



DEPARTMENT OF
ECOLOGY
State of Washington

Final Regulatory Analyses

Including the:

Final Cost-Benefit Analysis

Least-Burdensome Alternative Analysis

Administrative Procedure Act Determinations

Regulatory Fairness Act Compliance

Chapter 173-224 WAC
Water Quality Permit Fees

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- Final Cost-Benefit Analysis
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Chapter 173-224 WAC Water Quality Permit Fees

by
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for the

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Executive Summary

This report presents the determinations made by the Washington State Department of Ecology (“Ecology”) as required in RCW 34.05.328 for the adopted amendments to the Water Quality Permit Fees rule (chapter 173-224 WAC; “the rule”).

The purpose of Water Quality Permit Fees rule is to establish a fee system for state waste discharge and NPDES permits issued by Ecology pursuant to RCW 90.48.160, 90.48.162, or 90.48.260.

RCW 90.48.465 instructs Ecology to establish fees in amounts to fully recover, and not to exceed, expenses incurred by Ecology for:

- Processing permit applications and modifications.
- Monitoring and evaluating compliance with permits.
- Conducting inspections.
- Securing laboratory analysis of samples taken during inspections.
- Reviewing plans and documents directly related to operations of Permittees.
- Overseeing performance of delegated pretreatment programs.
- Supporting the overhead expenses that are directly related to these activities.

Over the years, the Washington State Legislature amended the law creating inequities between fee categories, with some fee category types becoming over-payers, meaning the fees they pay are greater than the costs of managing their permits. This money subsidizes Ecology’s costs to manage permits for under-paying fee types. As a result of this, over-payer fee types requested Ecology to eliminate the subsidy and have all permit fee types pay their own costs.

To balance the inequities between fee payers and recover the monies needed to fund the program for 2017-2019 biennium, Ecology, under statutory authority, is adopting fee increases as shown in Table i.¹

Table i: Adopted fee increase

Fee Type	Fee Increase	
	2018	2019
Overpaying fee payers	5.50 percent	4.50 percent
Underpaying fee payers	6.37 percent	5.58 percent

¹ RCW 90.48.465 authorizes Ecology to base fees on factors related to the complexity of permit issuance and compliance and to charge fees to fully recover, but not exceed the costs of the permit program.

Under the adopted rule, we estimated total fees to be \$21,867,315 in Fiscal Year 2018 and \$22,803,749 in Fiscal Year 2019. This represents increases above the baseline of \$1,043,430 in Fiscal Year 2018 and \$1,979,864 in Fiscal Year 2019 for an aggregated, discounted total cost of \$3,001,365 for the biennium.

Estimated benefits of the adopted rule include:

- Avoiding decreases in program services, such as a reduced ability to maintain current levels of service.
- Reducing the possibility that businesses may not comply with requirements.
- Reducing possible increases in water pollution.
- Maintaining our ability to provide technical assistance for businesses on how to comply with water quality permit requirements.
- Meeting the legal requirement to fully fund program services via fees.

Ecology concludes, based on reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the adopted rule, that the benefits of the adopted rule amendments are greater than the costs.

After considering alternatives to the adopted rule's contents, as well as the goals and objectives of the authorizing statute, Ecology determined that the adopted rule represents the least-burdensome alternative of possible rule contents meeting these goals and objectives.

Based on research and analysis required by the Regulatory Fairness Act (RFA) – RCW 19.85.070 – Ecology has determined the adopted rule is likely to impose disproportionate compliance costs on small business. Therefore, Ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

Ecology estimated that there would be a net decrease of 29 jobs, statewide, over the two years covered by the adopted rule due to the costs imposed by the adopted rule.

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Chapter 1: Background and Introduction

1.1 Introduction

This report presents the determinations made by the Washington State Department of Ecology (“Ecology”) as required in RCW 34.05.328 for the adopted amendments to the Water Quality Permit Fees rule (chapter 173-224 WAC; “the rule”).

