



Preliminary Regulatory Analyses:

Including the:

- Preliminary Cost-Benefit Analysis
- Least-Burdensome Alternative Analysis
- Administrative Procedure Act Determinations
- Regulatory Fairness Act Compliance

Chapter 173-224 WAC

Water Quality Permit Fees

By

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For the

Water Quality Program

Washington State Department of Ecology

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Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	P.O. Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	P.O. Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
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Chapter 173-224 WAC, Water Quality Permit
Fees

Water Quality Program
Washington State Department of Ecology
Olympia, WA

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DEPARTMENT OF
ECOLOGY
State of Washington

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Abbreviations

APA	Administrative Procedure Act
CAFO	Concentrated Animal Feeding Operation
CBA	Cost-Benefit Analysis
CSGP	Construction Stormwater General Permit
FY	Fiscal Year
ISGP	Industrial Stormwater General Permit
LBA	Least Burdensome Alternative Analysis
NAICS	North American Industry Classification System
NPDES	National Pollutant Discharge Elimination System
RCW	Revised Code of Washington
RE	Residential Equivalent
RFA	Regulatory Fairness Act
WAC	Washington Administrative Code

Executive Summary

This report presents the determinations made by the Washington State Department of Ecology as required under Chapters 34.05 RCW and 19.85 RCW, for the proposed amendments to the Water Quality Permit Fees rule (Chapter 173-224 WAC; the “rule”). This includes the:

- Preliminary Cost-Benefit Analysis (CBA)
- Least-Burdensome Alternative Analysis (LBA)
- Administrative Procedure Act Determinations
- Regulatory Fairness Act Compliance

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 – 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. 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)) about the rule, including authorization, need, context, and coordination. Appendix A of this document provides the documentation for these determinations.

The Washington Regulatory Fairness Act (RFA; Chapter 19.85 RCW) requires Ecology to evaluate the relative impact of proposed rules that impose costs on businesses in an industry. It compares the relative compliance costs for small businesses to those of the largest businesses affected. Chapter 7 of this document documents that analysis, when applicable.

All determinations are based on the best available information at the time of publication. We encourage feedback (including specific data) that may improve the accuracy of this analysis.

Summary of the proposed rule amendments

The proposed rule amendments would:

- Clarify or update definitions.
- Add new definitions needed to implement the proposed amendments.
- Amend all fee schedules.
- Add new industrial wastewater permit fee categories.
- Adjust existing industrial wastewater permit fee categories or tiers.
- Adjust fees for Municipal and Domestic Wastewater Facilities.
- Adjust fees for the Industrial Stormwater General Permit.

- Adjust fees for the Construction Stormwater General Permit.
- Adjust Extreme Hardship Reduction fees.
- Add Hazardous Waste Extreme Hardship Reduction fee.

Estimated costs

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee. As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. Most fee changes would be costs (increases in fees), reflecting the higher current costs of administering the permit program related to those permits. The distribution of costs (fee increases) per permittee is summarized below.

Table 1: Distribution summary statistics of fee increases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.03	\$0.03
Median (central estimate)	\$47	\$47
Mode (most frequent)	\$388	\$388
Average	\$791	\$800
Maximum	\$501,278	\$501,278

While some permittees would see significant increases in fees (large municipal wastewater permittees whose fees were previously capped under the authorizing law), most permittees would see lower increases in their fees.

- Only four permittees would have fees increase by more than \$100,000.
- Over 3,100 permittees would have fees increase by less than \$100, many of which are small changes (as low as a few cents) due to rounding.
 - Over 700 would have fees increase by less than \$10.
 - Over 800 would have fees increase by between \$10 and \$20.
 - 1,560 would have fees increase by between \$20 and \$50.
- The most common fee increases would be under \$400.

Over 1,300 permittees would not have their fees change at all under the proposed rule amendments.

Total annual costs

The total cost (total increase in fees) would be about \$3.9 million in Fiscal Year 2024, and nearly \$4.0 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this cost would continue in each subsequent year.

Total present value costs

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, and the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.²

The 20-year present value of costs of the proposed rule amendments would be \$72 million.

Dual coverage and distribution of fee burden

The proposed removal of the Dual Coverage provision would also result in some permittees now paying fees related to the CSWGP or ISGP (which they do not pay under the baseline if they also pay the fee for another water quality permit). This cost is reflected in the total costs quantified in Section 3.2.1, but we note that it also affects the distribution of fees. These permittees, like other permittees that have not paid fees that reflect the actual costs of services provided by the permit program, would bear a greater share of cost burden (all else equal), though this burden would not exceed the share of expected workload to manage their permits.

We estimated that, in the absence of this proposed amendment, total fee revenues would be over \$180,000 lower in FY 2023.³

Estimated benefits

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee. As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. The distribution of benefits (fee decreases) per permittee is summarized below.

Table 2: Distribution summary statistics of fee decreases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.05	\$0.05
Median (central estimate)	\$182	\$182
Mode (most frequent)	\$182	\$182
Average	\$176	\$177
Maximum	\$3,075	\$3,075

While some permittees would see moderate decreases in fees (for example, wastewater facilities at some correctional facilities, hotels, energy facilities, commercial developments, and state parks), most permittees would see smaller reductions in their fees.

- One permittee would have fees decrease by more than \$3,000.
- 13 permittees would have fees decrease by between \$1,000 and approximately \$3,000.
- The most common fee reduction would be under \$200.

² US Treasury Department, 2022. I bond interest rates. Historic average September 1998 through November 2022. <https://treasurydirect.gov/savings-bonds/i-bonds/i-bonds-interest-rates/#:~:text=The%20composite%20rate%20for%20I,through%20April%202023%20is%206.89%25.>

³ This difference would vary annually.

Over 1,300 permittees would not have their fees change under the proposed rule amendments.

Total annual benefits

The total benefit (total decrease in fees) would be approximately \$0.1 million in Fiscal Year 2024, and \$0.1 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this benefit would continue in each subsequent year.

Total present value benefits

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, as well as for the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.⁴

The 20-year present value of benefits of the proposed rule amendments would be \$2.3 million.

Fully funded permit program

Since fees under the proposed rule amendments (overall fee changes resulting from multiple types of changes and motivations) would reflect actual costs of the expected workload related to implementing the permit program, they are also a proxy for the value of services provided. They do not, however, reflect the added value related to timely and comprehensive permit issuance and management. By fully funding the program, the proposed rule amendments would reduce or eliminate the permit backlogs that would otherwise delay issuing permits. For example:

- For a commercial development, a delay could mean additional need for financing or adjusting planning and timelines for construction and occupancy.
- An industrial facility might have to reduce or delay planned revenue-generating activities, due to a delay in facility expansion or upgrades.
- A wastewater treatment facility needing to meet new requirements for reducing chemicals in its effluent could be delayed in achieving the environmental protection goals that reductions would achieve. This would not only impact the facility itself but could put the environment or human health at risk for longer than would otherwise be necessary.

Under a fully funded program that reflects administrative costs, permittees would not only receive more timely service, but potentially also additional opportunities for efficiencies through additional support from Ecology staff.

Equitable distribution of fees

Overall, the proposed rule amendments would result in the fee program that has more equitable distribution of fees, reflecting the expected workload related to managing their permit(s). This means facilities with simpler permits to manage would pay lower fees than they would if they continued to subsidize the costs of other permits. The proposed addition of fee

⁴ Ibid.

tiers to better distribute fee burden according to costs further facilitates this benefit. (See Chapter 2 for detailed discussion of motivation for fee increases, fee decreases, and changes to fee tier structures.)

Cost-benefit analysis conclusion

We conclude, based on a reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the proposed rule amendments, as compared to the baseline, that the benefits of the proposed rule amendments are greater than the costs.

