



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO #11-04

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 11-10-087 ; or | <input type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject)

General Regulations for Air Pollutions Sources, Chapter 173-400 and Operating Permit Regulation, Chapter 173-401.

Hearing location(s):
 Ecology Headquarters Building
 300 Desmond Drive SE
 Lacey, WA 98503

Date: July 26, 2011 Time: 6:00 PM

Submit written comments to:

Name: Linda Whitcher
 Address: Department of Ecology Air Quality Program
 PO Box 47600
 Olympia WA 98504-7600
 e-mail linda.whitcher@ecy.wa.gov
 fax (360)407-7534 by (date) August 2, 2011

Assistance for persons with disabilities: Contact

Air Quality Program at (360) 407-6800 by July 19, 2011.

TTY (771) or (877) 833-6341

Date of intended adoption: 8/10/2011
 (Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The U.S. Environmental Protection Agency (EPA) established thresholds for greenhouse gas emissions in June 2010 that Ecology implemented through amendments to Chapter 173-400 WAC, General Regulations for Air Pollution Sources and Chapter 173-401 WAC, Operating Permit Regulation. EPA is working on amendments that will defer greenhouse gas permitting requirements for carbon dioxide emissions from biomass-fired and other biogenic sources. They plan to complete this rulemaking by July 2011 to defer permitting requirements for CO2 emissions from these sources for three years. Before the end of the three year period, EPA intends to issue a second rulemaking that determines how CO2 emissions should be treated or counted under GHG permitting requirements.

The purpose of this rule amendment is to assure the consistency between the provisions that implement the federal and state Clean Air Acts. These rule amendments will impact greenhouse gas permitting under the Prevention to Significant Deterioration (PSD) and Title V Operating Permit programs.

Reasons supporting proposal: Ecology is required to keep the rules that implement the Washington Clean Air Act in compliance with EPA regulations. These amendments will bring the rules for new source review into compliance with the federal regulations.

Statutory authority for adoption: Chapter 70.94.510 RCW
 Washington Clean Air Act

Statute being implemented: Chapter 70.94 RCW Washington
 Clean Air Act

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

DATE
 6/22/11

NAME (type or print)
 Polly Zehm

SIGNATURE *Polly Zehm*

TITLE
 Deputy Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: June 22, 2011

TIME: 9:43 AM

WSR 11-13-127

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

EPA is currently reviewing comments submitted in response to their proposal to defer greenhouse gas permitting requirements for carbon dioxide emissions from biomass-fired and other biogenic sources. EPA's program is still in development. EPA expects to finalize its proposed rule by July 1, 2011. To maintain consistency and reduce costs for business and industry, Ecology intends to adopt revisions to WAC 173-400 and WAC 173-401 that incorporate EPA's final language.

Name of proponent: (person or organization)

Air Quality Program, Department of Ecology

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Linda Witcher	Lacey, WA	(360) 407-6875
Implementation.... Rich Hibbard	Lacey, WA	(360) 407-6896
Enforcement..... Rich Hibbard	Lacey, WA	(360) 407-6896

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

This rule revision is exempt from the requirement to prepare a small business economic impact statement. Chapter 19.85 RCW, Regulatory fairness act, requires that agencies prepare small business economic impact statements when adopting new rules. This act contains some specific exemptions including RCW 19.85.025(3): Application of chapter — Limited.

(3) This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4).

RCW 34.05.310(4) states: (4) This section does not apply to:

(c) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

This rule revision is exempt from the requirement to prepare a cost-benefit analysis in compliance with RCW 34.05.328(5)(b) (iii):

Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.