will conduct an environmental justice assessment in accordance with RCW 70A.02.060 as a part of this rule making.

November 22, 2023  
Katrina Lassiter  
Program Manager