Least-burdensome alternative analysis

The authorizing statute for this rule is Chapter 90.48 RCW, Water Pollution Control. Specifically, the section authorizing the fee program is RCW 90.48.465. Its goals and objectives are for Ecology to:

- Establish fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260.
- Adjust fees no more often than once every two years.
- Apply fees to all permits, regardless of date of issuance, and assess them prospectively.
- Base fees on factors relating to the complexity of permit issuance and compliance.
- Have the option of basing fees on pollutant loading and toxicity.
- Design fees encourage recycling and the reduction of the quantity of pollutants.
- Design fees to fully recover and not to exceed expenses incurred by the department in:
 - 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.
- Ensure that indirect dischargers do not pay twice for the administrative expense of a permit.
- Consider the economic impact of fees on small dischargers and on public entities required to obtain permits for stormwater runoff and make appropriate adjustments.

We considered the following alternative rule content and did not include it in the proposed rule amendments because it would not have met the goals and objectives of the authorizing statute.

- Not updating the rule
- Other distributions of fees

Least-burdensome alternative conclusion

After considering alternatives to the proposed rule’s contents, within the context of the goals and objectives of the authorizing statute, we determined that the proposed rule represents the least-burdensome alternative of possible rule contents meeting the goals and objectives.

Regulatory Fairness Act compliance

The average affected small business likely to be covered by the proposed rule amendments employs approximately 15 people. The largest ten percent of affected businesses employ an average of 10,627 people. Based on cost estimates in Chapter 3, we estimated the following compliance costs per employee.

Table 3: Compliance costs per employee

Type of cost (or total cost)	Low	High
Average small business employment	15	15
Average employment at largest ten percent of businesses	10,627	10,627
Small business cost per employee	\$35.67	\$36.07
Largest business cost per employee	\$0.05	\$0.05

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, and therefore Ecology must include elements in the proposed rule amendments to mitigate this disproportion, as far as is legal and feasible.

The proposed rule amendments affect a wide variety of businesses (see 7.6, below). Across all industries there would be a minimal impact on output, estimating a total cost of \$1,000,000 annually. For context, we note that baseline state output is forecast to be over \$1.2 trillion by 2027.⁵ The following industries would have the largest impact on their output:

Table 4: Impacts to output, percent

Industry	Initial Output Impact	Output Impact in 20 years
Hardware Manufacturing	-0.001%	-0.005%
Metal Ore Mining	0.000%	-0.002%
Support Activities for Mining	-0.001%	-0.002%
Clay Product and Refractory Manufacturing	0.000%	-0.001%
Water, Sewage, and Other Systems	0.000%	-0.001%

Modifying regulatory requirements, changing reporting requirements, reducing the frequency of inspections, or delaying compliance timetables would not meet statutory objectives or are not feasible and within the scope of this rulemaking.⁶

⁵ REMI model baseline forecast for Washington State.

⁶ The Preproposal Statement of Inquiry (often referred to as the “CR-101”) form discusses the rulemaking scope. <https://ecology.wa.gov/DOE/files/c7/c7ef19a7-f70c-4b8e-92f6-3314066c1dcb.pdf>

Finally, we included the following elements in the proposed rule amendments to reduce costs to small businesses.

WAC 173-224-090 allows small businesses to receive a fee reduction of fifty percent, but not less than the minimum permit fee of \$150, if they are determined to be eligible under the following criteria:

1. Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
2. Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);
3. Have annual sales of \$1,000,000 or less of the goods or services produced using the processes regulated by the waste discharge or individual stormwater discharge permit; and;
4. Have an original annual permit fee assessment totaling \$500 or greater.

In addition to the small business fee reduction, any small business with annual gross revenue totaling \$100,000 or less from goods and services produced using the processes regulated by the discharge permit may apply for an extreme hardship fee reduction. If the permit holder is determined eligible, the annual permit fee is reduced to the minimum annual permit fee of \$150.

The results of REMI E3+ model show insignificant impact on jobs in the affected industries. The industries with the highest jobs impact are construction and state and local government. Construction is estimated to have one job loss per year from 2024 to 2033 and state and local government is estimated to have one job loss per year from 2031 to 2034.

Table 5: Impacts on jobs, FTEs

Industry	Initial Jobs Impact	Jobs Impact in 10 years	Jobs Impact in 20 years
Whole State	-3	-4	-4
Construction	-1	-1	0
State and Local Government	0	-1	0
Retail Trade	0	0	0

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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 as required under Chapters 34.05 RCW and 19.85 RCW, for the proposed amendments to the Water Quality Permit Fees rule (Chapter 173-224 WAC; the “rule”). This includes the:

- Preliminary Cost-Benefit Analysis (CBA)
- Least-Burdensome Alternative Analysis (LBA)
- Administrative Procedure Act Determinations
- Regulatory Fairness Act Compliance

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 – 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. 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)) about the rule, including authorization, need, context, and coordination. Appendix A of this document provides the documentation for these determinations.

The Washington Regulatory Fairness Act (RFA; Chapter 19.85 RCW) requires Ecology to evaluate the relative impact of proposed rules that impose costs on businesses in an industry. It compares the relative compliance costs for small businesses to those of the largest businesses affected. Chapter 7 of this document documents that analysis, when applicable.

All determinations are based on the best available information at the time of publication. We encourage feedback (including specific data) that may improve the accuracy of this analysis.

1.1.1 Background

The purpose of this rule is to provide a permit fee system for state waste discharge and National Pollutant Discharge Elimination System (NPDES) permits issued by Ecology pursuant to:

- RCW 90.48.160
- RCW 90.48.162
- RCW 90.48.200

- RCW 90.48.260.

It 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. Ecology adopted the first rule in response to this law in 1989.

The proposed rule amendments consider the economic impact on small dischargers and public entities and provides appropriate adjustments where applicable.

The proposed rule amendments would allow us to continue recovering costs in operating and managing the permit programs. The proposed amendments would adjust permit fees for Fiscal Years 2024 and 2025 to recover the projected program costs next biennium, and to move closer to payment equity between permit fee categories. They would also:

- Add new permit fee categories.
- Change the structure of specific permit fee categories.
- Make technical changes.
- Streamline rule language to make it easier to understand.

1.2 Summary of the proposed rule amendments

The proposed rule amendments would:

- Clarify or update definitions for:
 - Administrative expenses.
 - Animal unit multipliers for dairy cows.
- Add new definitions needed to implement the proposed amendments.
- Amend all fee schedules to:
 - Improve fee equity between fee categories.
 - Round all fees.
 - Set \$150 minimum fee (including prorated fees).
- Add new industrial wastewater permit fee categories for:
 - Nonfish rearing and hatching individual permits.
 - Concentrated Animal Feeding Operation (CAFO) Dairy individual permits.
 - CAFO non-dairy individual permits.
- Adjust existing industrial wastewater permit fee categories or tiers for:
 - Statewide Aquatic Invasive Species permits.
 - Bridge and Ferry Terminal Washing permits.
 - Coal Mining and Preparation permits.

