

**WAC 173-305-020 Definitions.** Any terms not specifically defined in this section, for the purposes of this chapter, have the same meaning as given in WAC 173-303-040. The following terms are defined for the purposes of this chapter:

(1) "Additional fee" means the annual fee imposed under chapter 70.95E RCW against hazardous generators and hazardous substance users required to prepare plans;

(2) "Base fee" means the annual fee imposed under chapter 70.95E RCW against hazardous waste generators doing business in the state of Washington;

(3) "Business activities" means activities of any person who is "engaging in business" as the term is defined in chapter 82.04 RCW. Specifically, "engaging in business" means commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidates thereof hold themselves out to the public as conducting such business;

(4) "Dangerous waste" means any discarded, useless, unwanted, or abandoned nonradioactive substances including, but not limited to, certain pesticides, or any residues or containers of those kinds of substances that are disposed of in a quantity or concentration that would pose a substantial present or potential hazard to human health, wildlife, or the environment because those wastes or constituents or combinations of those kinds of wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

"Dangerous wastes" specifically includes those wastes designated as dangerous by chapter 173-303 WAC;

(5) "Department" means the department of ecology;

(6) "Emissions" means the substances released to the environment that must be reported under toxic chemical release reporting, 40 C.F.R. Part 372;

(7) "EPA/state identification number" means the number assigned by the environmental protection agency (EPA) or by the department of ecology to each generator or transporter or both, and to each treatment facility, or storage facility, or disposal facility, or a treatment, storage, and disposal facility;

(8) "Extremely hazardous waste" means any dangerous waste that:

(a) Will persist in a hazardous form for several years at a disposal site and which, in its persistent form:

(i) Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife; and

(ii) Is highly toxic to man and wildlife;

(b) If disposed of at a disposal site in quantities that would present an extreme hazard to man or the environment.

"Extremely hazardous waste" specifically includes those wastes designated as extremely hazardous by chapter 173-303 WAC;

(9) "Facility" means any geographical area that has been assigned an EPA/state identification number or in the case of a hazardous substance user, means all buildings, equipment, structures, and other

stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person;

(10) "Generate" means any act or process that produces hazardous waste or first causes a hazardous waste to become subject to regulation;

(11) "Hazardous waste" includes all dangerous and extremely hazardous wastes but, for the purposes of this chapter, excludes all radioactive wastes or substances composed of both radioactive and hazardous components;

(12) "Hazardous waste generator" means all persons whose primary business activities are identified by the department to generate any quantity of hazardous waste in the calendar year for which the fee is imposed.

(13) "Interrelated facility" means multiple facilities owned or operated by the same person;

(14) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal government;

(15) "Plan" means the plan provided for in RCW 70.95C.200;

(16) "Price deflator" means the figures reported by the United States Department of Commerce Bureau of Economic Analysis((,)) on the table for "implicit price deflator for gross ((national)) domestic product ((for government purchases of goods and services for state and local government))." The department must use a price deflator for "State and Local Government." If a "State and Local Government" figure is not included on the table, the department must use a price deflator figure applicable to general government.

(17) "Primary business activity" means a business activity that accounts for more than fifty percent of a business' total gross receipts or in the case of more than two business activities, the activity which has the largest gross receipts. Where a business engages in multiple activities and one or more of those activities generate hazardous waste, the gross receipts from all waste generating activities will be combined to determine their ratio to the total gross receipts of the business.

(18) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include:

(a) Use constituting disposal;

(b) Incineration; or

(c) Use as a fuel.

(19) "Substantially similar processes" means processes that are essentially interchangeable, inasmuch as they use similar equipment and materials and produce similar products or services and generate similar wastes.

(20) "Waste generation site" means any geographical area that has been assigned an EPA/state identification number.

**WAC 173-305-220 Hazardous waste planning fee.** (1) The department shall calculate the adjusted fees, annual fee, and maximum total fees using the formula in subsection (3) of this section. The formula uses a risk factor of one for dangerous waste and emissions, and a multiplication factor of ten for extremely hazardous waste. For purposes of this section, hazardous waste reported on the annual dangerous waste generator report as having been either recycled on-site or recycled for beneficial use offsite, including initial amounts of hazardous substances introduced into a process and subsequently recycled for beneficial use, may not be used in the calculation of hazardous waste generated. A facility may petition the director to exclude hazardous wastes recycled for beneficial use even if they were not reported as such on the annual dangerous waste generator report. Documentation from the hazardous waste handling facility that the hazardous waste was recycled for beneficial use must be submitted along with the petition.

(2) Fees in subsection (3) of this section are based on the following definitions:

(Note: The terms "dangerous waste" and "extremely hazardous waste" as used in this subsection use the same basic definition as in WAC 173-305-020, but are modified as follows for the fee calculation only.)

(a) Dangerous waste is the number of pounds of dangerous waste reported that are not recycled for beneficial use, calculated so that the following wastes are excluded:

(i) Wastewater discharged under permit by rule under WAC 173-303-802 (~~is excluded~~); or

(ii) Dangerous waste that is treated on-site by the generator according to WAC 173-303-170 (3)(b) and (c); or

(iii) Nonrecurrent dangerous waste as reported on the annual dangerous waste generator report required under WAC 173-303-060(5).

(b) Emissions is the number of pounds of emission reported under Toxic Chemical Release Reporting, 40 C.F.R. Part 372, by a company. If emissions are reported in ranges, the middle value of the reported range will be used in the calculation.

(c) Extremely hazardous waste is the number of pounds of extremely hazardous waste reported that are not recycled for beneficial use, calculated so that the following wastes are excluded:

(i) Wastewater discharged under permit by rule under WAC 173-303-802 (~~is excluded~~).

~~The price deflator is the "Implicit price deflator for gross national product for government purchases of goods and services for state and local government."~~

(ii) Extremely hazardous waste that is treated on-site by the generator according to WAC 173-303-170 (3)(b) and (c); or

(iii) Nonrecurrent extremely hazardous waste as reported on the annual dangerous waste generator report required under WAC 173-303-060(5).

The total risk pounds for a facility or set of interrelated facilities is equal to ten times the number of pounds of extremely hazardous waste generated, plus the number of pounds of dangerous waste generated, plus the number of pounds of emission reported by that facility.

(3) The annual fee for a facility or set of interrelated facilities is equal to the rate per risk pound times the total risk pounds.

The rate for the risk pounds must be calculated by the department so that the maximum total fee in (a) of this subsection can be obtained. The annual fee for each facility or set of interrelated facilities is subject to the limitations in (b) and (c) of this subsection.

(a) The maximum total fees collected must be determined based on the maximum total fee for the previous year, multiplied by the most current price deflator, and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment is the second quarter price deflator for 1990. The maximum total fees for 1990 must be one million dollars.

(b) The maximum fee for any facility or interrelated facility must be determined based on the maximum total fee for the previous year, multiplied by the most current price deflator, and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment is the second quarter price deflator for 1990. The maximum annual fee for 1990 must be ten thousand dollars.

(c) The maximum annual fee for a generator who generates between two thousand six hundred forty and four thousand pounds of dangerous and extremely hazardous waste must be determined based on the maximum total annual fee for the previous year, multiplied by the most current price deflator, and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment is the second quarter price deflator for 1990. The maximum annual fee for 1990 must be fifty dollars.