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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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July 9, 1993

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Mr. John Wagoner, Manager
Richland Operations
U.S. Department of Energy
The Hanford Site
Post Office Box 550
Richland, WA 99352



Dear Mr. Wagoner:

Attached for a 45 day review is the estimated biennial Mixed Waste Management Fee as required by WAC 173-328-050. Ecology estimated fee amounts by using direct labor hours multiplied by an hourly rate. This total is added to facility specific costs.

Direct labor hours are Ecology's estimate of time to be spent working on permitting and compliance activities at your facility. The hourly rate is calculated to fund the program's direct and indirect regulatory activities (salaries, benefits, travel, goods and services, and equipment). In addition, the hourly rate includes the agency indirect and funds for public participation grants. Facility specific costs may include activities other than permitting and compliance (i.e. contracts with architecture and engineering firms).

Ecology will track regulatory activities assessed under the Mixed Waste Management Fees Rule by direct labor hours in the following categories:

- **Program Management and Support**
Management, general administrative and clerical support, training, and contract services.
- **Program Development**
Developing rules, policies, procedures, guidance, analysis and development of legislation, interagency agreements, and liaison activities with other programs or agencies.

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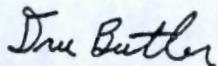
Richland Operations Office

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- **Permit/Closure Plan Processing**
Development of orders, receipt and processing of applications, review of applications, permit writing, and associated procedures.
- **Permit/Closure Plan Management**
Administration and implementation of orders, compliance assurance activities, environmental monitoring, compliance investigations, incident response, review of changes or proposed amendments to a permit.
- **Technical Assistance**
Assistance provided to permittees before, during, or after processing of a permit or authorization, and which is not part of normal permit review and communication activities occurring during permit processing or permit management.
- **Outreach and Education**
Public involvement.

Ecology's goal is to accurately reflect the agency's level of activity over the biennium. Any information you and your staff can provide to affirm this estimate is requested. In addition, Ecology is willing to schedule a meeting to discuss your fee estimate prior to August 24, 1993. If there are any additional questions or concerns, please contact Pat Svoboda at (206) 438-8165.

Sincerely,



Dru Butler, Program Manager
Nuclear and Mixed Waste Management

DB:PS:tf
Attachment

cc: James Bauer, USDOE
Dee Willis, USDOE



Focus

Mixed Waste Management Fees Rule

What is the Mixed Waste Management Fees Rule?

In 1989, the Washington State Legislature authorized the Washington State Department of Ecology to assess a fee to facilities that treat, store, or dispose of mixed waste. The purpose of the fee is to fund the Department of Ecology's costs of reviewing and issuing dangerous waste permits and for conducting compliance inspections at mixed waste facilities. The fee rule became effective May 21, 1993.

Who could be assessed Fees?

The fee is assessed against persons who:

- Own or operate a facility that treats, stores, or disposes of mixed waste;
- Currently generate mixed waste and store the waste at their place of business greater than 90 days; and
- Close a mixed waste management area as required by the state Dangerous Waste Regulations.

Such facilities include the Hanford Site, Puget Sound Naval Shipyard, Washington Public Power Supply System, IT Corporation, Siemens Power Corporation, and some universities.

How will the Fees be assessed and collected?

Ecology will assess and collect fees annually for planned and unplanned regulatory activities at mixed waste facilities. Facility owners/operators will have the opportunity to review and comment on their estimated fee assessments for planned activities prior to actual billings and submittal of payment. Facility invoices are adjusted on an annual basis to reflect actual accomplishment by Ecology.

What do the Fees provide?

The fees are based on the amount of revenue Ecology must collect to support permitting/closure plans and compliance activities at mixed waste facilities. In fiscal year 1993, Ecology estimates its mixed waste regulatory costs at \$4.8 million.

The fees will provide monies to be for the following activities:

- Reviewing permit applications or renewals including plan reviews, specifications, engineering designs, proposed compliance and closure plans, and any other information required to be submitted with the permit application.
- Preparing a facility permit including fees for contractors, developing applicable requirements for inclusion in the permit, and preparing a draft and final permit.
- Preparing for and conducting compliance inspections including collection and analysis of waste and environmental samples and any other activities necessary to ensure compliance with hazardous waste laws.

-
- Notifying the public and facilitating public involvement in permitting and compliance activities.
 - Providing staff training and travel.
 - Funding indirect administrative costs.
 - Providing for legal fees and enforcement actions.
 - Determining a facility's fee and the collection of those fees.
 - Tracking and accounting for mixed waste program activities.
 - Conducting unplanned activities such as enforcement or spill response. This will be billed upon completion of the activity unless the unplanned activity can replace a planned activity.