- Combined Food Processing Waste Treatment permits.
- Commercial Laundry permits.
- CAFO General Permit.
- Flavor Extraction permits.
- Fuel and Chemical Storage permits.
- Noncontact Cooling Water with Additives permits.
- Ore Mining permits.
- Power and Steam Plant permits.
- Radioactive Effluents and Discharges (RED)
- Sand and Gravel General Permit.
- Sand and Gravel individual permits.
- Shipyard permits.
- Vegetable/Bulb Washing permits.
- Vessel Deconstruction permits.
- Winery General Permit.
- Winery individual permits.
- Adjust fees for Municipal and Domestic Wastewater Facilities:
 - New minimum fee of \$250.
 - Updated fee rates per residential equivalent (RE).
 - New low-flow fee tiers.
- Adjust fees for the Industrial Stormwater General Permit.
 - New tiers by gross income.
 - Eliminating dual-coverage provision.
- Adjust fees for the Construction Stormwater General Permit:
 - New tiers by acreage.
 - Eliminating dual-coverage provision.
- Adjust Extreme Hardship Reduction fees.
- Add Hazardous Waste Extreme Hardship Reduction fee

1.3 Document organization

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

- **Baseline and the proposed rule amendments (Chapter 2):** Description and comparison of the baseline (what would occur in the absence of the proposed rule amendments) and the proposed rule requirements.
- **Likely costs of the proposed rule amendments (Chapter 3):** Analysis of the types and sizes of costs we expect impacted entities to incur as a result of the proposed rule amendments.
- **Likely benefits of the proposed rule amendments (Chapter 4):** Analysis of the types and sizes of benefits we expect to result from the proposed rule amendments.
- **Cost-benefit comparison and conclusions (Chapter 5):** Discussion of the complete implications of the CBA.
- **Least-Burdensome Alternative Analysis (Chapter 6):** Analysis of considered alternatives to the contents of the proposed rule amendments.
- **Regulatory Fairness Act Compliance (Chapter 7):** When applicable. Comparison of compliance costs for small and large businesses; mitigation; impact on jobs.
- **APA Determinations (Appendix A):** RCW 34.05.328 determinations not discussed in chapters 5 and 6.

Chapter 2: Baseline and Proposed Rule Amendments

2.1 Introduction

We analyzed the impacts of the proposed rule amendments relative to 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 entities would face if the proposed rule was not adopted. It is discussed 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 how we make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this rulemaking, the baseline includes:

- The existing rule, Chapter 173-224 WAC, Water Quality Permit Fees that sets the current fees and fee structures.
- The authorizing law, Chapter 90.48 RCW, Water Pollution Control. Among other requirements related to permitting, the statute requires Ecology to:
 - Establish fees to collect expenses for issuing and administering each class of permits.
 - Adjust the fee schedule at most every two years.
 - Base fees on factors relating to the complexity of permit issuance and compliance.
 - Charge fees that fully recover (and not exceed) costs of:
 - 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.

2.3 Proposed rule amendments

The proposed rule amendments would:

- Clarify or update definitions.
- Add new definitions needed to implement the proposed amendments.
- Amend all fee schedules.
- Add new industrial wastewater permit fee categories.
- Adjust existing industrial wastewater permit fee categories or tiers.
- Adjust fees for Municipal and Domestic Wastewater Facilities.
- Adjust fees for the Industrial Stormwater General Permit.
- Adjust fees for the Construction Stormwater General Permit.
- Adjust Extreme Hardship Reduction fees.
- Add Hazardous Waste Extreme Hardship Reduction fee.

2.3.1 Adding, clarifying, or updating definitions

Baseline

The baseline includes multiple definitions needed to implement the existing rule and authorizing law.

Proposed

The proposed rule amendments would add definitions needed to implement other proposed rule amendments, or to clarify implementation of the existing rule, including:

- Aluminum forming.
- Coal mining and preparation.
- Facilities not otherwise classified.
- Federally recognized tribe.
- Inactive.
- Inactive rate.
- Industrial wastewater.
- Industrial wastewater facility.
- Municipal sewerage system.
- Nonfinfish hatching and rearing.
- Ore mining.

Amendments would also update or clarify definitions of:

- Animal unit.

- Combined sewer overflow system.
- Disturbed acres.
- Finfish hatching and rearing.
- Industrial stormwater.
- Median household income.

Other definitions would be clarified without material change to their meaning (e.g.: separating “bbls/d” into separate definitions of “bbls” and “bbls per day”; or adding examples).

Finally, they would delete definitions no longer needed for rule implementation:

- Gross revenue for business.
- Municipal gross revenue.

Expected impact

We don’t expect the proposed amendments to definitions, in and of themselves, to result in likely impacts. Instead, likely impacts would be reflected in the rule requirements that use those definitions. Likely costs and benefits of these proposed rule amendments are reflected in the context of other rule language, in the sections below.

2.3.2 Amending all fee schedules

Baseline

The baseline rule includes Fiscal Year 2022 and 2023 fees for each baseline fee category. There is no baseline minimum fee, which results in some permittees being charged fees as low as approximately \$10.

In the past, some fees were capped under the authorizing law, including a cap on municipal wastewater facilities permit fees under RCW 90.48.465, but over time, amendments to the law have removed this cap. Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

The proposed rule amendments would make updates throughout the fee schedules for Fiscal Years 2024 and 2025, including changes based on intent specific to individual category fees reflecting corresponding workload in the permit program (see sections 2.3.3 through 2.3.7).

Updates common to all fee schedules would include:

- Rounding fees to whole dollars.
- Restructuring fee schedules to reflect permittee attributes and associated workload.
- Setting a minimum fee of \$150 to cover costs of invoicing and staff time at a minimum.

Expected impact

We expect these proposed rule amendments to result in fee increases or decreases, depending on the net effect of the above amendments in combination with amended fees specific to individual permit categories and tiers.

Permittees for which the net effect increases fees would incur costs, while permittees for which the net effect decreases fees would receive benefits (avoided costs). See sections 2.3.3 through 2.3.7 for discussion. Overall, however, the proposed rule amendments would result in the fee program:

- Funding the expected workload related to implementing the permit program.
- Having more equitable distribution of fees, reflecting individual permittees paying fees in line with the actual amount of work necessary to manage their permit(s).

2.3.3 Adding new industrial permit fee categories or subcategories

Baseline

The proposed new industrial permit fee categories do not exist under the baseline. Permittees are charged fees based on the most appropriate existing category for their activities and discharges. RCW 90.48.465 also includes language addressing fees for general permits and individual permits for dairies.

Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

The proposed rule amendments would add Fiscal Year 2024 and 2025 fee categories or subcategories for:

- Aquaculture: Nonfinfish hatching and rearing – Individual Permit (no existing permittees).
- Bridge and Ferry Terminals Washing: Multi Site Permit.
- Concentrated Animal Feeding Operation (CAFO) – Dairy Individual Permit (no existing permittees).
- Concentrated Animal Feeding Operation (CAFO) – Non-Dairy Individual Permit.

Expected impact

We expect these proposed rule amendments to result in fee increases or decreases, depending on the net effect of the above amendments in combination with overall fee schedule amendments (see Section 2.3.2).

Permittees for which the net effect increases fees would incur costs, while permittees for which the net effect decreases fees would receive benefits (avoided costs). For example:

- The availability of a separate fee for the Multi Site Permit for Bridge and Ferry Terminals Washing would reduce costs for the public agencies permitted for this activity, if they

operate at multiple sites, compared to the larger total charge for multiple sites at the single site fee.

- One existing permittee has an CAFO Individual Non-Dairy Permit, with higher associated workload costs than the CAFO General Permit.

Overall, the proposed rule amendments would result in the fee program:

- Funding the corresponding workload necessary to implement the permit program.
- Having more equitable distribution of fees, reflecting individual permittees paying fees in line with the actual amount of work necessary to manage their permit(s).

2.3.4 Adjusting existing industrial permit fee categories or tiers

Baseline

The baseline rule includes fee categories – some with tiers based on the amount of flow, acreage, or production – for multiple industrial activities.

