

Municipal Wastewater Permit Fees Advisory Committee

Background and Orientation

Purpose and Authority

SB 5585 (2022 Legislative Session) creates this The Municipal Wastewater Permit Fees Advisory Committee (“advisory committee”)

The advisory committee will produce municipal wastewater discharge permit fee recommendations to the Department of Ecology’s Water Quality Program (WQP). There are three phases, the first two of which are required by SB 5585:

- Conduct a workload analysis to determine the necessary staffing to best support permittees and reduce the permit backlog, to meet state and federal legal mandates and needs of permittees.
- Recommend how to structure the underlying permit fees and the timing and sequence of adjustments to reduce the permit backlog to 20% by 2027.
- (optional) Collaboratively develop communication tools that permittees can use when discussing the new fee schedule with stakeholders like elected officials, rate payers, and council members.

Scope

The Municipal Wastewater Permit Fees Advisory Committee will create recommendations to adjust the fees for permits authorized by [RCW 90.48.162](#) and [RCW 90.48.165](#). The committee will focus on the fee schedule for municipal wastewater discharge individual permits based on residential equivalent. This fee schedule is described in Section (3)(a) of the current [WAC 173-224-040 Permit fee schedule](#).

Key Concepts

The 20% backlog target

Why is the target a 20% backlog, rather than eliminating the backlog altogether?

- WQP and EPA see a backlog of up to 20% as an achievable and meaningful reduction benchmark. Reducing the backlog lower than 20% is disproportionately expensive with diminishing returns.
- There are routinely situations where it makes sense to have a permit take a little longer, and be expired for a short period of time. For example, when a TMDL is being completed; we might want to wrap up any changes in loading targets so they can be incorporated into the permit update.

How long until we achieve a 20% backlog?

- Permits expire and must be updated every 5 years.

- Ecology’s position has been that we are NOT trying to hire more people than we will need for the long-term. We are trying to avoid over staffing.
- We are aiming for a plateau. If we have enough staff for the long-term, the backlog will naturally be gone five years after we are staffed up. This will likely put us a little behind the target of 20% or less by 2027.

Constraints and flexibility

- We *do not* have discretion or flexibility about this group’s objective; the dates, deliverables, and performance targets are all set in statue. We must determine the staffing level needed to effectively eliminate the permit backlog, and the amount of revenue needed to cover that.
- We *do* have flexibility about the fee schedule. The rate doesn’t have to be the same for all facilities, and probably can rise over time.

Vision

- Technical and policy guidance from a diverse set of experts shaping an equitable fee structure for wastewater permit fees.
- Our vision once the new fee structure is in place:
 - Better service, support, and technical assistance to our permittees;
 - A backlog consistently around 20%;
 - Wastewater discharge quality that protects Washington’s waterways and is safe for aquatic wildlife, habitat, and recreation.

Team Membership, Roles, and Responsibilities

- Selection Process
 - Membership outreach determined by statutory language in SB 5585, which amended [RCW 90.48.465](#). We selected individuals by conferring with stakeholder organizations (CCW, WASWD, AWB, WSAC, WAC, environmental groups). We paid particular attention to those with applicable experience, a relevant skill set, and demonstrated interest in participating. For representatives from the permitted community, we selected facilities with geographic and size diversity.
- Member responsibilities
 - Members are expected to participate regularly and constructively. Estimated time commitment for preparation and participation is 4-8 hours per month, plus travel for in-person meetings. Responsibilities include participation in meetings, responding to follow-up items jointly determined in the previous meeting, consulting with peers and/or their organization for input on materials to review, contributing those perspectives to discussions and decision-making, reviewing and approving draft deliverables.
- Group Roles:
 - **Members** fully participate

- **Facilitator** directs the work of the team
- **Subject Matter Experts** may be added to the agenda for particular topics and may be called on for input
- The facilitator and group may consult people outside of the membership of the group to gain expertise on relevant topics.
- Absences & Alternates
 - If a member cannot make a meeting, an informed and empowered alternate is allowed with approval from the advisory committee facilitator (email may suffice). Please note that because meetings will never begin discussion on an item and make a decision on that item on the same day, members can still communicate their position on a discussion topic if absent. If a member is absent for a decision-making meeting, their alternate will need to be informed on the representative's position and be able to make an informed vote if additional information arises in final discussion.