How you can get more information

To obtain more information about the fee or to request a copy of the fee regulation contact:

Laurie Davies
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
(206) 438-7765

Patrick Svoboda
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
(206) 438-8165

If you have special accommodation needs, please contact Mary Getchell, Ecology, at (206) 459-6862 (Voice), or (206) 438-8722 (TDD).

Chapter 173-328 WAC

MIXED WASTE MANAGEMENT FEES

NEW SECTION

WAC 173-328-010 Purpose and authority. (1) The purpose of this chapter is to implement the provisions of RCW 70.105.280, by establishing a means for the department of ecology to assess reasonable mixed waste management fees against facilities that treat, store, or dispose of mixed waste and against mixed waste facilities undergoing closure under chapter 70.105 RCW. The fee collected shall be sufficient to fund all costs of carrying out the department's duties under chapter 70.105 RCW at mixed waste facilities.

(2) This chapter establishes the method by which the department shall assess fees, describes entities subject to such fees, establishes provisions for appealing and enforcing fee assessments, and delineates associated responsibilities of the department and facility owners and operators.

NEW SECTION

WAC 173-328-020 Applicability. This chapter applies to any person who owns or operates a facility that treats, stores, or disposes of mixed waste. This also applies to mixed waste facilities undergoing closure under chapter 70.105 RCW. This chapter does not apply to facilities managing only low-level radioactive waste.

NEW SECTION

WAC 173-328-030 Definitions. (1) The following terms are used and shall have meanings as defined in chapter 70.105 RCW or WAC 173-303-040 as amended:

- (a) Closure;
- (b) Dangerous waste;
- (c) Department;
- (d) Disposal;
- (e) Facility;

- (f) Operator;
- (g) Permit;
- (h) Storage; and
- (i) Treatment.

(2) When used in this chapter, the following terms have the meanings given below.

(a) "Manage" or "management" means to treat, store, or dispose of mixed waste, or close a mixed waste facility, or perform other activities required under chapter 70.105 RCW.

(b) "Mixed waste" means a dangerous waste that contains both a nonradioactive hazardous component and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954.

(c) "Mixed waste management fee" or "fee" means an assessment imposed under RCW 70.105.280 against those facilities that store, treat, or dispose of mixed waste. The fee shall also apply to facilities undergoing closure under chapter 70.105 RCW.

(d) For facilities sited by the energy facility site evaluation council under chapter 80.50 RCW, the terms "owner" and "operator" in WAC 173-328-060 and 173-328-070 mean the energy facility site evaluation council.

NEW SECTION

WAC 173-328-040 Fee establishment. The department shall, on a biennial basis, determine all reasonable program costs necessary to carry out the department's duties under chapter 173-303 WAC for each mixed waste facility. The fee may be assessed at a mixed waste facility for the department's regulation of both mixed waste and nonradioactive dangerous waste. The department shall include, but not be limited to, the following items to determine fee amounts:

- (1) Direct and indirect cost of:
 - (a) Office space and supplies, administrative staff, support staff, and staff training;
 - (b) The development of associated regulations and guidelines;
 - (c) Determination, assessment, and collection of fees;
 - (d) Tracking and accounting services;
 - (e) Public involvement, education, and outreach; and
 - (f) Data management.
- (2) Direct and indirect permitting costs of:
 - (a) Staff, staff support, and staff training for reviewing, approving, and issuing dangerous waste permits and closure plans;
 - (b) Reviewing and issuing permit modifications and renewals;
 - (c) Travel; and
 - (d) Contract services.
- (3) Direct and indirect compliance activity cost of:
 - (a) Staff, staff support, and staff training to prepare and conduct compliance inspections;
 - (b) Sampling and lab analysis;
 - (c) Contract services;
 - (d) Travel; and
 - (e) Preparation of compliance report(s).

NEW SECTION

WAC 173-328-050 Fee review and comment. Fee review process.

(1) On or before July 1st of even-numbered calendar years, the department shall notify, by registered mail, each facility owner/operator of its biennial estimated fee assessment and provide the opportunity to review and comment prior to submittal of the department's budget to the legislature.

(2) The facility owner/operator shall have forty-five days to submit written comments to the department for consideration in the fee assessment.

(3) Prior to submittal of the department's budget to the legislature, the department shall notify the facility owner/operator of any changes to their estimated fee assessment.

NEW SECTION

WAC 173-328-060 Fee assessment. (1) After legislative approval of a budget for the department, the department may bill the facility owner/operator the required fees necessary to fund all mixed waste management costs.

(2) Anticipated fees. Anticipated fees include, but are not limited to, costs for permit issuance, permit maintenance, closure plan approval, and compliance audits.

(a) The department shall annually bill the owners/operators of all mixed waste facilities on or before October 1st for anticipated department activities to be performed that fiscal year.

(b) The department shall notify a facility owner/operator of any changes to the biennial estimate prior to sending each annual bill.

(c) The fee shall be submitted by the facility owner/operator to the department within thirty days after receipt of the bill.