Proposed

For Fiscal Years 2024 and 2025, the proposed rule amendments would:

- Realign subcategories for Aquatic and Invasive Species Control fees with categories of upcoming permit renewals.
- Increase fees for Aquatic and Invasive Species Control: State agencies permits, to reflect permit management for many sites at once that are permitted for state agencies.
- Increase fees for Bridge and Ferry Terminals Washing, to reflect the expected workload related to these permits to government agencies.
- Reduce fees for Coal Mining and Preparation. (Note there is only one inactive permittee currently paying a reduced rate.)
- Increase fees for Combined Food Processing Waste Treatment Facilities, to reflect the expected workload associated with these permits issued to government agencies.
- Increase fees for Commercial Laundry permits. (Note there are no current permittees in this category.)
- Align CAFO General Permit subcategories with US Environmental Protection Agency (EPA) definitions of small, medium, and large CAFOs by animal type and number. (Note that existing CAFOs under this General Permit are permitted for dairy, cattle, horse, or laying hen activities.)
- Increase fees for Flavor Extraction permits, to reflect expected workload.
- Increase fees for Fuel and Chemical Storage, to reflect expected workload and adjust for equity across permittees. (Costs of managing these permits are subsidized by other fee payers under the baseline fee structure.)

- Increase fees for individual permits for Noncontact Cooling Water with Additives, for facilities discharging 1,000 to 10,000 gallons per day, to reflect expected workload associated with an individual permit instead of the baseline general permit rate.
- Increase fees for Ore Mining permits, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.)
- Increase fees for Power and/or Steam Plants permits, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.)
- Increase fees for Radioactive Effluents and Discharges permits with fewer than three waste streams, to reflect expected workload.
- Increase fees for the Sand and Gravel General Permit, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.) In addition:
 - The lowest fee in this category would increase to the proposed \$150 minimum fee.
 - Fees for portable facilities would increase to reflect additional workload related to inspections at multiple locations.
- Increase fees for Sand and Gravel individual permits, to reflect expected workload. (Note that there are no current permittees in this category.)
- Increase fees for Shipyards permits, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.)
- Increase fees for Vegetable/Bulb Washington Facilities permits, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.)
- Increase fees for Vessel Deconstruction permits, to reflect expected workload and adjust for equity across permittees. (Costs for managing these permits are subsidized by other fee payers under the baseline fee structure.)
- Increase fees for the Wineries General Permit, for facilities discharging between 300,000 and 699,999 gallons per year, to reflect expected workload.
- Increase fees for Wineries individual permits, for facilities discharging less than 24,999 gallons per year or between 700,000 and 999,999 gallons per year, to reflect expected workload.

Expected impact

We expect these proposed rule amendments to result primarily in fee increases, with some fee reductions, depending on the net effect of the above amendments in combination with overall fee schedule amendments (see Section 2.3.2).

Permittees for which the net effect increases fees would incur costs, while permittees for which the net effect decreases fees would receive benefits (avoided costs).

Overall, the proposed rule amendments would result in the fee program:

- Funding the corresponding workload necessary to implement the permit program.
- Having more equitable distribution of fees, reflecting individual permittees paying fees in line with the actual amount of work necessary to manage their permit(s).

2.3.5 Adjusting fees for Municipal and Domestic Wastewater Facilities

Baseline

The baseline rule includes fees charged for:

- Domestic wastewater facilities owned by municipalities or federally recognized tribes. These fees are determined based on the number of Residential Equivalents (REs) served.
- State-owned domestic wastewater facilities, and domestic wastewater facilities that do not primarily serve residential customers. These fees are determined based on flow levels.

Previously, the authorizing statute capped municipal fees, in RCW 90.48.465(2). This cap was removed by the Legislature, as these rates were too low to recover costs. This resulted in a backlog of wastewater permitting work.

Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

For facilities owned by municipalities or federally recognized tribes, for Fiscal Years 2024 and 2025, the proposed rule would:

- Add a minimum fee to capture cost recovery. This \$250 flat fee would be for municipalities serving fewer than 100 REs, and would recover the costs of invoicing and staff time.
- Increase the fee per RE for facilities serving at least 100 REs, to reflect the revenue needed to hire additional staff to manage the current permit backlog.

For facilities that do not primarily serve residential customers, the proposed rule would add tiers for low flow facilities, to distribute fee burden more equitably without impacting total revenues.

Expected impact

We expect the proposed rule amendments to generate costs for municipal wastewater facilities, relative to the baseline. Ecology would use these fees to fund the expected workload related to managing these permits on an ongoing basis and recover costs related to processing the permit backlog. This would result in benefits because our permitting services would be provided in a timelier manner and reduce delays for permittees.

The proposed redistribution of fees using new tiers for facilities that do not primarily serve residential customers would result in fees that better reflect the expected workload related to managing different permits. Smaller facilities would subsidize less of the permit management costs associated with these facilities overall.

2.3.6 Adjusting fees for the Industrial Stormwater General Permit

Baseline

The baseline rule includes fees charged for the Industrial Stormwater General Permit (ISGP) and a Dual Coverage provision for facilities who have another water quality permit and do not have to pay the ISGP fee.

Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

The proposed rule would eliminate the Dual Coverage provision for Fiscal Years 2024 and 2025, resulting in requiring permittees to pay the ISGP fee even if they have another water quality permit.

The proposed rule would also add new tiers of gross revenue subcategories, adding incremental steps between existing fee levels, and higher fee tiers. These changes would:

- Reduce burden on small businesses (as defined by the fee rule using revenues).
- Distribute fees across the largest businesses (by revenue) to better reflect expected permit complexity and workload.

Expected impact

We expect these proposed rule amendments to result in fee increases or decreases, depending on the net effect of the above amendments in combination with overall fee schedule amendments (see Section 2.3.2).

Permittees for which the net effect increases fees would incur costs, while permittees for which the net effect decreases fees would receive benefits (avoided costs). Significantly, smaller permittees would receive benefits of reduced fees.

Overall, the proposed rule amendments would result in the fee program:

- Funding the corresponding workload necessary to implement the permit program.
- Having more equitable distribution of fees, reflecting individual permittees paying fees in line with the actual amount of work necessary to manage their permit(s).

2.3.7 Adjusting fees for the Construction Stormwater General Permit

Baseline

The baseline rule includes fees charged for the Construction Stormwater General Permit (CSGP), based on covered acreage.

Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

For Fiscal Years 2024 and 2025, the proposed rule amendments would:

- Add a lowest fee tier for projects less than one acre in size.
- Replace the baseline fees for projects affecting more than 20 acres, with multiple tiers to more equitably distribute fees across smaller and larger projects that require different levels of work.
- Eliminate the Dual Coverage provision for Fiscal Years 2024 and 2025, resulting in requiring permittees to pay the CSWGP even if they have another water quality permit.

Expected impact

We expect these proposed rule amendments to result in fee increases or decreases, depending on the net effect of the above amendments in combination with overall fee schedule amendments (see Section 2.3.2).

Permittees for which the net effect increases fees would incur costs, while permittees for which the net effect decreases fees would receive benefits (avoided costs). Significantly, smaller permittees would receive benefits of reduced fees.

Overall, the proposed rule amendments would result in the fee program:

- Funding the corresponding workload necessary to implement the permit program.
- Having more equitable distribution of fees, reflecting individual permittees paying fees in line with the actual amount of work necessary to manage their permit(s).

2.3.8 Adjusting Extreme Hardship Reduction fees

Baseline

Under the baseline rule, small businesses with gross revenues up to \$100,000 can apply for an Extreme Hardship fee reduction. The rule sets a minimum hardship reduction fee of \$128.

Fees set in the rule remain in place for subsequent years until the rule is amended.

Proposed

For Fiscal Years 2024 and 2025, the proposed rule would:

- Increase the minimum fee to \$150, to match the overall minimum fee under the rule.
- Reduce the hazardous waste cleanup fee for small businesses who no longer operate a business at their site.