Team Protocols:

- Ground Rules- see separate document.
- Public meetings
 - All meetings are open to the public. Each meeting will hold 10 minutes at the end of the agenda for public questions and comment.
- Public Comment
 - Members of the public may submit written questions or comments to ECYReWQPMO@ecy.wa.gov.
- Meeting materials including agendas and minutes will be housed on the [EZView web page](#) hosted by the Washington State Department of Ecology.
- We will make every effort to provide meeting materials one week before the meetings.

Schedule and Deliverables:

- The advisory committee facilitation team will manage and schedule the meetings (one month before virtual meetings, two months before in-person meetings), send an agenda one week before each meeting, and send follow up items after meetings with action items or materials for review.
- A timeline will be maintained on [EZView](#) to illustrate the committee's general progress.
- This advisory committee will have three deliverables, 2 statutorily required and 1 optional.
 - The **first deliverable** is a workload analysis that evaluates the staffing necessary in the permit fee program to support adequate levels of service to permittees. The results of the workload analysis are both an FTE level that effectively eliminates the permit backlog and a revenue level that fully funds those FTEs.
 - The **second deliverable** is a recommendation on the fee structure for the program to reduce municipal wastewater permitting backlogs and recover the cost of administering the permits.

- The **third (and optional) deliverable** is communications materials to assist permittees in discussions with their elected officials, ratepayers, city councils, etc.. The advisory committee and Ecology will collaboratively create these materials to provide consistent messaging and necessary background for permittees to explain the fee increase to stakeholders.
- The advisory committee will build these deliverables from discussion and decision language as they are created and sent out to group members. The advisory committee facilitation team will compile the notes, final data, and final recommendations and present them to the committee members for review, discussion, and final approval.

Related Processes

This advisory committee connects with other concurrent processes. The advisory committee's deliverables #1 and #2 will inform the related rulemaking and budget request processes.

Rulemaking

This advisory committee process is effectively a module of the rulemaking process for Water Quality Permit fees, which will result in updates to the municipal wastewater discharge permit section of the Water Quality Permit fee rule. Ecology will use the advisory committee's recommendations specifically as the basis for changes to the municipal wastewater discharge permit fee rule. The CR101 was published on June 6th, 2022.

Please note that while the entire fee rule (chapter 173-224 WAC) is open for updates, the advisory committee's role and authority focuses solely on municipal wastewater discharge individual permit fees. The entire fee rulemaking is a public process, and anyone can participate in the public comment period.

One of our deliverables is a set of recommendations for municipal wastewater discharge permit fees, to provide to Ecology by the end of 2023. In accordance with the statute, Ecology will then use those recommendations as the basis of the fees in the CR102 (first draft of an amended rule for public comment). We anticipate the CR102 to be published around February. The numbers in the CR102 will match the numbers in this group's recommendations, **provided** we incorporate inflation into our estimates of the revenue needed.

Around May Ecology will publish the CR103, which could show adjustments to the CR102 based upon public comment. (Typically those are very limited, and just clarifications.)

Ecology will inform the committee about any changes at the end of the rulemaking process.

Budget requests

This committee's work will overlap with the WQP's budget request for additional municipal wastewater discharge permitting staff. In order to start reducing the permit backlog, Ecology will submit a request for additional staff to the Governor's budget office (OFM) by early September 2022. Ideally, the request item is included in the budget passed by the legislature in April 2023. If the request passes, Ecology will begin hiring staff in July 2023.

