

Chapter 173-312 WAC - *Coordinated Prevention Grants and*  
Chapter 173-313 WAC - *Local Solid Waste Enforcement Grant Regulation*  
Transcript of Public Hearing Transcript  
June 27, 2017

*Note to reader. A recording of this hearing is contained in the electronic file record for this rulemaking. The transcription that follows here is intended to be a faithful rendering. Verbal pauses (um, er, etc.) have been omitted, and immediately corrected misstatements have been accepted.*

Kirsten Miller: I'm Kirsten Miller, hearings officer for this hearing. This afternoon we are conducting a hearing on the proposed amendments for chapter 173-312 of the Washington Administrative Code, *Coordinated Prevention Grants*. We are proposing to repeal chapter 173-313 *Local Solid Waste Enforcement Regulation* at the same time. Let the record show it's 2:28 on June 27<sup>th</sup>, 2017, and this hearing is being held at the Department of Ecology Lacey Building in ROA 36, 300 Desmond Drive, Lacey 98503. We also have people attending via webinar.

Legal notices of this hearing were published in the Washington State Register on May 24<sup>th</sup>, 2017 with the Washington State Register number 17-11-139. In addition, notices of the hearing were emailed to 1,199 members of Ecology's WAC Track ListServ on May 31<sup>st</sup>, 2017, emailed to 218 members of the Waste 2 Resources Program Solid Waste Financial Assistance ListServ on May 25<sup>th</sup>, 2017, and mailed to chairpersons and natural resource managers of Indian tribes recognized by the state of Washington on May 25<sup>th</sup>, 2017. Ecology is accepting both written and oral comments for the proposed amendments. I note that so far four people have indicated that they'd like to provide formal comment. After they're done, I'll give others who have not commented already a final opportunity to do so. So when I call your name please come forward, clearly state your name and affiliation if you'd like to, and then I'll start the timer and you can begin your comments. For those of you participating by webinar please use the chat feature to type your name and desire to comment and Dawn will let me know. She'll be unmuting your line when it's your turn to comment. Okay, so first we'll have Laura. And then will be followed by Andy and then Art. And then we'll go to the webinar participants. Okay, I'm going to start the timer.

Laura Berg: My name is Laura Berg. I am with the Washington Association of County Solid Waste Managers, a recently formed affiliate under the state association of counties. On May 18<sup>th</sup> we sent a letter requesting a delay in this rule update for several reasons, and those reasons still stand.

We have concerns with changing the allocation in rule, we have concerns with the performance penalties and criteria, and we have concerns with the timelines involved. When you add a potential state shutdown, a rule update in the middle of a grant cycle, the possibility of penalties, you have the state fiscal year versus the county fiscal year, and this all creates real issues for some county solid waste at this point.

We think that this is an imbalanced approach. You have implementation and enforcement. Implementation is the largest function of the goals to prevent and minimize environmental contamination by hazardous and solid waste. Funding is also the largest portion for the planning, implementation, and collection of these waste streams. And that the changes proposed in rule create an imbalance in that, The rulemaking has changed the amount for implementation, and when rulemaking affects the dollars coming from the Legislature, we feel that the legislative body of a county needs to be involved, and the county commissioners and council members will be made aware and plan to weigh in as soon as possible.

I will be sending in formal comments. We have real concerns that the allocation changes create further cuts to implementation where there is not necessarily a cut to enforcement, and we'll be providing that in writing.

Kirsten Miller: Thank you, Laura. So Andy, when you're ready.

Andy Comstock: My name is Andy Comstock, I'm with Tacoma Pierce County Health Department. Thank you for the opportunity to comment. The first comment that I wanted to focus on was some of the language regarding the potential ten percent penalty that is in section 173-312-080. The language that I would like to see amended or changed is the inclusion of the terminology up to ten percent for these penalties. The way it's currently written, when the determination at some point in time that a penalty would be imposed, the way I read this language is that it would automatically be a ten percent penalty. I think there's room to include a sliding scale, gravity criteria, etcetera, for the imposition of said penalties etcetera, for those entities that are not administering their grants correctly. Obviously, you know, the intent here is to encourage people to appropriately manage their grants etcetera. I certainly endorse that and support that concept, but I think having some additional implementation criteria here or sliding scale would be helpful.

I do want to talk about the allocation table as well. As a local public health agency I know that the framework for the enforcement grants are trying to keep some of the smaller jurisdictional health departments around the state of Washington whole, and to be able to continue their enforcement grant activities. So, we are in support of the allocation table the way it is set up to continue to enforce those small jurisdictional health departments. Thank you.

Kirsten Miller: Thank you. Okay, and Art.

Art Starry: I'm Art Starry. I'm the environmental health director for Thurston County Public Health and Social Services. And I'm also here today representing the Environmental Health Directors for the state of Washington. And we're generally in support of the proposed WAC. Both in terms of eliminating 313 and combining it with 312 and having a kind of a single coordinated prevention grant WAC which I guess is going to be retitled as solid waste financial assistance, and we concur also with the language

changes because we think that's much clearer, and explains better what the purpose of the programs are. Like Andy said, I think the penalty provisions could possibly be modified to be a sliding scale, we would support that.