Expected impact

We expect these proposed rule amendments to result in additional costs for permittees currently paying the minimum fee under the Extreme Hardship fee reduction. We also expect

these amendments to result in benefits of cost-reduction options for some small business permittees.

Chapter 3: Likely Costs of the Proposed Rule Amendments

3.1 Introduction

We analyzed the likely costs associated with the proposed rule amendments, as compared to the baseline. The proposed rule amendments and the baseline are discussed in detail in Chapter 2 of this document.

3.2 Cost analysis

The proposed rule amendments would make the following changes:

- Adding, clarifying, or updating definitions.
- Amending all fee schedules.
- Adding new industrial permit fee categories.
- Adjusting existing industrial permit fee categories or tiers.
- Adjusting fees for Municipal and Domestic Wastewater Facilities.
- Adjusting fees for the Industrial Stormwater General Permit.
- Adjusting fees for the Construction Stormwater General Permit.
- Adjusting Extreme Hardship Reduction fees.

3.2.1 Quantifiable cost calculations

As discussed in Chapter 2, the multiple types of fee adjustment or change to fee structures under the proposed rule amendments would interact, resulting in overall proposed fee changes.

To estimate the costs of the proposed rule amendments, we examined nearly 7,000 existing permittee records and identified:

- Baseline fees: Current fees paid by each permittee.
- Proposed fees: Likely fee tiers and associated fees for Fiscal Years 2024 and 2025 for each permittee.

Based on the baseline rule, the baseline fee would remain constant over time. We made the simplifying assumption that the proposed Fiscal Year 2025 fees would also remain constant over time, though it is possible, under the proposed fee updating process, for the fees to change over time. Since fees reflect the cost of services (a minimum estimate of the value of services provided by Ecology permit managers), assuming a growth rate in total fees would reflect an equivalent increase in the value of services provided, leaving net benefits of the proposed rule amendments unchanged.

We were also unable to make confident assumptions about any future changes to fee distributions, as these would be based on public input as part of the proposed fee updating process.

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee.⁷ As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. Most fee changes would be costs (increases in fees), reflecting the higher current costs of administering the permit program related to those permits. The distribution of costs (fee increases) per permittee is summarized below.

Table 6: Distribution summary statistics of fee increases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.03	\$0.03
Median (central estimate)	\$47	\$47
Mode (most frequent)	\$388	\$388
Average	\$791	\$800
Maximum	\$501,278	\$501,278

While some permittees would see significant increases in fees (large municipal wastewater permittees whose fees were previously capped under the authorizing law), most permittees would see lower increases in their fees.

- Only four permittees would have fees increase by more than \$100,000.
- Over 3,100 permittees would have fees increase by less than \$100, many of which are small changes (as low as a few cents) due to rounding.
 - Over 700 would have fees increase by less than \$10.
 - Over 800 would have fees increase by between \$10 and \$20.
 - 1,560 would have fees increase by between \$20 and \$50.
- The most common fee increases would be under \$400.

Over 1,300 permittees would not have their fees change at all under the proposed rule amendments.

Total annual costs

The total cost (total increase in fees) would be about \$3.9 million in Fiscal Year 2024, and nearly \$4.0 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this cost would continue in each subsequent year.

⁷ WA Department of Ecology, 2023. Water Quality Permitting and Reporting Information System (PARIS). Ecology permit database. <https://apps.ecology.wa.gov/paris/PermitLookup.aspx>.

Total present value costs

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, and the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.⁸

The 20-year present value of costs of the proposed rule amendments would be \$72 million.

3.2.2 Qualitative costs

Uncertainty in quantified costs

We note that estimated fees for each permittee are based on current permittee attributes (e.g., flow rates or acreage), and if those attributes change and result in classification under a different fee tier, those permittees may have either higher or lower fees than assumed in this analysis. For example, if a permittee is currently paying a fee in a tier that would be subdivided under the proposed rule, we based our assumption on the new fee tier into which they would fall. If that permittee expands in the meantime, and instead falls into a higher fee tier, this additional cost would not be reflected in the above quantified cost estimate.

Dual coverage and distribution of fee burden

The proposed removal of the Dual Coverage provision would also result in some permittees now paying fees related to the CSWGP or ISGP (which they do not pay under the baseline if they also pay the fee for another water quality permit). This cost is reflected in the total costs quantified in Section 3.2.1, but we note that it also affects the distribution of fees. These permittees, like other permittees that have not paid fees that reflect the actual costs of services provided by the permit program, would bear a greater share of cost burden (all else equal), though this burden would not exceed the share of expected workload to manage their permits.

⁸ US Treasury Department, 2022. I bond interest rates. Historic average September 1998 through November 2022. <https://treasurydirect.gov/savings-bonds/i-bonds/i-bonds-interest-rates/#:~:text=The%20composite%20rate%20for%20I,through%20April%202023%20is%206.89%25>.

Chapter 4: Likely Benefits of the Proposed Rule Amendments

4.1 Introduction

We analyzed the likely benefits associated with the proposed rule amendments, as compared to the baseline. The proposed rule amendments and the baseline are discussed in detail in Chapter 2 of this document.

4.2 Benefits analysis

The proposed rule amendments would:

- Clarify or update definitions.
- Add new definitions needed to implement the proposed amendments.
- Amend all fee schedules.
- Add new industrial wastewater permit fee categories.
- Adjust existing industrial wastewater permit fee categories or tiers.
- Adjust fees for Municipal and Domestic Wastewater Facilities.
- Adjust fees for the Industrial Stormwater General Permit.
- Adjust fees for the Construction Stormwater General Permit.
- Adjust Extreme Hardship Reduction fees.
- Add Hazardous Waste Extreme Hardship Reduction fee.

4.2.1 Quantifiable benefits calculations

As discussed in Chapter 2, the multiple types of fee adjustment or change to fee structures under the proposed rule amendments would interact, resulting in overall proposed fee changes.

To estimate the benefits of the proposed rule amendments, we examined nearly 7,000 existing permittee records and identified:

- Baseline fees: Current fees paid by each permittee.
- Proposed fees: Likely fee tiers and associated fees for Fiscal Years 2024 and 2025 for each permittee.

Based on the baseline rule, the baseline fee would remain constant over time. We made the simplifying assumption that the proposed Fiscal Year 2025 fees would also remain constant over time, though it is possible for the fees to change over time under the proposed fee updating process. Since fees reflect the cost of services (a minimum estimate of the value of

services provided by Ecology permit managers), assuming a growth rate in total fees would reflect an equivalent increase in the value of services provided, leaving net benefits of the proposed rule amendments unchanged. We were also unable to make confident assumptions about any future changes to fee distributions, as these would be based on public input as part of the proposed process to update fees.

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee. As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. The distribution of benefits (fee decreases) per permittee is summarized below.

Table 7: Distribution summary statistics of fee decreases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.05	\$0.05
Median (central estimate)	\$182	\$182
Mode (most frequent)	\$182	\$182
Average	\$176	\$177
Maximum	\$3,075	\$3,075

While some permittees would see moderate decreases in fees (for example, wastewater facilities at some correctional facilities, hotels, energy facilities, commercial developments, and state parks), most permittees would see smaller reductions in their fees.

- One permittee would have fees decrease by more than \$3,000.
- 13 permittees would have fees decrease by between \$1,000 and approximately \$3,000.
- The most common fee reduction would be under \$200.

Over 1,300 permittees would not have their fees change under the proposed rule amendments.

Total annual benefits

The total benefit (total decrease in fees) would be approximately \$0.1 million in Fiscal Year 2024, and \$0.1 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this benefit would continue in each subsequent year.