(d) Any fees collected in excess of the department's actual costs will be adjusted in the subsequent billing to reflect the department's actual activities.

(3) Unanticipated fees. Unanticipated fees include, but are not limited to, the direct and indirect costs, as outlined in WAC 173-328-040, for unplanned enforcement activities, compliance activities, and facility modifications.

(a) The department may bill the owner/operator of a mixed waste facility upon completion of the unanticipated activity.

(b) The facility owner/operator shall be billed the amount of all direct and indirect costs incurred by the department to complete the unplanned regulatory activity.

(c) The unanticipated fee shall be submitted by the facility owner/operator to the department within thirty days after the receipt of the bill.

(4) Fees collected by the department shall be deposited into the state toxics control account.

(5) The fee shall not exceed the amount necessary for the department to carry out its duties under chapter 173-303 WAC.

(6) The department shall maintain a system of accountability to track annual costs incurred by the department.

NEW SECTION

WAC 173-328-070 Appeals and enforcement. (1) The owner/operator of a facility who is assessed a fee under this chapter may appeal the fee to the department. The appeal must be received by the department within thirty days after the facility owner/operator's receipt of the bill. Any appeal shall state the name and address of the facility to which the fee was assessed, and shall state reasons for challenging the fee.

(2) After receipt of an appeal, the department shall consider the reasons stated in the appeal and either issue a revised bill or a statement upholding the original bill. The issuance of either document shall constitute the final decision of the department.

(3) The department shall not take any enforcement action for failure to pay the assessed fee until resolution of the appeal.

(4) The fee stated in the department's final decision shall be submitted by the facility owner/operator to the department within thirty days after receipt of the final decision.

(5) Any person who fails to pay fees as required by this chapter shall be subject to enforcement actions consistent with chapter 70.105 RCW. Such enforcement may include penalties in accordance with RCW 70.105.080, 70.105.090, and 70.105.095.

(6) Payment of enforcement penalties shall not be deemed as payment of fees. Payment of fees after the assessment of an enforcement penalty shall not be deemed as a cause for reducing or eliminating the penalty.

**GUIDANCE DOCUMENT FOR THE IMPLEMENTATION OF THE
MIXED WASTE MANAGEMENT FEE**

July 1, 1993

Nuclear and Mixed Waste Management Program

Washington State Department of Ecology

GUIDANCE DOCUMENT FOR IMPLEMENTATION OF THE
MIXED WASTE MANAGEMENT FEE

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I. INTRODUCTION

This guidance document outlines the procedure which the Washington State Department of Ecology (Ecology) will use when assessing fees through the Mixed Waste Management Fees Rule, Chapter 173-328 WAC, to facilities that treat, store, incinerate, or dispose of mixed waste, including those mixed waste facilities undergoing closure. This document also explains the criteria used in assessing fee amounts, the process for facilities to comment on the fee, and the method for tracking the fee.

Fees are becoming a common funding mechanism for regulatory activities. Ecology currently collects fees for water quality permits, and low-level radioactive waste disposal site use permits. In addition, money is collected through cost recovery from potentially liable persons for the cleanup of toxic waste. Furthermore, the Washington State Department of Health (WDOH) assesses license fees primarily to commercial facilities that manage radioactive materials, including radioactive waste.

Ecology's mixed waste management fee is the funding mechanism for their regulation of mixed waste facilities. Mixed waste is a subset of dangerous waste that contains both a nonradioactive hazardous component, and a radioactive component.

II. FEE HISTORY

In 1989, the Washington State Legislature provided Ecology authority to assess fees to facilities that treat, store, incinerate, or dispose of mixed waste, including those undergoing closure. This authority was provided in an amendment to Washington State's Hazardous Waste Management Act (Chapter 70.105 RCW or HWMA). Ecology was directed under the law to develop a rule for fee assessment prior to implementing the fees. Ecology's Nuclear and Mixed Waste Management Program (Program) is responsible for implementing this statutory authority. Chapter 173-328 WAC is the implementing rule.

Public participation in developing this rule included target meetings and workshops held in the summer of 1992, as well as public hearings, and a formal 45-day public comment period held December 23, 1992, through February 5, 1993. The Mixed Waste Management Fees Rule became effective on May 21, 1993.

III. APPLICABILITY

This fee will only be assessed to facilities that treat, store, dispose, or incinerate mixed waste (mixed waste facilities) subject to the HWMA, and facilities which

must close a mixed waste unit subject to the HWMA. The fee is not applicable to transporters and generators of mixed waste unless they also engage in one of the activities listed above. In addition, facilities that generate and manage only non-dangerous radioactive waste, and/or only non-radioactive dangerous waste, are not subject to this fee.

A number of concerns have arisen over the applicability of this rule to scintillation fluids. Ecology has determined that scintillation fluids with a radioactive and a hazardous component will be subject to this rule. A discussion regarding the regulation of scintillation wastes can be found in Attachment 1.