We believe that the language within the other proposed language as far as the contributed services and providing a new way for some alternative mechanisms for providing match is a step in the right direction and might help both solid waste enforcement activities as well as the folks who are responsible for implementing and planning. And we do concur that there, I guess we believe that, there is a need for some sort of... to give Department of Ecology some latitude in how funds are distributed between solid waste enforcement, and solid waste implementation and planning, especially when coordinated prevention grant funding is reduced. As we're likely to see this coming year, with CPG reduced to ten million dollars or less, using the traditional 80/20 split is going to make it difficult for local health jurisdictions to provide adequate solid waste enforcement. We're seeing that with smaller jurisdictions that are solely funded by CPG for solid waste enforcement, if you do the math and take the 20% of the ten million dollars, that that's going to really reduce their ability to do stuff, and we're afraid that they won't be able to have any solid waste enforcement activities. So we believe that again it is appropriate for Ecology to have some latitude in that.

And so thank you for the opportunity to comment. If there is additional work or this is continued we would welcome the opportunity to work with Ecology and with the other partners to try to make this work as well as possible. Thank you.

Kirsten Miller: Thank you. Okay, so we have one person on the webinar.

Dawn Drake: Kyle Dodd would like to testify.

Kirsten Miller: Okay.

Kyle Dodd: Hello, Dawn can you hear me?

Kirsten Miller: Yes, so you can begin now.

Kyle Dodd: Thank you. Kyle Dodd Environmental Health Manager, San Juan County Health and Community Services. And I coming from the perspective of a small local health jurisdiction with minimal resources. Overall, I support the draft that Ecology has proposed, and I have a couple of comments related to the significant changes that were made.

First comment is related to 080 (2), the allocation. And I think that the allocation is reasonable and considers that the hard and fast 80-20 split was acceptable and allowed for both enforcement and implementation to both perform their duties during historic levels of CPG funding, but that the allocation needs a revision based

on the current decreasing CPG funding trend, to allow local health jurisdictions to retain the capacity to carry out our mandated enforcement programs if the funding level continues to decrease.

The second comment is related to 080 (3) the evaluation. I also agree that there should be criteria to evaluate performance, and that I know that Ecology drafted the criteria and circulated them amongst the local solid waste financial assurance workgroup, and that local health jurisdictions did submit comments. So, my comment is that once a final version of the criteria and the implementation plan are finalized, that they be reviewed again by the workgroup with an opportunity to comment. I also did hear earlier on the call that staff did recommend delaying the implementation of any penalties to 2021 cycle, and I also support that. Thank you.

Kirsten Miller: Thank you. Is there anyone else that wishes to comment on the webinar?

Dawn Drake: I believe we have one more participant that would like to comment. You've been unmuted, if you would like to provide your comment directly for the record, you are unmuted and are able to begin.

Melissa Sutton: Perfect. This is Melissa Sutton environmental health specialist with Clark County Public Health. As a local health jurisdiction it's imperative to fund mandated programs such as solid waste enforcement. And Clark County Public Health is supportive of ensuring that solid waste enforcement is able to fully fund LHJ's solid waste enforcement as proposed in the draft allocation table, during budgetary shortfalls.

Kirsten Miller: Okay. Thank you. So, we've heard from everyone in the room. Is there anyone else on the webinar that wishes to comment?

Dawn Drake: No, I do not believe anyone else would like to comment today.

Kirsten Miller: Okay. So, just as a final reminder, all the comments received today, whether in person or by webinar, and those provided to Ecology at any time during the public comment period, are a part of the official record for this process, and will receive the same consideration. You can also provide comments on the proposed amendments online, or by regular mail postmarked by July 7th, 2017. You can send written comments to Tami Ramsey at the Department of Ecology, Waste 2 Resources Program, PO Box 47600, Olympia, WA 98504-7600, or email Tami at [tami.ramsey@ecy.wa.gov](mailto:tami.ramsey@ecy.wa.gov).

Ecology will send notice about the concise explanatory statement publication to everyone that provided written comments or oral testimony on this rule proposal and submitted contact information, everyone that signed in for today's hearing and provided an email address, and other interested parties on the agency's mailing list for this rule.

The concise explanatory statement will contain the agency's response to questions and issues of concern that were submitted during the public comment period. If you'd like to receive a copy please make sure that your contact information is on the sign in sheet, or contact Tami Ramsey. You can find her contact information on the PowerPoint handout and the other handouts in the back of the room. The next step is to review the comments and make a determination whether to adopt the rule. Ecology Director Maia Bellon will consider the rule documentation and staff recommendations, and will make a decision about adopting the proposal. Adoption is currently scheduled for August 23<sup>rd</sup>, 2017. If the proposed rule should be adopted that day and filed with the code reviser, it will go into effect 31 days later.

So those are the next steps for the rule update. I think everyone signed in on the sign in sheet, and if you have other questions about the presentation today, staff can stay a couple of minutes after the hearing and answer some of the questions. So, on the behalf of the Department of Ecology, thank you for coming today and participating by webinar. We appreciate your time, comments, and participation. Let the record show that this hearing is adjourned at 2:44 PM.