The Washington Administrative Procedure Act (APA; RCW 34.05.328(1)(d)) requires Ecology to evaluate significant legislative rules to “determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the law being implemented.” Chapters 1 through 5 of this document describe that determination.

The APA also requires Ecology to “determine, after considering alternative versions of the rule...that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives” of the governing and authorizing statutes (RCW 34.05.328(1)(d)). Chapter 6 of this document describes that determination.

The APA also requires Ecology to make several other determinations (RCW 34.05.328(1)(a) – (c) and (f) – (h)). Appendix A provides the documentation for these determinations. All determinations are based on the best available information at the time of publication.

1.1.1 Background

The purpose of Water Quality Permit Fees rule is to establish a fee system for state waste discharge and NPDES permits issued by Ecology pursuant to RCW 90.48.160, 90.48.162, or 90.48.260.

RCW 90.48.465 instructs Ecology to establish fees in amounts to fully recover, and not to exceed, expenses incurred by Ecology for:

- Processing permit applications and modifications.
- Monitoring and evaluating compliance with permits.
- Conducting inspections.
- Securing laboratory analysis of samples taken during inspections.
- Reviewing plans and documents directly related to operations of Permittees.
- Overseeing performance of delegated pretreatment programs.
- Supporting the overhead expenses that are directly related to these activities.

Over the years, the Washington State Legislature amended the law creating inequities between fee categories because the law did not allow Ecology to recover its true costs for issuing and managing some permit types.

Inequities created within the law include:

- Capping fees for municipal publicly-owned treatment works;
- Establishing and capping fees for dairies;
- Setting base fees for certain aquatic pest control permits;
- Requiring Ecology to mitigate impacts of fees for small business.

Over time, some fee category types became over-payers, meaning the fees they pay are greater than the costs of managing their permits. This money subsidizes Ecology’s costs to manage permits for under-paying fee types. As a result of this, over-payer fee types requested Ecology to eliminate the subsidy and have all permit fee types pay their own costs.

During the 2015-2017 biennium, Ecology instituted a dual fee structure where the fees for historical over-payers were increased at a rate greater than that of historical under-payers. The intent of this structure was to reduce inequities in the fee structure gradually.

1.2 Summary of the adopted rule amendments

To balance the inequities between fee payers and recover the monies needed to fund the program for 2017-2019 biennium, Ecology, under statutory authority, is adopting fee increases as shown in Table 1.²

Table 1: Adopted fee increase

Fee Type	Fee Increase	
	2018	2019
Overpaying fee payers	5.50 percent	4.50 percent
Underpaying fee payers	6.37 percent	5.58 percent

1.3 Reasons for the adopted rule amendments

The purpose of this rule is to establish a fee system for state waste discharge and NPDES permits issued by Ecology pursuant to RCW 90.48.160, 90.48.162, or 90.48.260. RCW 90.48.465 authorizes the department to base fees on factors related to the complexity of permit issuance and compliance and to charge fees to fully recover, but not exceed the costs of the permit program.

² RCW 90.48.465 authorizes Ecology to base fees on factors related to the complexity of permit issuance and compliance and to charge fees to fully recover, but not exceed the costs of the permit program.

To continue addressing the equity issue amongst fee-paying categories, Ecology is adopting a similar fee structure for the 2017-2019 biennium to the one used during 2015-17. Ecology is adopting an overall percentage increase of 5.9% in fiscal year 2018 and 5% in fiscal year 2019 for all fee categories not capped by state statute. However, in order continue moving toward equity, Ecology is increasing underpaying categories above the overall percentage needed, while overpaying categories will be increased below the overall percentages needed.

This approach ensures that:

- (1) Ecology collects the revenue needed to support our permit program work next biennium;
- (2) Still recognizes the fact that we have overpaying categories that should have less of an increase, if possible; and
- (3) Ensures that the fee increase for underpaying categories are still sustainable.