Ecology will only assess fees at mixed waste facilities for the activities required to implement and enforce the HWMA. However, not all regulatory activities conducted by Ecology to ensure compliance with the HWMA will be applicable to all facilities managing mixed waste. For example, facilities that generate below the quantity exclusion limits, as defined in the Dangerous Waste Regulations, are considered to be "small quantity generators". Small quantity generators do not need a permit and therefore will not be assessed any fees for permitting activities. Similarly, facilities that transport their mixed waste to an off-site treatment, storage, and disposal (TSD) facility within 90 days are not required to obtain a permit, and therefore, a permitting fee will not be charged. These facilities, however, can be assessed fees for compliance and enforcement activities as allowed under the Dangerous Waste Regulations.

IV. ECOLOGY COSTS

Costs incurred by Ecology which may be charged to a facility are divided into two basic categories, anticipated costs and unanticipated costs. Anticipated costs, which are annually charged to each facility, are based upon the activities which Ecology plans to conduct at the facility during that year. Unanticipated costs, which may be recovered from a facility at any time during the year, will be based upon activities performed by Ecology which were not originally planned and assessed in the annual bill. Anticipated and unanticipated costs are further discussed in the next two sections.

V. ANTICIPATED COSTS

Anticipated costs are charged primarily to facilities which require an Ecology approved dangerous waste permit or closure plan. A facility that currently treats, stores, incinerates, and/or disposes of dangerous waste is required under WAC 173-303-800 to obtain a dangerous waste permit. The permit confirms that a facility is managing mixed waste in a manner which protects human health and the environment. If a facility discontinues mixed waste operations which would

normally require a permit, but has yet to receive such a permit, that facility need only obtain an approved closure plan from Ecology. Although a permit is not required to close inactive mixed waste management units, the facility may be required to obtain a dangerous waste post-closure permit if mixed waste is to remain at the unit after closure. An example would be a mixed waste landfill which is closed by placing a cover over the waste instead of removing the waste. For operating units, closure and post-closure plans would be included in the permit.

The primary anticipated costs for a mixed waste facility requiring a permit or a plan can be divided between two functions: permit/closure plan processing, and permit/closure plan management. The amount of work required by Ecology to perform these activities is based upon factors such as the size of the facility, type of mixed waste activity, facility operating history, and technical complexity. The typical elements of each of these processes, along with an average range of time Ecology might spend on each element, is provided in Attachment 2.

In order to support permit/closure plan processing and management, Ecology bears additional costs for Program Management and Support, Program Development, and Outreach and Education. Therefore, Ecology's workload for implementing the HWMA at mixed waste facilities can be broken down into six primary functional categories:

- Program Management and Support
- Program Development
- Permit/Closure Plan Processing
- Permit/Closure Plan Management
- Technical Assistance
- Outreach and Education

These functional categories are a result of the agency's efforts to coordinate fee assessments, and thus, are not exclusive to the mixed waste management fees. They will apply to all Ecology programs that collect fees. Each of these functions are defined further below.

Program Management and Support activities include: management; supervision; clerical support; administrative training; technical training; general administrative support for information services not directly applicable to another functional category; agency and program level planning; budgeting and tracking/reporting of activities; and fee administration and accounting.

Program Development activities include: rule development; legislation analysis and development; developing policies, procedures, or guidelines; technical

guidelines or manual development; general technical support not specific to individual permits; development of waste management approaches, interagency agreements or contract development; contract and legal services; liaison activities with other agencies or programs regarding their related program development; developing permit "boilerplates" and forms and developing standards related to fees.

Permit/Closure Plan Processing activities include: development of orders issued under the HWMA; receipt and processing of applications; review of applications and associated materials; communications with permittee or others regarding the permit; permit writing; public involvement; and permit decision and associated procedures, including the State Environmental Policy Act (SEPA) procedures and permit appeals.

Permit/Closure Plan Management activities include: administration and implementation of orders issued under the HWMA; compliance assurance activities; inspections; environmental monitoring; complaint investigations; incident response; communications with permittee after issuance; review of changes or proposed amendments to a permit (if no formal reissuance is required); and enforcement.

Technical Assistance are eligible assistance provided to permittees before, during, or after processing of a permit or authorization, and which is not part of normal permit review and communication activities occurring during permit processing or permit management.

Outreach and Education activities are those public involvement activities which are not directly related to procedures for processing permits or other authorizations.

Under certain circumstances, costs may arise that do not fall into the above functional categories but are required for implementation of the HWMA. In these cases, a special functional category will be used for budgeting and tracking.

An additional anticipated cost will be a charge of one percent of the total fee to fund public participation grants. Attachment 3 provides a more detailed discussion regarding this charge.