Total present value benefits

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, as well as for the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.⁹

The 20-year present value of benefits of the proposed rule amendments would be \$2.3 million.

⁹ US Treasury Department, 2022. I bond interest rates. Historic average September 1998 through November 2022. <https://treasurydirect.gov/savings-bonds/i-bonds/i-bonds-interest-rates/#:~:text=The%20composite%20rate%20for%20I,through%20April%202023%20is%206.89%25.>

4.2.2 Qualitative benefits

Uncertainty in quantified benefits

We note that estimated fees for each permittee are based on current permittee attributes (e.g., flow rates or acreage), and if those attributes change and result in classification under a different fee tier, those permittees may have either higher or lower fees than assumed in this analysis. For example, if a permittee is currently paying a fee in a tier that would be subdivided under the proposed rule, we assumed the new fee tier into which they would fall. If that permittee shrinks in the meantime, and instead falls into a lower fee tier, this additional benefit would not be reflected in the above quantified benefits estimate.

Fully funded permit program

Since fees under the proposed rule amendments (overall fee changes resulting from multiple types of changes and motivations) would reflect actual costs of the expected workload related to implementing the permit program, they are also a proxy for the value of services provided. They do not, however, reflect the added value related to timely and comprehensive permit issuance and management. By fully funding the program, the proposed rule amendments would reduce or eliminate the permit backlogs that would otherwise delay issuing permits. For example:

- For a commercial development, a delay could mean additional need for financing or adjusting planning and timelines for construction and occupancy.
- An industrial facility might have to reduce or delay planned revenue-generating activities, due to a delay in facility expansion or upgrades.
- A wastewater treatment facility needing to meet new requirements for reducing chemicals in its effluent could be delayed in achieving the environmental protection goals that reductions would achieve. This would not only impact the facility itself but could put the environment or human health at risk for longer than would otherwise be necessary.

Under a fully funded program that reflects administrative costs, permittees would not only receive more timely service, but potentially also additional opportunities for efficiencies through additional support from Ecology staff.

Equitable distribution of fees

Overall, the proposed rule amendments would result in the fee program that has more equitable distribution of fees, reflecting the expected workload related to managing their permit(s). This means facilities with simpler permits to manage would pay lower fees than they would if they continued to subsidize the costs of other permits. The proposed addition of fee tiers to better distribute fee burden according to costs further facilitates this benefit. (See Chapter 2 for detailed discussion of motivation for fee increases, fee decreases, and changes to fee tier structures.)

Chapter 5: Cost-Benefit Comparison and Conclusions

5.1 Summary of costs and benefits of the proposed rule amendments

5.1.1 Costs

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee. As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. Most fee changes would be costs (increases in fees), reflecting the higher current costs of administering the permit program related to those permits. The distribution of costs (fee increases) per permittee is summarized below.

Table 8: Distribution summary statistics of fee increases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.03	\$0.03
Median (central estimate)	\$47	\$47
Mode (most frequent)	\$388	\$388
Average	\$791	\$800
Maximum	\$501,278	\$501,278

While some permittees would see significant increases in fees (large municipal wastewater permittees whose fees were previously capped under the authorizing law), most permittees would see lower increases in their fees.

- Only four permittees would have fees increase by more than \$100,000.
- Over 3,100 permittees would have fees increase by less than \$100, many of which are small changes (as low as a few cents) due to rounding.
 - Over 700 would have fees increase by less than \$10.
 - Over 800 would have fees increase by between \$10 and \$20.
 - 1,560 would have fees increase by between \$20 and \$50.
- The most common fee increases would be under \$400.

Over 1,300 permittees would not have their fees change at all under the proposed rule amendments.

Total annual costs

The total cost (total increase in fees) would be about \$3.9 million in Fiscal Year 2024, and nearly \$4.0 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this cost would continue in each subsequent year.

Total present value costs

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, and the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.¹⁰

The 20-year present value of costs of the proposed rule amendments would be \$72 million.

Dual coverage and distribution of fee burden

The proposed removal of the Dual Coverage provision would also result in some permittees now paying fees related to the CSWGP or ISGP (which they do not pay under the baseline if they also pay the fee for another water quality permit). This cost is reflected in the total costs quantified in Section 3.2.1, but we note that it also affects the distribution of fees. These permittees, like other permittees that have not paid fees that reflect the actual costs of services provided by the permit program, would bear a greater share of cost burden (all else equal), though this burden would not exceed the share of expected workload to manage their permits.

5.1.2 Benefits

We calculated the difference between baseline and proposed fees for Fiscal Years 2024 and 2025 for each permittee. As discussed in Chapter 2, some permittees are likely to have higher fees under the proposed rule amendments, while others would have lower fees. The distribution of benefits (fee decreases) per permittee is summarized below.

Table 9: Distribution summary statistics of fee decreases, by Fiscal Year (FY)

Statistic	FY 2024	FY 2025
Minimum	\$0.05	\$0.05
Median (central estimate)	\$182	\$182
Mode (most frequent)	\$182	\$182
Average	\$176	\$177
Maximum	\$3,075	\$3,075

While some permittees would see moderate decreases in fees (for example, wastewater facilities at some correctional facilities, hotels, energy facilities, commercial developments, and state parks), most permittees would see smaller reductions in their fees.

- One permittee would have fees decrease by more than \$3,000.
- 13 permittees would have fees decrease by between \$1,000 and approximately \$3,000.
- The most common fee reduction would be under \$200.

Over 1,300 permittees would not have their fees change under the proposed rule amendments.

¹⁰ Ibid.

Total annual benefits

The total benefit (total decrease in fees) would be approximately \$0.1 million in Fiscal Year 2024, and \$0.1 million in Fiscal Year 2025. Under our simplifying assumption (see discussion above in this section), this benefit would continue in each subsequent year.

Total present value benefits

Ecology calculates costs and benefits of proposed rules using 20-year present values. A present value converts streams of costs or benefits over time, into a single comparable value in current dollars. It accounts for inflation, as well as for the opportunity cost of having funds or value later versus now, using a historic average real discount rate of 0.89 percent.¹¹

The 20-year present value of benefits of the proposed rule amendments would be \$2.3 million.

Fully funded permit program

Since fees under the proposed rule amendments (overall fee changes resulting from multiple types of changes and motivations) would reflect actual costs of the expected workload related to implementing the permit program, they are also a proxy for the value of services provided. They do not, however, reflect the added value related to timely and comprehensive permit issuance and management. By fully funding the program, the proposed rule amendments would reduce or eliminate the permit backlogs that would otherwise delay issuing permits. For example:

- For a commercial development, a delay could mean additional need for financing or adjusting planning and timelines for construction and occupancy.
- An industrial facility might have to reduce or delay planned revenue-generating activities, due to a delay in facility expansion or upgrades.
- A wastewater treatment facility needing to meet new requirements for reducing chemicals in its effluent could be delayed in achieving the environmental protection goals that reductions would achieve. This would not only impact the facility itself but could put the environment or human health at risk for longer than would otherwise be necessary.

Under a fully funded program that reflects administrative costs, permittees would not only receive more timely service, but potentially also additional opportunities for efficiencies through additional support from Ecology staff.

Equitable distribution of fees

Overall, the proposed rule amendments would result in the fee program that has more equitable distribution of fees, reflecting the expected workload related to managing their permit(s). This means facilities with simpler permits to manage would pay lower fees than they would if they continued to subsidize the costs of other permits. The proposed addition of fee tiers to better distribute fee burden according to costs further facilitates this benefit. (See

¹¹ Ibid.

Chapter 2 for detailed discussion of motivation for fee increases, fee decreases, and changes to fee tier structures.)