1.4 Document organization

The remainder of this document is organized in the following chapters:

- Baseline and the adopted rule amendments (Chapter 2): Description and comparison of the baseline (what would occur in the absence of the adopted rule amendments) and the adopted changes to rule requirements.
- Likely costs of the adopted rule amendments (Chapter 3): Analysis of the types and sizes of costs we expect impacted entities to incur as a result of the adopted rule amendments.
- Likely benefits of the adopted rule amendments (Chapter 4): Analysis of the types and size of benefits we expect to result from the adopted rule amendments.
- Cost-benefit comparison and conclusions (Chapter 5): Discussion of the complete implications of the CBA, and comments on the results.
- Least-Burdensome Alternative Analysis (Chapter 6): Analysis of considered alternatives to the contents of the adopted rule amendments.
- Small Business Economic Impact Statement (Chapter 7): Comparison of compliance costs to small and large businesses; mitigation; impact on jobs.
- RCW 34.05.328 determinations not discussed in Chapter 5 or 6 (Appendix A)

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Chapter 2: Baseline and the Adopted Rule Amendments

2.1 Introduction

Ecology analyzed the impacts of the adopted rule relative to the baseline of the existing rule, within the context of all existing requirements (federal and state laws and rules). This context for comparison is called the baseline, and reflects the most likely regulatory circumstances that entities would face if the adopted rule were not adopted. We discuss this in Section 2.2, below.

2.2 Baseline

The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the adopted rule amendments. In the current analysis, the regulatory baseline is the way permit fees would be calculated if the adopted rule was not adopted.

Under the current law, (RCW 90.48.465 – Water Pollution Control), Ecology is required to set, by rule, fees that would fund the program. Without the adoption of the rule, fees would remain at their previously set levels.

2.3 Adopted rule amendments

The adopted rule amendments that differ from the baseline and are not *specifically* dictated in the authorizing statute or elsewhere in law or rule include:

1. Increase fees for the following fee types (overpaying fee payers) by:
 - 5.50 percent for fiscal year 2018
 - 4.50 percent for fiscal year 2019

These fee types include:

- Aluminum and Magnesium Reduction Mills
- Aquaculture
- Bridge Washing
- Combined Industrial Waste Treatment
- Combined Food Processing Waste Treatment
- Combined Sewer Overflow System
- Commercial Laundry
- Crop Preparing (Fruit Packers) – Individual and General Permits
- Facilities Not Otherwise Classified – Individual and General Permits
- Flavor Extraction
- Food Processing
- Fuel and Chemical Storage
- Hazardous Waste Cleanup Sites
- Ink Formulation and Printing
- Inorganic Chemicals Manufacturing
- Municipal Wastewater - >250,000 Residential Equivalents (Res)

- Noncontact Cooling Water With Additives – Individual and General Permits
- Noncontact Cooling Water Without Additives – Individual and General Permits
- Organic Chemical Manufacturing
- Petroleum Refining
- Photofinishers
- Power and/or Steam Plants
- Pulp, Paper, and Paperboard
- Radioactive Effluents and Discharges
- RCRA Corrective Action Sites
- Seafood Processing
- Solid Waste Sites
- Textile Mills
- Timber Products,
- Vegetable/Bulb Washing Facilities,
- Vehicle Maintenance and Freight Transfer,
- Water Plants – Individual and General Permits
- Wineries – Individual Permits

2. Increase fees for the following fee types (underpaying fee payers) by:

- 6.37 percent for fiscal year 2018
- 5.58 percent for fiscal year 2019

These fee types include:

- Aluminum Alloys
- Aluminum Forming
- Aggregate Production (Sand and Gravel) – Individual and General Permit,
- Aquatic Pest Control
- Boatyards – Individual and General Permits
- Coal Mining and Preparation
- Concentrated Animal Feeding Operations
- Dairies
- Iron and Steel
- Metal Finishing
- Nonferrous Metals Forming
- Ore Mining
- Private and State owned Facilities
- Shipyards
- Stormwater Construction - Individual and General Permits
- Stormwater Industrial - Individual and General Permits
- Stormwater Municipal Phase 1 and 2 Permits

2.3.1 Overpaying fee payers

- **Baseline**
Zero percent increase in fees for 2018 and 2019.
- **Adopted**
Increase in fees by:
 - 5.50 percent for fiscal year 2018
 - 4.50 percent for fiscal year 2019
- **Expected impact**
Increase in fees.

