Chapter 173-328 WAC
MIXED WASTE MANAGEMENT FEES

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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 suffi-
cient 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.

[Statutory Authority: RCW 70.105.280. 93-09-065 (Order 91-24), § 173-
328-010, filed 4/20/93, effective 5/21/93.]

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.

[Statutory Authority: RCW 70.105.280. 93-09-065 (Order 91-24), § 173-
328-020, filed 4/20/93, effective 5/21/93.]

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 con-
tains both a nonradioactive hazardous component and source,
facilities shall notify the facility owner/operator of any changes to their estimated fee assessment.

[Statutory Authority: RCW 70.105.280. 93-09-065 (Order 91-24), § 173-328-050, filed 4/20/93, effective 5/21/93.]

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.

(d) 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.

[Statutory Authority: RCW 70.105.280. 93-09-065 (Order 91-24), § 173-328-060, filed 4/20/93, effective 5/21/93.]

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.

[Statutory Authority: RCW 70.105.280. 93-09-065 (Order 91-24), § 173-328-070, filed 4/20/93, effective 5/21/93.]