5.2 Conclusion

We conclude, based on a reasonable understanding of the quantified and qualitative costs and benefits likely to arise from the proposed rule amendments, as compared to the baseline, that the benefits of the proposed rule amendments are greater than the costs.

Chapter 6: Least-Burdensome Alternative Analysis

6.1 Introduction

RCW 34.05.328(1)(c) 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 adopt the rule, we are required to determine that the contents of the rule are the least burdensome set of requirements that achieve the goals and objectives of the authorizing statute(s).

We assessed alternative proposed rule content and determined whether they met the goals and objectives of the authorizing statute(s). Of those that would meet the goals and objectives, we determined whether those chosen for inclusion in the proposed rule amendments were the least burdensome to those required to comply with them.

6.2 Goals and objectives of the authorizing statute

The authorizing statute for this rule is Chapter 90.48 RCW, Water Pollution Control. Specifically, the section authorizing the fee program is RCW 90.48.465. Its goals and objectives are for Ecology to:

- Establish fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260.
- Adjust fees no more often than once every two years.
- Apply fees to all permits, regardless of date of issuance, and assess them prospectively.

- Base fees on factors relating to the complexity of permit issuance and compliance.
- Have the option of basing fees on pollutant loading and toxicity.
- Design fees encourage recycling and the reduction of the quantity of pollutants.
- Design fees to fully recover and not to exceed expenses incurred by the department in:
 - 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.
- Ensure that indirect dischargers do not pay twice for the administrative expense of a permit.
- Consider the economic impact of fees on small dischargers and on public entities required to obtain permits for stormwater runoff and make appropriate adjustments.

6.3 Alternatives considered and why they were excluded

We considered the following alternative rule content and did not include it in the proposed rule amendments for the reasons discussed in each subsection below.

- Not updating the rule
- Other distributions of fees

6.3.1 Not updating the rule

Ecology initially considered not updating the rule at this time. The consequence of not amending the rule would be that the fee schedule will not reflect Fiscal Years 2024 and 2025 rates, and Ecology would not be able to make the technical corrections needed to keep in line with current permit management practices. This would have reduced transparency for permittees and could result in limitations to the permit program that impact water quality statewide. As such, this alternative would not have met the goals and objectives of the statute regarding recoverable costs, as well as broader goals of the statute chapter regarding protection of the environment and human health.

6.3.2 Other distributions of fees

While not an explicit consideration, Ecology inherently considers fee distributions when setting fees. Ecology is, however, constrained by the objectives of the authorizing statute, including:

- Designing fees to recover the costs listed in relevant sub-bullets in Section 6.3 above.
- Basing fees on factors relating to the complexity of permit issuance and compliance.
- Designing fees encourage recycling and the reduction of the quantity of pollutants.

The fees in the proposed rule amendments are based on the costs of implementing each specific permit and broken into tiers that better reflect permit complexity. Also, higher fees for complex permits implicitly work to disincentivize projects that are complex due to the quantity or breadth of pollutants in effluent.

6.4 Conclusion

After considering alternatives to the proposed rule's contents, within the context of the goals and objectives of the authorizing statute, we determined that the proposed rule represents the least-burdensome alternative of possible rule contents meeting the goals and objectives.

Chapter 7: Regulatory Fairness Act Compliance

7.1 Introduction

The Regulatory Fairness Act (RFA; RCW 19.85.070) requires Ecology to perform a set of analyses and make certain determinations regarding the proposed rule amendments. This chapter presents the:

- Analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating elements of the rule, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected impact on jobs.

A small business is defined by the RFA as having 50 or fewer employees, at the highest ownership and operator level. Estimated compliance costs are determined as compared to the baseline (the regulatory environment in the absence of the proposed rule amendments, limited to existing federal and state requirements). Analyses under the RFA only apply to costs to “businesses in an industry” in Washington State. This means the impacts, for this part of our analyses, are not evaluated for government agencies.

7.2 Analysis of relative compliance cost burden

We calculated the estimated per-business costs to comply with the proposed rule amendments, based on the costs estimated in Chapter 3 of this document. In this section, we estimate compliance costs per employee.

The average affected small business likely to be covered by the proposed rule amendments employs approximately 15 people. The largest ten percent of affected businesses employ an average of 10,627 people.¹² Based on cost estimates in Chapter 3, we estimated the following compliance costs per employee.

¹² Dun & Bradstreet, 2023. D&B Market Insight Database.

Table 10: Compliance costs per employee

Type of cost (or total cost)	Low	High
Average small business employment	15	15
Average employment at largest ten percent of businesses	10,627	10,627
Small business cost per employee	\$35.67	\$36.07
Largest business cost per employee	\$0.05	\$0.05

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, and therefore Ecology must include elements in the proposed rule amendments 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 proposed rule amendments 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 would significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence each firm has on market prices, as well as the relative responsiveness of market demand to price changes.

We used the REMI E3+ model for Washington State to estimate the impact of the proposed rule amendments on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for: inter-industry impacts; price, wage, and population changes; and dynamic adjustment of all economic variables over time. Our inputs to the model reflected total fees by industry.

The proposed rule amendments affect a wide variety of businesses (see 7.6, below). Across all industries there would be a minimal impact on output, estimating a total cost of \$1,000,000 annually. For context, we note that baseline state output is forecast to be over \$1.2 trillion by 2027.¹³ The following industries would have the largest impact on their output:

¹³ REMI model baseline forecast for Washington State.

Table 11: Impacts to output, percent

Industry	Initial Output Impact	Output Impact in 20 years
Hardware Manufacturing	-0.001%	-0.005%
Metal Ore Mining	0.000%	-0.002%
Support Activities for Mining	-0.001%	-0.002%
Clay Product and Refractory Manufacturing	0.000%	-0.001%
Water, Sewage, and Other Systems	0.000%	-0.001%

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.”

We considered all the above options, the goals, and objectives of the authorizing statutes (see Chapter 6), and the scope of this rulemaking. We limited compliance cost-reduction methods to those that:

- Are legal and feasible.
- Meet the goals and objectives of the authorizing statute.
- Are within the scope of this rulemaking.

Modifying regulatory requirements, changing reporting requirements, reducing the frequency of inspections, or delaying compliance timetables would not meet statutory objectives or are not feasible and within the scope of this rulemaking.¹⁴

Finally, we included the following elements in the proposed rule amendments to reduce costs to small businesses.

WAC 173-224-090 allows small businesses to receive a fee reduction of fifty percent, but not less than the minimum permit fee of \$150, if they are determined to be eligible under the following criteria:

1. Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
2. Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);
3. Have annual sales of \$1,000,000 or less of the goods or services produced using the processes regulated by the waste discharge or individual stormwater discharge permit (we identified 605 small business permittees in Washington that meet this definition); and;
4. Have an original annual permit fee assessment totaling \$500 or greater.

In addition to the small business fee reduction, any small business with annual gross revenue totaling \$100,000 or less from goods and services produced using the processes regulated by the discharge permit may apply for an extreme hardship fee reduction. If the permit holder is determined eligible, the annual permit fee is reduced to the minimum annual permit fee of \$150.

7.5 Small business and government involvement

We involved small businesses and local governments in its development of the proposed rule amendments, using:

- The Municipal Wastewater Permit Fees Advisory Committee had 10 meetings in 2022 that were open to comment and included representatives from several different local government entities.

¹⁴ The Preproposal Statement of Inquiry (often referred to as the “CR-101”) form discusses the rulemaking scope.
<https://ecology.wa.gov/DOE/files/c7/c7ef19a7-f70c-4b8e-92f6-3314066c1dcb.pdf>

7.6 North American Industry Classification System (NAICS) codes of impacted industries

The proposed rule amendments likely impact the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2017>.