2.3.2 Underpaying fee payers

- **Baseline**
Zero percent increase in fees for 2018 and 2019.
- **Adopted**
Increase in fees by:
 - 6.37 percent for fiscal year 2018
 - 5.58 percent for fiscal year 2019
- **Expected impact**
Increase in fees.

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Chapter 3: Likely Costs of the Adopted Rule Amendments

3.1 Introduction

Ecology estimated the likely costs associated with the adopted rule amendments, as compared to the baseline. We discuss the amendments and the baseline in detail in Chapter 2 of this document.

3.2 Cost analysis

The adopted rule sets permit fee increases for Fiscal Year 2018 and Fiscal Year 2019 of:

- 5.50 percent for Fiscal Year 2018 and 4.50 percent for Fiscal Year 2019 for overpaying permit categories, and
- 6.37 percent for Fiscal Year 2018 and 5.58 percent for Fiscal Year 2019 for underpaying permit categories

As Ecology sets the specific fees, we treat them as discretionary (even though RCW 90.48.465 instructs Ecology to collect enough in fees in total to fully fund the program). Therefore, the aggregate increase in fees represents the costs of the adopted rule.

The baseline of no fee-increases would result in total annual fees of \$20,823,885 (estimated aggregate fees for Fiscal Year 2017).

Under the adopted rule, we estimated total fees to be \$21,867,315 in Fiscal Year 2018 and \$22,803,749 in Fiscal Year 2019. This represents increases of \$1,043,430 in Fiscal Year 2018 and \$1,979,864 in Fiscal Year 2019 for an aggregated, discounted total cost of \$3,001,365 for the biennium.

The APA considers aggregate costs and benefits of the adopted rule, and does not address distributional issues. The redistribution of fee burden, therefore, is not included in this analysis, as the total costs under the baseline and adopted rule are not affected by the distribution.

3.3 Cost summary

Estimated costs of the adopted rule are \$3,001,365 due to fee increases.

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Chapter 4: Likely Benefits of the Adopted Rule Amendments

4.1 Introduction

Ecology estimated the likely benefits associated with the adopted rule amendments, as compared to the baseline (both described in Chapter 2 of this document).

4.2 Benefit analysis

The adopted rule raises permit fees to maintain funding for the program. The baseline scenario (no fee increases) would likely result in cuts to staff, program services, or both. Reducing the number of staff in the program would likely result in a reduced ability to maintain current levels of service, increasing the possibility that businesses may not be in compliance with requirements. This could possibly increase water pollution and decrease our ability to provide technical assistance for businesses on how to comply with water quality permit requirements. Avoiding these cuts is a benefit to the program as it helps ensure its continued effective operation.

Should the program face cuts as outlined above, it would result in the program not meeting its legal requirement to recover the costs of maintaining the program at the level set by the Legislature.

We could not confidently quantify the costs resulting from a reduced and overextended program. Instead, we considered the qualitative benefits of avoiding these costs, under the adopted rule.

4.3 Benefit summary

Estimated benefits of the adopted rule include:

- Avoiding decreases in program services, such as a reduced ability to maintain current levels of service.
- Reducing the possibility that businesses may not comply with requirements.
- Reducing possible increases in water pollution.
- Maintaining our ability to provide technical assistance for businesses on how to comply with water quality permit requirements.
- Meeting the legal requirement to fully fund program services via fees.

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Chapter 5: Cost-Benefit Comparison and Conclusions

5.1 Summary of the costs and benefits of the adopted rule amendments

Estimated costs of the adopted rule are \$3,001,365 due to fee increases.