VI. UNANTICIPATED COSTS

Unanticipated costs are incurred when Ecology must conduct additional regulatory activities at a facility not included in the anticipated costs discussed above.

Unanticipated costs may be incurred for unexpected actions by the facility such as

a violation of the HWMA to which Ecology must respond, unanticipated releases of hazardous substances to the environment, or the incorporation of new technologies which require a permit or plan modification. Unanticipated activities may also be required for regulatory changes affecting the facility. Ecology's work conducted in response to an unanticipated activity will be broken down into the same functional categories described in the *Anticipated Cost* section. Should Ecology's activities resulting from an unanticipated activity carryover into the next billing cycle, Ecology's continued efforts will be billed as anticipated costs.

It is difficult to estimate the workload required for unanticipated activities. However, facilities which properly manage their mixed waste activities, maintain compliance with the applicable regulations and permit conditions, and avoid process and waste management changes that require Ecology oversight, might never be charged for unanticipated costs.

VII. AGENCY AND PROGRAM INDIRECT COSTS

Although agency and Program indirect costs are part of both anticipated and unanticipated costs, they are discussed in greater detail here to provide clarification.

The agency indirect rate is negotiated between the United States Department of Interior and Ecology in accordance with the U.S. Office of Management and Budget Circular A-87. Ecology employee salaries plus benefits are multiplied by the agency indirect rate to determine agency indirect costs. The current agency indirect rate is 29.7%. The agency indirect costs include materials and services provided by the Office of the Director, the Office of Public Information and Education, the Office of Legislative and Intergovernmental Relations, the Office of Quality Control, Information Management and Comprehension Planning, Regional Directors, and Financial, Personnel, and Support Services.

The Program indirect costs include all activities that support permitting and compliance activities which are billed directly to a given facility. These activities are defined above in the *Anticipated Cost* section and, at the current time, consist of:

- Program Management and Support;
- Program Development; and
- Outreach and Education.

VIII. BUDGET AND BILLING PROCESS

The budget and billing process for this fee is based upon the States' fiscal biennium. The States' fiscal biennium run from July 1 of every odd-numbered

year, to June 30 of the next odd-numbered year. This equals two fiscal years (FY). For example, July 1, 1993, through June 30, 1994, is FY94; July 1, 1994, through June 30, 1995, is FY95; and the entire time from July 1, 1993, through June 30, 1995, is referred to as the 93-95 biennium. Ecology is required to develop budgets on a biennial basis. In addition, the Legislature appropriates Ecology's expenditure authority on a biennial basis. Ecology, however, will charge mixed waste management fees to facilities on an annual fiscal year basis to allow an opportunity to adjust fees every year to reflect actual work being performed at the facilities.

Before fees can be assessed to a facility, Ecology must first receive approval through an appropriation, on a biennial basis, from the Legislature to charge such a fee. Prior to Ecology submitting a budget request to the Legislature, each facility will be given the opportunity to review and comment on the workload analysis and budget estimations for that facility. However, once the budget is submitted to the Legislature, there are a number of opportunities for amendments to the budget. It should be noted that the Legislature and the Governor, not Ecology, determine the final budget.

Ecology submits a budget to the Legislature through the Office of Financial Management (OFM) and the Governor. Once the Governor submits a budget to the Legislature, the budget becomes a bill and follows the legislative approval process which includes; committee hearings, committee votes, and floor votes from both the Washington State House of Representatives and the Washington State Senate. The budget must be approved by both sides of the Legislature, then goes back to the Governor for final approval. Ecology cannot begin charging anticipated fees until after this approval.

Upon approval of the budget, Ecology may begin charging facilities for work conducted or to be conducted during that biennium. Facilities will be billed on or before the first of October of each fiscal year for those incurred and anticipated regulatory activities for that fiscal year. For example, a facility may be charged on October 1, 1997, for activities completed by Ecology since July 1, 1997, and activities to be conducted by Ecology before June 30, 1998. If Ecology does not spend as much effort regulating a facility as planned, Ecology can adjust the next years' bill. If more regulatory activities occur than anticipated, a facility may be billed for these activities as an unanticipated cost. Unanticipated costs may be billed, upon completion of the regulatory activity, at any time during the year. However, if Ecology does not plan to expend fees already collected for anticipated costs from a facility, that money may be used to fund an unanticipated activity at the same facility. In that case, Ecology will not bill the facility for the unanticipated activity.

The sequence of events in the budget and billing process for a typical biennium can be found in Attachment 4 of this document.

IX. FACILITY INVOLVEMENT

There will be four opportunities for facility involvement on their fee assessment with Ecology. These opportunities are:

- (1) during a forty-five day review period on a facility's proposed assessment prior to Ecology submitting a complete budget to the Legislature;
- (2) during Legislative session by commenting on the state operating budget;
- (3) responding to a draft bill prior to receiving their actual bill; and
- (4) through an appeal to the Director of Ecology.