Table 12: Likely affected NAICS codes

NAICS Code	Description
111x	Agricultural Products
112x	Livestock and Livestock Products
113x	Forestry and Logging
114x	Fish, Fresh/Chilled/Frozen and Other Marine Products
115x	Support Activities for Agriculture and Forestry
211x	Oil and Gas
212x	Minerals and Ores
213x	Support Activities for Mining
221x	Utilities
236x	Construction of Buildings
237x	Heavy and Civil Engineering Construction
238x	Specialty Trade Contractors
311x	Food and Kindred Products
312x	Beverages and Tobacco Products
313x	Textiles and Fabrics
314x	Textile Mill Products
321	Wood Products
322	Paper Manufacturing
324	Petroleum and Coal Products
325	Chemicals
326	Plastics and Rubber Products
327	Nonmetallic Mineral Products
331	Primary Metal Manufacturing
332	Fabricated Metal Product Manufacturing
333	Machinery, except Electrical

NAICS Code	Description
334	Computer and Electronic Products
335	Electrical Equipment, Appliances and Components
336	Transportation Equipment
337	Furniture and Fixtures
339	Miscellaneous Manufactured Commodities
423	Merchant Wholesalers, Durable Goods
424	Merchant Wholesalers, Nondurable Goods
441	Motor Vehicle and Parts Dealers
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Retailers
449	Furniture, Home Furnishings, Electronics, and Appliance Retailers
455	General Merchandise Retailers
456	Health and Personal Care Retailers
457	Gasoline Stations and Fuel Dealers
458	Clothing, Clothing Accessories, Shoe, and Jewelry Retailers
459	Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers
481	Air Transportation
482	Rail Transportation
483	Water Transportation
484	Truck Transportation
485	Transit and Ground Passenger Transportation
486	Pipeline Transportation
488	Support Activities for Transportation
492	Couriers and Messengers
493	Warehousing and Storage
512	Motion Picture and Sound Recording Industries
517	Telecommunications
522	Credit Intermediation and Related Activities
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities

NAICS Code	Description
531	Real Estate
532	Rental and Leasing Services
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
541	Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
561	Administrative and Support Services
562	Waste Management and Remediation Services
611	Educational Services
621	Ambulatory Health Care Services
622	Hospitals
623	Nursing and Residential Care Facilities
624	Social Assistance
711	Performing Arts, Spectator Sports, and Related Industries
712	Museums, Historical Sites, and Similar Institutions
713	Amusement, Gambling, and Recreation Industries
721	Accommodation
722	Food Services and Drinking Places
811	Repair and Maintenance
812	Personal and Laundry Services
813	Religious, Grantmaking, Civic, Professional, and Similar Organizations

7.7 Impact on jobs

We used the REMI E3+ model for Washington State to estimate the impact of the proposed rule amendments on jobs in the state, accounting for dynamic adjustments throughout the economy.

The proposed rule amendments would result in transfers of money within and between industries, as compared to the baseline. The modeled impacts on employment are the result of multiple small increases and decreases in employment, prices, and other economic variables across all industries in the state.

The results of REMI E3+ model show insignificant impact on jobs in the affected industries. The industries with the highest jobs impact are construction and state and local government. Construction is estimated to have one job loss per year from 2024 to 2033 and state and local government is estimated to have one job loss per year from 2031 to 2034.

Table 13: Impacts on jobs, FTEs

Industry	Initial Jobs Impact	Jobs Impact in 10 years	Jobs Impact in 20 years
Whole State	-3	-4	-4
Construction	-1	-1	0
State and Local Government	0	-1	0
Retail Trade	0	0	0

References

RCW 34.05.272 requires Ecology to group references into the following categories for actions related to Water Quality.

Independent peer review: Review is overseen by an independent third party (n/a)

Internal peer review: Review by staff internal to the Department of Ecology (n/a)

External peer review: Review by persons that are external to and selected by the Ecology (n/a)

Open review: Documented open public review process that is not limited to invited organizations or individuals (n/a)

Legal and policy document: Documents related to the legal framework for the significant agency action including but not limited to federal and state statutes; court and hearings board decisions; federal and state administrative rules and regulations; and policy and regulatory documents adopted by local governments

Chapter 173-224 WAC, Water Quality Permit Fees

Chapter 90.48 RCW, Water Pollution Control

The Preproposal Statement of Inquiry (often referred to as the “CR-101”) form discusses the rulemaking scope. <https://ecology.wa.gov/DOE/files/c7/c7ef19a7-f70c-4b8e-92f6-3314066c1dcb.pdf>

Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under the processes in the categories above

Dun & Bradstreet, 2023. D&B Market Insight Database.

US Treasury Department, 2022. I bond interest rates. Historic average September 1998 through November 2022. <https://treasurydirect.gov/savings-bonds/i-bonds/i-bonds-interest-rates/#:~:text=The%20composite%20rate%20for%20I,through%20April%202023%20is%206.89%25.>

WA Department of Ecology, 2023. Water Quality Permitting and Reporting Information System (PARIS). Ecology permit database. <https://apps.ecology.wa.gov/paris/PermitLookup.aspx>.

Records of the best professional judgment of department of ecology employees or other individuals (n/a)

Other: Sources of information that do not fit into one of the categories above (n/a)

Appendix A: Administrative Procedure Act (RCW 34.05.328) Determinations

- A. RCW 34.05.328(1)(a) – Clearly state in detail the general goals and specific objectives of the statute that this rule implements.**

See Chapter 6.

- B. RCW 34.05.328(1)(b) –**

- 1. Determine that the rule is needed to achieve the general goals and specific objectives of the statute.**

See chapters 1 and 2.

- 2. Analyze alternatives to rulemaking and the consequences of not adopting this rule.**

We considered only one alternative: not to do the rulemaking. The consequence of not amending the rule will be that the fee schedule will not reflect Fiscal Years 2024 and 2025 rates, and we will not be able to make the technical corrections needed to keep in line with current management practices. This reduces transparency for permittees and could result in limitations to the permit program that impact water quality statewide.

See the Least Burdensome Alternative Analysis, Chapter 6 of this document, for discussion of alternative rule content considered.

- C. RCW 34.05.328(1)(c) - A preliminary cost-benefit analysis was made available.**

When filing a rule proposal (CR-102) under RCW 34.05.320, Ecology provides notice that a preliminary cost-benefit analysis is available. At adoption (CR-103 filing) under RCW 34.05.360, Ecology provides notice of the availability of the final cost-benefit analysis.

- D. RCW 34.05.328(1)(d) – Determine that probable benefits of this 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.**

See Chapters 1 – 5.

- E. RCW 34.05.328 (1)(e) - Determine, after considering alternative versions of the analysis required under RCW 34.05.328 (b), (c) and (d) 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 in Chapter 6.**

See Chapter 6.

- F. RCW 34.05.328(1)(f) - Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.**

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

facility can meet both federal and state treatment and water quality standards. The permit program manages approximately 6,900 permits. Water quality discharge permits provide Ecology with a full range of tools to address statewide 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.

G. RCW 34.05.328 (1)(g) - Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

Permittees consist of small to large industrial businesses, construction companies, schools, federal agencies, state agencies, and local jurisdictions. The requirement to pay annual fees is the same for all permittees.

H. RCW 34.05.328 (1)(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter.

No

If yes, the difference is justified because of the following:

- (i) A state statute explicitly allows Ecology to differ from federal standards.
- (ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated in Chapter 6.

I. RCW 34.05.328 (1)(i) – Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same subject matter.

Ecology notifies all permit holders about any proposed changes to the permit fee rule. We also notify stakeholders, including federal, state, and local government offices, regarding all rule announcement, proposal, and adoption stages.