Estimated benefits of the adopted rule include avoided decreases in program services, such as a reduced ability to maintain current levels of service, increasing the possibility that businesses may not be in compliance with requirements. This decrease could possibly increase water pollution and decrease our ability to provide technical assistance for businesses on how to comply with water quality permit requirements, as well as resulting in the program not meeting its legal requirement to recover the costs of maintaining the program at the level set by the Legislature.

Maintaining the waters of Washington State provides important public health benefits as well as avoiding costly clean up.

5.2 Conclusion

Ecology concludes, based on reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the adopted rule, that the benefits of the adopted rule amendments are greater than the costs.

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Chapter 6: Least-Burdensome Alternative Analysis

6.1 Introduction

RCW 34.05.328(1)(e) requires Ecology to “[...]d]etermine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection.” The referenced subsections are:

- (a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;
- (b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;
- (c) Provide notification in the notice of proposed rulemaking under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW 34.05.360;
- (d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

In other words, to be able to propose and adopt the rule, Ecology is required to determine that the contents of the rule are the least burdensome set of requirements that still achieve the goals and objectives of the authorizing statute(s).

Ecology assessed alternatives to elements of the adopted rule, and determined whether they met the goals and objectives of the authorizing statutes. Of those that would meet these goals and objectives, Ecology determined whether those chosen for the adopted rule were the least burdensome.

6.2 Goals and objectives of the authorizing statute: Chapter 90.48.465 RCW

Chapter 90.48.465 RCW instructs Ecology to collect enough fees in total to fully fund the program.

6.3 Alternatives considered and why they were not included

Ecology considered alternatives to the adopted rule's content during the rule development process. These alternatives, and reasons for not including them in the adopted rule, are listed below.

6.3.1 Do not increase fees

With no fee increase, Ecology would not be in compliance with RCW 90.48.465, which instructs Ecology to collect enough in fees in total to fully fund the program. Therefore, this alternative does not meet the goals of the authorizing statute. Further, the inequity issues addressed in the adopted rule would continue, if not worsen.

6.3.2 Only increase fees on "under-paying" categories

Continue to increase under-paying categories only but by enough to fully recover costs. After careful consideration, we rejected this option. This would increase fees by over 10 percent each fiscal year for these permit holders. Increases of this size were determined to place an undue burden on permit holders in these categories, compared to the adopted rule, which imposes lower additional individual burden by distributing fee increases.

6.3.3 Increase all categories by the state's fiscal growth factor amounts

This would increase fees for all permit holders by 4.08 percent for state Fiscal Year 2018 and 3.72 percent for state Fiscal Year 2019. We rejected this option because it would not have resulted in enough revenue to fully fund the program, and not meet the goal of the authorizing statute. Using the fiscal growth factor, fee revenue was projected to be about \$900,000 short of the revenue needed.

6.3.4 Increase all categories by the same rate

While this approach would have recovered the revenue level needed for the 2017-19 biennium, we rejected this option because it did not address the inequity between fee categories, and would therefore be more burdensome on permittees than the adopted rule.

6.4 Conclusion

After considering alternatives to the adopted rule's contents, as well as the goals and objectives of the authorizing statute, Ecology determined that the adopted rule represents the least-burdensome alternative of possible rule contents meeting these goals and objectives.

Chapter 7: Regulatory Fairness Act Compliance

7.1 Introduction

Based on research and analysis required by the Regulatory Fairness Act (RFA) – RCW 19.85.070 – Ecology has determined the adopted rule is likely to impose disproportionate compliance costs on small business. Therefore, Ecology included disproportion-minimizing features in the rule where it is legal and feasible to do so.

This Small Business Economic Impact Statement (SBEIS) presents the:

- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by Ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the adopted rule.
- Expected net impact on jobs statewide.