Each of these opportunities are discussed below.

Facilities will have a forty-five day period to address the proposed fee for their facility beginning with the budget for the 95-97 biennium. Thus, on or before July 1, 1994, owners and operators of mixed waste facilities will be sent a proposed fee amount for the 95-97 biennium along with the activities to be conducted by Ecology to justify the amount. The owners/operators have forty-five days to review and respond to the proposed billing. Ecology will consider all responses and make appropriate adjustments before submitting their proposal to OFM.

In August of 1992, Ecology submitted a budget to OFM for the 93-95 biennium. Since the rule did not become effective until May 21, 1993, the first facility involvement opportunity as listed above for the 93-95 biennium has passed. However, Ecology will still provide a forty-five day review period to facilities before billing.

Facilities, as well as the general public, will have an opportunity to comment on the State's operating budget as it proceeds through the Legislature. The budget for the Program to conduct mixed waste regulatory activities is part of the state operating budget. Facilities and the general public can testify, call, or write to Legislators regarding Washington State's operating budget. Comments to the Legislature during the Legislative session can be transmitted by calling the Legislative Bill Hotline at 1-800-562-6000. For further information on testifying to a committee or submitting written comments to legislators, contact the bill room at (206) 753-7573.

Facilities can schedule a meeting with Ecology during the forty-five day period to discuss their fee estimate. Any requests for meetings after the forty-five day review period will not be honored. A meeting does not replace or extend the period. Meetings can be scheduled by calling Patrick Svoboda at (206) 438-8165.

An owner/operator has thirty days upon receipt of the billing to pay the assessed amount, or to file an appeal to the Director of Ecology or the Pollution Control Hearings Board (PCHB). If the owner/operator is dissatisfied with Ecology's decision on the appeal, another appeal can be filed with the PCHB. If the owner/operator appeals first to the PCHB, however, an appeal cannot be filed with Ecology. Upon resolution of the appeal, the owner/operator will be responsible for paying the amount found to be owing plus any additional late charges that may be due.

X. ASSESSMENT AND TRACKING

The Program uses an expenditure tracking system which is consistent with Ecology guidelines and allows the Program to verify that funds are being spent as planned. Ecology will track regulatory activities and expenditures by the program using the following functional categories that were defined in previous sections of this document.

- Program Support and Management
- Program Development
- Permit/Closure Plan Processing
- Permit/Closure Plan Management
- Outreach and Education
- Technical Assistance
- Other Program Specific

The budget estimates and billings will show estimated amounts, while tracking of direct expenditures will verify that funds are being spent as planned. Budget estimates for doing regulatory activities on a facility are calculated using the following formula:

$$\begin{array}{rclcl} \text{(Estimated Direct Labor x Hourly)} & + & \text{Estimated Facility} & = & \text{Estimated} \\ \text{Hours} & & \text{Rate} & & \text{Fee Amount} \\ & & \text{Specific Costs} & & \end{array}$$

The direct labor hours is Ecology's estimate of time to be spent working on permitting (permit/closure plan processing) and compliance (permit/closure plan management) activities on a facility. The rate will support the direct and indirect costs (includes program indirect, public participation grants and the agency indirect) for the regulation of mixed waste. Facility specific costs are necessary

activities or items that do not qualify as a direct or an indirect activity, but still are necessary for regulating a facility. For example, contracts with architecture and engineering firms.

The actual billing, which occurs annually, adds an annual adjustment onto the formula and is shown as follows:

$$\begin{array}{r r r r r} \text{(Estimated Direct x Hourly)} & + & \text{Estimated} & + & \text{Annual} & = & \text{Total Billed} \\ \text{Labor Hours} & & \text{Facility} & & \text{Adjustment} & & \text{Amount} \\ & & \text{Specific} & & & & \end{array}$$

The annual adjustment is the difference between the estimated amount and actual accomplishment from the previous fiscal year. Ecology cannot exceed the fee amount established as necessary to carry out its duties in regulating mixed waste facilities. Therefore, Ecology will adjust fees annually to reflect actual accomplishment.

XI. ECOLOGY ASSISTANCE

For comments and general questions regarding the Mixed Waste Management Fee regulation contact Patrick Svoboda at (206) 438-8165.

Note: This document is intended for informational and guidance purposes only. It does not constitute a rule of Ecology, and Ecology reserves the right to change it at any time without notice to holders.

ATTACHMENT 1 SCINTILLATION WASTES

During the fee development process, many facilities questioned whether the fee should be assessed for liquid scintillation counting wastes which designate as a dangerous waste and contain carbon-14 and hydrogen-3 with radioactivity equal to or less than 0.05 microcuries per gram. Ecology has determined that mixed waste management fees can be applied to facilities that treat, store, or dispose of these scintillation wastes. A discussion of this issue is presented below.

