



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 12, 2019

TIME: 3:01 PM

WSR 19-07-024

Agency: Department of Ecology AO # 18-02

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-14-011 ; 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) The Department of Ecology is proposing to amend Chapter 173-230 WAC Certification of Operators of Wastewater Treatment Plants. This Chapter establishes the Ecology's Wastewater Operator Certification program and plant classifications for wastewater treatment plants in Washington State.

For more information on this rulemaking visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-230>

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 23, 2019	1:30 PM	Dept. of Ecology 300 Desmond Dr. SE Lacey, WA 98503	Presentation, question and answer session followed by the hearing.
April 23, 2019	6:00 PM	Webinar Only	Presentation, question and answer session followed by the hearing. 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=e65e84fe0507801453a6344d81cb21fe6
April 25, 2019	10:00 AM	Moses Lake Civic Center 401 South Balsam ST. Moses Lake, WA 98837	Presentation, question and answer session followed by the hearing.

Date of intended adoption: On or after July 10, 2019 (Note: This is NOT the effective date)

Submit written comments to:

Name: Jocelyn Jones

Address: Send via mail at:

[Department of Ecology
[Water Quality Program]
PO Box 47600,
Olympia, WA 98504-7600 (US mail)

Or,

Send parcel delivery services to:

Department of Ecology
[Water Quality Program]
300 Desmond Dr. SE,
Lacey, WA 98503

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

Fax: N/A

Other: Online: <http://ws.ecology.commentinput.com/?id=gPMjY>

By (date) May 1, 2019

Assistance for persons with disabilities:

Contact Teresa Reno

Phone: 360-407-7285

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: Teresa.Reno@ecy.wa.gov

Other: N/A

By (date) April 15, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Legislation passed in 2018 amending Chapter 70.95B RCW (Chapter 213, Laws of 2018) directing Ecology, with the advice of an advisory committee, to establish an initial fee schedule in rule. This rulemaking does this as well as other necessary updates to modernize and make more clear the requirements and the procedures for obtaining and maintaining an operator certification in Washington State.

As part of this rulemaking we have focused on the following changes:

- Establishing a new fee schedule as directed by the Legislature in 2018.
- Providing for an Operator in Training and respective education and experience qualifications for groups II-IV.
- Updating rule language to acknowledge new technologies in wastewater treatment.
- Reorganizing the Rule to create standalone sections where more information and clarity are needed.
- Clarifying rule language to codify existing program practices.

The main anticipated effect of this rulemaking will be the establishment of a fee schedule in rule that fully funds the Operator Certification Program as directed by the Legislature.

The anticipated effects of the other changes proposed include less confusion over requirements and an increase in opportunities for Operators in Training due to the creation of new Operator In Training group levels

Reasons supporting proposal: See answer to "Purpose of the proposal..."

Statutory authority for adoption: RCW 70.95B Domestic Waste Treatment Plants - Operators

Statute being implemented: RCW 70.95B Domestic Waste Treatment Plants - Operators

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:	Poppy Carre & Jocelyn Jones	Lacey	360-407-6321
Implementation:	Heather Bartlett	Lacey	360-407-6405
Enforcement:	Heather Bartlett	Lacey	360-406-6405

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: Jocelyn W. Jones
 Address: PO Box 47600
 Olympia, WA
 98504-7600
 Phone: 360-407-6321
 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: Jocelyn.jones@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 19.85.025(4).

Explanation of exemptions, if necessary: Based on the analysis in chapters 1-5 of the Preliminary Regulatory Analyses for this rulemaking, the proposed amendments only impose compliance costs on operators. Those costs are:

- Increased application fees.
- Increased renewal fees.
- Potential time costs for operators and operators in training (OITs) with experience not under the direction or supervision of a fully certified operator.

Operators are private individuals, though they may be currently employed by WWTPs. Certifications, however, do not belong to the WWTP, but to the operator or OIT. Based on analysis of the proposed rule amendments, we do not expect WWTPs to incur compliance costs under the proposed amendments, as compared to the baseline.

The Regulatory Fairness Act, in RCW 19.85.030, states: “In the adoption of a rule under chapter 34.05 RCW, an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry; or (ii) if requested to do so by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320(1)(a).” The entities that would incur compliance costs are not businesses, so we conclude there are no businesses incurring additional costs under the proposed amendments. Ecology is therefore exempt from the requirements of the RFA for this rulemaking.

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: N/A
 Address: N/A
 Phone: N/A
 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: N/A
 Other: N/A

Date: March 12, 2019

Name: Polly Zehm

Title: Deputy Director

Signature:

A handwritten signature in cursive script that reads "Polly Zehm". The signature is written in black ink on a white background.