A small business is defined by the RFA as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment—the regulations in the absence of the rule. The SBEIS only considers costs to “businesses in an industry” in Washington State. This means that impacts, for this document, are not evaluated for non-profit or government agencies.

The existing regulatory environment is called the “baseline” in this document. It includes only existing laws and rules at federal and state levels.

7.2 Quantification of cost ratios

Ecology currently manages nearly 5,600 permits in the various categories. Each of the permitted businesses would be impacted by the rule.

Though many of the permitted categories have more than one fee level, these breakpoints are based on the scope and scale of the permitted activity, NOT the size of the business (measured by employment at the highest level of ownership and operation) conducting the activity. While it is often the case that smaller businesses conduct smaller permitted activities and larger businesses conduct larger activities, this is far from universal and the opposite may sometimes be the case. For this reason, permit fee changes were treated as constant, regardless of the number of employees a business has.

Inherently, these constant values divided by a smaller number of employees (fewer than 50) will result in a larger cost-to-employee ratio than if divided by a larger number of employees (greater than 50).

We conclude that the adopted rule is likely to impose disproportionate compliance costs on small businesses, and must therefore include elements in the adopted rule to mitigate this disproportion, as far as is legal and feasible.

7.3 Loss of sales or revenue

Businesses that would incur costs could experience reduced sales or revenues if the fee changes would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, as well as the relative responsiveness of market demand to price changes.

The businesses incurring increased compliance costs under the adopted rule are highly diverse. They would likely have varied ability to pass costs onto their consumers without causing a response in demand that affects their revenues.

7.4 Action taken to reduce small business impacts

The RFA (19.85.030(2) RCW) states that:

Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- a) Reducing, modifying, or eliminating substantive regulatory requirements;
- b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- c) Reducing the frequency of inspections;
- d) Delaying compliance timetables;
- e) Reducing or modifying fine schedules for noncompliance; or
- f) Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the adopted rule that reduce costs. These may be available to small and large businesses, but would reduce relative burden more for small businesses. We also considered the alternative rule contents discussed in Chapter 6, and excluded those elements that would have

imposed excess compliance burden on businesses.

The permit fee rule contains language that helps mitigate the impact of fees on small businesses. WAC 173-224-090 allows business to have their annual fee reduced by fifty percent if they meet the following criteria:

- (a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
- (b) Be independently owned and operated from all other businesses (i.e. not a subsidiary of a parent company);
- (c) Have annual sales of one million dollars or less of the goods or services produced using the processes regulated by the permit; and
- (d) Have an original annual fee assessment totaling five hundred dollars or greater.

7.4.1 Extreme hardship fee reductions

Any industrial or construction small business with annual gross revenue totaling one hundred thousand dollars or less of the goods or services produced using the processes regulated by the permit may apply to Ecology for an extreme hardship fee reduction. If granted, the annual fee is reduced to a flat rate totaling \$128.00.

7.5 Small business and government involvement

When the fee rule was first developed, an advisory committee consisting of representatives of large and small business, state and federal government agencies, municipalities, and environmental groups helped us establish fee category types and fee amounts. They also gave us input on how we could mitigate the fees for small business by allowing small business or extreme hardship fee reductions.

We have continued to work with this committee now called the “Water Quality Partnership” (“the Partnership”). We meet to discuss proposed fee rule amendments and other issues surrounding the permit programs. Ecology met with the Partnership prior to the filing of the CR101 for this rule amendment.

Ecology has a robust public involvement process, which allows permit holders consisting of large and small business, municipalities, state and federal governments, and tribes to provide comments on any amendments being adopted to the fee rule.

7.6 NAICS codes of impacted industries

The adopted rule is likely to impact the following industries:

1114	1121	1125	1151	2121	2122
2211	2213	311X	3121	3132	3133
3221	3241	325X	3311	3313	3366
4239	4841	5621	5622	8123	8129

7.7 Impact on jobs

Ecology used the Washington State Office of Financial Management's 2007 Washington Input-Output Model³ to estimate the impact of the adopted rule on jobs in the state. The model accounts for inter-industry impacts and spending multipliers of earned income and changes in output.