The HWMA allows Ecology to regulate all dangerous wastes, including mixed waste, to the extent it is not preempted by federal law. Mixed waste is defined in the Mixed Waste Management Fee regulation as dangerous waste that contains both a nonradioactive hazardous component and source, special nuclear, or by-product material subject to regulation under the Atomic Energy Act of 1954 (AEA). Dangerous wastes are those solid wastes designated as dangerous waste or extremely hazardous wastes under the Dangerous Waste Regulations. Source, special nuclear, and by-product material are defined in the AEA. Carbon-14 and hydrogen-3 are considered by-product material. By-product material is defined as any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

A scintillation liquid, fluid, or cocktail is a solvent which acts as a medium for test materials to be measured for radioactivity. Once the testing is concluded, the material may be considered a waste. Wastes from scintillation activities are generated in a number of facilities including biological research laboratories, universities, hospitals, and power plants. The most common type of radioactive wastes found in scintillation liquids are hydrogen-3 (tritium) and carbon-14. Less common radioactive wastes are sulfur-35, calcium-45, iodine-125, and phosphorous-32.

The presence of the low-level radioactive component in the mixed waste generated by a commercial facility typically requires regulatory oversight by the WDOH and the Nuclear Regulatory Commission (NRC). Such oversight is required for scintillation wastes. However, federal and state regulations governing low-level radioactive waste allow for the disposal of liquid scintillation waste containing carbon-14 and hydrogen-3 with radioactivity equal to or less than 0.05 microcuries per gram without consideration for its radioactive component. Many facility operators requested Ecology to also accept the 0.05 microcurie per gram as a de minimis level for scintillation waste which contains a hazardous component thereby allowing for disposal as a dangerous waste only. If this were the case, the mixed waste management fee would not be assessed.

Although Ecology concurs with the WDOH and NRC determinations that such

low levels of carbon-14 and hydrogen-3 pose a low risk to human health and the environment, Ecology's dangerous waste regulations and laws do not provide a de minimis radioactive level for defining mixed waste or for disposing mixed waste from liquid scintillation counting. These regulations and laws also provide no exemption for facilities managing mixed waste from liquid scintillation counting. Therefore, facilities treating, storing, or disposing these liquid scintillation wastes will be subject to this fee. In an effort to reduce or eliminate such fees, Ecology offers the following options:

1. Change Scintillation Fluids. The solvent used in the scintillation liquid varies depending upon the manufacturer. Historically, the solvent consisted of benzene and toluene - both considered a dangerous waste. To avoid mixed waste management problems, a number of manufacturers now offer less hazardous scintillation fluids - some of which may not be considered a dangerous waste. Ecology highly recommends that users consult with Ecology before accepting a manufacturer's claim that their product is "non-hazardous". Some manufacturers, especially out-of-state manufacturers, are not aware of how Ecology designates materials as dangerous waste. Furthermore, manufacturers are not always willing to share the proprietary constituents of their product which may be a reason for designation. If a facility finds a product which does not designate as a dangerous waste and the facility does not add other materials to the product which cause the scintillation fluid to designate as a dangerous waste, their waste would not be subject to this fee nor the dangerous waste regulations.

2. Reduce Waste Generation Rates. Facilities who generate, accumulate, and store less than 2.2 pounds of extremely hazardous waste or 220 pounds of dangerous waste in a month do not need a dangerous waste permit. If these facilities adhere to the applicable generator portions of the dangerous waste regulations, they will not be assessed a permitting fee. It should be noted that these generation rates are cumulative for all dangerous waste. In other words, if a facility generates over 220 pounds of a non-radioactive dangerous waste at any location(s) on their facility, then every additional quantity of dangerous or mixed waste generated at that facility is fully regulated.

3. Move Waste Off-Site in Less Than 90 Days. Mixed waste that is transported off-site within 90 days of accumulation is not subject to permitting and therefore will not be charged a permitting fee. There are commercial treatment, storage and disposal facilities that will accept this waste. The dangerous waste regulations should be reviewed for restrictions on receiving facilities.

4. Pursue a Treatment by Generator Approval. Ecology issued a Treatment By Generator Technical Information Memorandum which outlines a method for generators to treat their own waste without a permit.

5. Evaluate Disposal Options. Although Ecology must designate this waste stream as mixed waste, Ecology, similar to the WDOH and NRC, will also allow disposal of this waste without consideration for its radioactive component. Therefore, if a disposal facility is willing to accept this waste, and their permit does not prohibit acceptance of this waste, Ecology will allow disposal at that facility.

EXAMPLE ONLY
ATTACHMENT 2

PERMIT ISSUANCE/CLOSURE PLAN PROCESSING AND MANAGEMENT

The following sequence of events is typically followed when Ecology issues a dangerous waste permit. Should a closure plan be required instead of a permit, the same sequence is followed except a notice of intent is not submitted and a closure plan is submitted instead of a Part B permit application.