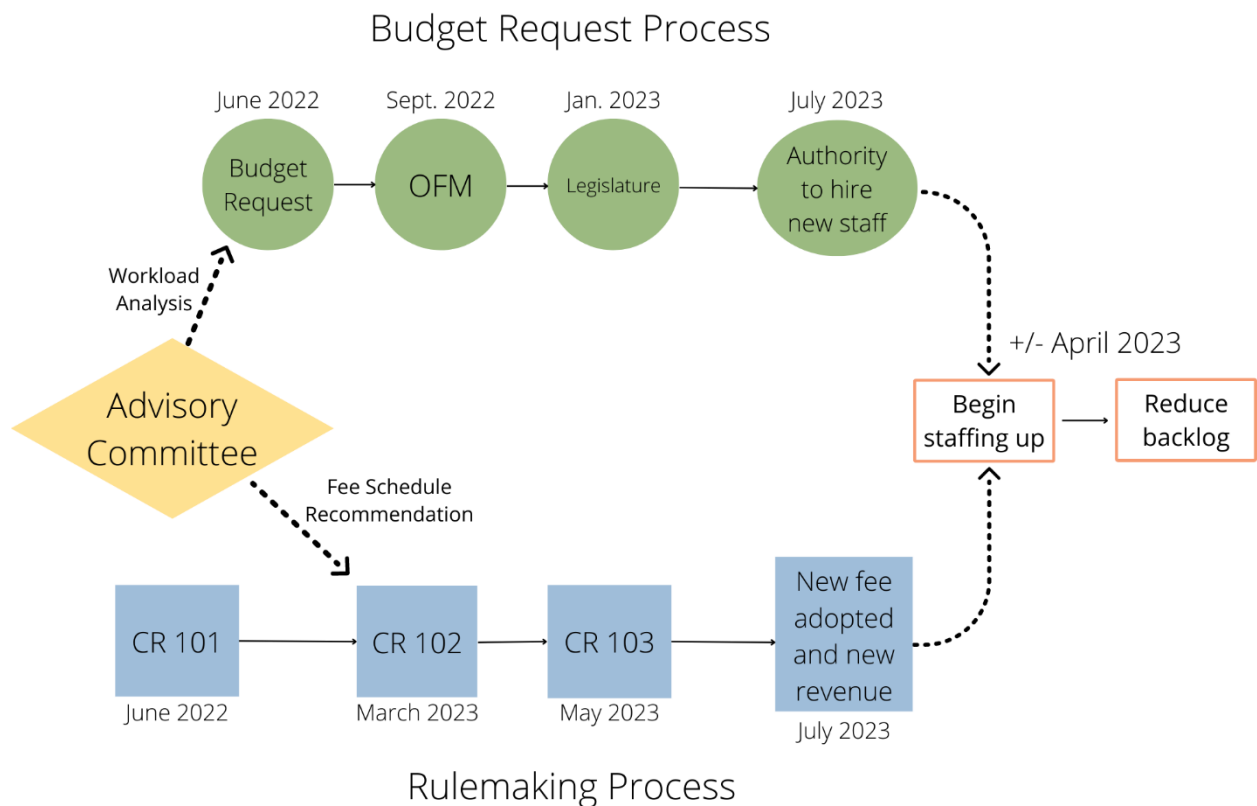
The budget request will reference the advisory committee process, and will include an estimate for a range of FTEs and needed revenue. The advisory committee's workload analysis will

inform the target number of FTEs included in the budget request. The workload analysis will be completed around late August in accordance with the budget request timeline. We will be able to fine tune our numbers through October if needed by coordinating with OFM.

Note that the numbers we discuss in this committee and the numbers you see in the budget request will **not** match. The fee structure that the committee recommends could be increased to address the following factors:

- If we add a large enough set of FTEs, WQP will likely add some fractions of FTE for additional supervisory and support staff.
- Every budget request also includes a percentage to cover the costs of shared agency costs, from IT support to building costs, or Fiscal or HR staff.

These additional costs will be covered by fund balance over the near term. The advisory committee facilitation team will keep advisory committee members apprised of any developments in the budget request as it makes its way to the Governor.



What happens if our recommendations don't produce the target outcomes?

If we are not reducing the backlog as fast as we expect to, we have the ability to reconnect. Because the fee rule is updated routinely (every two years), we can easily make small adjustments to get us on track.

If Ecology sees that we are collecting more revenue than we need, we can either reduce the fee level in any odd-numbered year, or hold it level until inflation brings it back into balance.

If we are still falling behind on reducing the backlog in any location, and need to add a staff person and collect more revenue, we can incorporate that change into a future rule revision.