We estimated that there would be a net decrease of 29 jobs, statewide, over the two years covered by the adopted rule.

These prospective changes in overall employment in the state are actually the sum of multiple small increase and decreases across all industries in the state.

³ See the Washington State Office of Financial Management's site for more information on the Input-Output model. <http://www.ofm.wa.gov/economy/io/2007/default.asp>

Appendix A

Documentation of Determinations Required under RCW 34.05.328

<p>Describe the general goals and specific objectives of the statute that this rule implements. RCW 34.05.328(1)(a)</p>
<p>See Chapter 6.</p>
<p>Explain why this rulemaking is needed to achieve the goals and objectives of the statute. RCW 34.05.328(1)(b)</p>
<p>See Chapters 1 and 2.</p>
<p>Describe alternatives to rulemaking and the consequences of not adopting this rule. RCW 34.05.328(1)(b)</p>
<p>We considered only one alternative: not to do rulemaking. The consequence of not amending the rule would be that current fee revenue would not recover Ecology’s expenses next biennium for operating and managing the wastewater and stormwater permit programs. This would result in limitations to the permit program, which would impact water quality statewide</p> <p>Please see the Least Burdensome Alternative Analysis, Chapter 6 of this document, for discussion of alternative rule content considered.</p>
<p>A preliminary cost-benefit analysis was made available. RCW 34.05.328(1)(c)</p>
<p>Notice is provided in the proposed rulemaking notice (CR-102 form) filed under RCW 34.05.320.</p>
<p>Do the probable benefits of this rulemaking outweigh the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented? RCW 34.05.328(1)(d)</p>
<p>See Chapters 1 – 5.</p>
<p>Is this rule the least burdensome alternative for those required to comply? RCW 34.05.328 (1)(e)</p>
<p>Please see Chapter 6.</p>
<p>Does this rule require those to whom it applies to take an action that violates requirements of another federal or state law?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </p>
<p>Explain how that determination was made. RCW 34.05.328(1)(f)</p>
<p>This rulemaking supports Ecology’s emphasis on supporting successful water management by maintaining its permitting program. Wastewater and stormwater discharge permits set rigorous discharge limits, monitoring requirements, and management practices, usually specific to a discharge, which is designed to ensure a</p>

facility can meet both federal and state treatment and water quality standards. The permit program manages approximately 6,000+/- point source permits. Water quality discharge permits provide Ecology with a full range of tools to address water quality needs (e.g., permitting, technical assistance, and compliance/inspections). Maintaining compliance with all other federal and state laws is a requirement specifically identified in all Ecology issued permit coverages.

Does this rule impose more stringent performance requirements on private entities than on public entities? RCW 34.05.328 (1)(g)

Yes. Provide a citation. Explain.

No

All holders of wastewater and stormwater permits are required to pay annual fees. Permit holders consist of large and small industrial businesses, construction companies, school districts, federal agencies, state agencies, and city governments. The requirement to pay fees is the same for all permittees.

Do other federal, state, or local agencies have the authority to regulate this subject?

Yes. List below. **No**

Is this rule different from any federal regulation or statute on the same activity or subject?

Yes **No**

If yes, check all that apply. The difference is justified because:

A state statute explicitly allows Ecology to differ from federal standards. (If checked, provide the citation.)

There is substantial evidence that the difference is necessary to achieve the general goals and objectives of the statute that this rule implements. (If checked, explain.)

RCW 34.05.328 (1)(h)

Ecology is solely responsible for assessing fees for our wastewater and stormwater discharge permits under this rule.

Explain how Ecology ensures that the rule is coordinated with other federal, state, and local agencies, laws, and rules. RCW 34.05.328 (1)(i)

Federal, state, and local agencies that are permit holders are directly notified by Ecology of any proposed changes to the permit fee rule.