<u>No.</u>	<u>Activity</u>	<u>Workload (Hours)</u>
1.	Ecology investigates need for mixed waste regulatory activity (may require site visit)	40 - 96
2.	Facility submits Notice-of-Intent and Part A Dangerous Waste Permit Application (Part A)	N/A
3.	Ecology reviews Notice-of-Intent and Part A	40 - 120
4.	Ecology requests & facility submits Part B Dangerous Waste Permit Application (Part B) SEPA** checklist	N/A*
5.	Ecology reviews Part B and SEPA checklist and sends facility a Notice-Of-Deficiency (NOD)	120 - 480
6.	Facility submits response to NOD	N/A
7.	Ecology reviews response and issues a second NOD (may require site visit)	80 - 240
8.	Facility resubmits Part B and SEPA checklist	N/A
9.	Ecology reviews revised Part B & SEPA checklist and writes a draft permit with a SEPA determination	120 - 480
10.	Ecology conducts public involvement activities	120 - 320
11.	Ecology writes and issues final permit	<u>120 - 320</u>
TOTAL		640 - 2056

* - Not applicable. Although activities 2, 4, 6, and 8 are conducted by the facility, and no hourly workload is presented, Ecology may still incur costs for training and research during this time which may be charged to the facility.

** - State Environmental Policy Act

The following activities are typically conducted by Ecology as part of permit/closure plan management.

<u>No.</u>	<u>Activity</u>	<u>Workload (Hours)</u>
1.	Compliance inspections (requires site visit)	40 - 200
2.	Technical review	40 - 200
3.	Regulatory review	<u>40 - 200</u>
	TOTAL	120 - 600

The hours given above are rough estimates for average facilities. Ecology employees charging time to this process may include environmentalists, engineers, hydrogeologists, chemists, inspectors, managers, administrative support and public involvement/education officers.

If a facility only needs a permit for the storage of one drum of well-characterized waste, Ecology's workload would likely be less than these averages. However, if a facility accepts a variety of mixed waste generated off-site, employs complex treatment technologies, and landfills the treated waste, their costs may be greater than these averages.

Permits must be renewed at least every ten years. Therefore, at the time of renewal, additional permit fees will be incurred. However, as long as the facility and its mixed waste management practices remain the same, permit re-issuance should be substantially less than the initial issuance fees.

ATTACHMENT 3 PUBLIC PARTICIPATION GRANTS

As an anticipated cost, Ecology must charge facilities one percent of the total fees collected to fund Public Participation Grants. This charge is required because money collected from the mixed waste management fee will be deposited in the state toxics control account.

Created in 1989 under the Model Toxics Control Act, the state toxics control account funds a variety of activities including:

- hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under the HWMA;
- solid waste planning, management, regulation, enforcement, technical assistance, and public education;
- hazardous waste cleanup;
- state matching funds required under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); and
- water and environmental health protection and monitoring programs.

The toxics control account has a provision requiring that one percent of all money in the account fund Public Participation Grants. Public Participation Grants are given to individuals who may be adversely affected by a release or threatened release of a hazardous substance, and to not-for-profit public interest organizations. The grants assist in the investigation and remediation of these releases or threatened releases and implement the state solid and hazardous waste management priorities defined in the HWMA. Grants can be awarded in amounts up to \$50,000.

The MTCA not only requires a responsible party to clean up their waste, but also provides opportunity for the public to participate with and learn more about hazardous waste. In passing the MTCA initiative, Washington State voters endorsed public involvement in waste management issues. Ecology also supports public involvement in mixed waste issues.

Since the funding of public participation grants is required by law, Ecology has determined it to be a "reasonable cost" which will be assessed under the Mixed Waste Management Fee rule. Therefore, Ecology will add this charge to each facility's bill.

**ATTACHMENT 4
BILLING AND BUDGET PROCESS**

The steps in the billing and budget process, using the 95-97 biennium (FY96 and FY97) as an example, is as follows:

- | | |
|--|--------------|
| 1. Ecology determines workload and develops biennium budget for FY96 and FY97. | Jan-Jun 1994 |
| 2. Facilities comment on their portion of workload and budget for FY96 & FY97. | Jul 1994 |
| 3. Ecology submits 95-97 budget to the OFM. | Aug 1994 |
| 4. OFM and Governor submit 95-97 budget to Legislature. | Jan 1995 |
| 5. Legislature approves 95-97 budget. | Apr-Jun 1995 |
| 6. Ecology bills facilities for FY96 activities. | Oct 1995 |
| 7. Facilities pay bill for FY96 activities. | Nov 1995 |
| 8. Ecology bills facilities for FY97 activities. | Oct 1996 |
| 9. Facilities pay bill for FY97 activities. | Nov 1996 |

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Subject: ESTIMATED BIENNIAL MIXED WASTE MANAGEMENT FEE

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