



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 15, 2021

TIME: 1:50 PM

WSR 21-07-061

Agency: Department of Ecology AO #19-10

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-23-022 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 173-224 WAC, Water Quality Permit Fees. The purpose of this chapter is to establish a fee system for state waste discharge and National Pollutant Discharge Elimination System (NPDES) permits issued by Ecology pursuant to RCW 90.48.160, 90.48.162, or 90.48.260.

For more information on this rulemaking visit: <https://ecology.wa.gov/WQFeeRule>

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

Apr 27,
2021

10 a. m.

Webinar at:
<https://watech.webex.com/watech/onstage/g.php?MTID=ec3beb4fbfef353f3322cf683a624f606>

Event Number: 133 070 2140

Event Password : Ecology1

Presentation, question and answer session followed by the hearing.
We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.

Join online and see instructions:
<https://watech.webex.com/watech/onstage/g.php?MTID=ec3beb4fbfef353f3322cf683a624f606>

For audio call US Toll number 1-415-655-0001 and enter access code 133 070 2140. Or to receive a free call back, provide your phone number when you join the event.

Date of intended adoption: June 1, 2021 (Note: This is NOT the effective date)

Submit written comments to:

Name: Ligeia Heagy

Address: Send US mail at:

Department of Ecology
Water Quality Permit Fee Unit
PO Box 47600, Olympia, WA 98504-7600 (US mail).

Or,

Send parcel delivery services to:

Department of Ecology
Water Quality Permit Fee Unit
300 Desmond Dr. SE, Lacey, WA 98503

Email: Submit comments by mail, online, or at the hearing.

Fax: N/A

Other: Online: <http://wq.ecology.commentinput.com/?id=QaPSW>

By (date) May 4, 2021

Assistance for persons with disabilities:

Contact Ecology ADA Coordinator

Phone: 360-407-6831

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.

Email: ecyADAcordinator@ecy.wa.gov

Other: N/A

By (date) April 22, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Chapter 173-224 WAC implements RCW 90.48.465 that requires Ecology to establish, by rule, annual fees to recover the cost of administering the wastewater and stormwater permit programs. The rule amendment considers the economic impact on small discharges and public entities, and provide appropriate adjustments where applicable.

Below is a brief explanation of the specific sections in chapter 173-224 WAC that will be updated for this rulemaking:

173-224-030 Definitions. Update "RCRA" definition to reflect re-codified RCW chapter numbers.

173-224-040 Permit fee schedule. Adjusts fees to reflect rollover of most Fiscal Year (FY) 2021 fees to FY 2022 and FY 2023, addition of a new permit fee category for the Puget Sound Nutrient General Permit, additional permit fee subcategories for Vessel Deconstruction, and several technical corrections.

173-224-050 Permit fee computation and payments. Aligning language with RCW 19.16.500.

173-224-080 Transfer of permit coverage. Clarification of responsibilities and liabilities language.

173-224-090 Permit fee reductions. Technical corrections.

Reasons supporting proposal: RCW 90.48.465 requires Ecology to establish, by rule, annual permit fees to recover the cost of administering the wastewater and stormwater permit programs. Ecology adopted Chapter 173-224 WAC – Water Quality Permit Fees in response to this law in 1999.

This proposed rule amendment allows Ecology to continue recovering expenses in operating and managing the permit programs. Given the unprecedented changes to our state and the economy during the pandemic, Ecology is proposing to maintain permit fees at their current rate for the next two years. Ecology is also proposing a new permit fee category for the Puget Sound Nutrient General Permit, changes to the structure of the Vessel Deconstruction permit fee category, and technical changes.

Statutory authority for adoption: Chapter 90.48 RCW Water Pollution Control; RCW 90.48-465 Water discharge fees—Report to the legislature.

Statute being implemented: RCW 90.48-465 Water discharge fees—Report to the legislature.

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Department of Ecology

Private

Public

Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Ligeia Heagy	300 Desmond Dr SE, Lacey, WA 98503	(360) 280-3697
Implementation:	Ligeia Heagy	300 Desmond Dr SE, Lacey, WA 98503	(360) 280-3697
Enforcement:	Ligeia Heagy	300 Desmond Dr SE, Lacey, WA 98503	(360) 280-3697

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name: N/A
Address: N/A
Phone: N/A
Fax: N/A
TTY: N/A
Email: N/A
Other: N/A

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Ligeia Heagy
Address: Department of Ecology, Water Quality Program, P O Box 47600, Olympia, WA 98504-7600
Phone: (360) 280-3697
Fax: N/A
TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.
Email: wqfee_unit@ecy.wa.gov
Other:
- No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

- This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.
- This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.
- This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.030(1)(a)(i) and RCW 19.85.025(4).
Explanation of exemptions, if necessary: RCW 19.85.030(1)(a)(i) states "an agency shall prepare a small business economic impact statement if the proposed rule will impose **more than minor costs** on businesses in an industry." The Preliminary Regulatory Analysis developed for this rule proposal determined that it would result in a reduction in compliance costs, and inherently imposes **less than minor costs** to small businesses.

As the proposed rule does not impose compliance costs on any small businesses, this rulemaking is exempt from the requirements of the Regulatory Fairness Act according to RCW 19.85.025(4), which states, "This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses."

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Ligeia Heagy

Address: Department of Ecology
Water Quality Program
PO Box 47600, Olympia, WA 98504-7600


Phone: (360) 280-3697

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711. To request ADA accommodation for disabilities, or printed materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>.

Email: wqfee_unit@ecy.wa.gov

Other:

Date: 3/15/2021	Signature: 
Name: Heather Bartlett	
Title: Deputy Director	