



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**  
(Implements RCW 34.05.310)  
Do **NOT** use for expedited rule making

**Agency:** Department of Ecology AO #13-12

**Subject of possible rule making:** Ecology is proposing to amend 3 rules through this rule-making. The main focus is to amend the Operating Permit Regulation, Chapter 173-401 WAC. Amendments will:

- Update the allocation methodology for fees;
- Revise non-statutory audit provisions;
- Clarify incinerator applicability and applicability of the regulation to synthetic minor sources (e.g., sources that would be part of the program except that they limit their emissions); and
- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Ecology also proposes to amend Chapter 173-400 WAC, General Regulations for Air Pollution Sources, and Chapter 173-455 WAC, Air Quality Fee Rule to maintain consistency with the Operating Permit Regulation.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 70.94.011, RCW 70.94.161, RCW 70.94.162, and RCW 70.94.331 provide clear and direct authority to adopt rules on this subject.

**Reasons why rules on this subject may be needed and what they might accomplish:**

See Attachment A.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

Ecology will involve Washington's seven local clean air agencies, the Energy Facility Site Evaluation Council (EFSEC), and US Environmental Protection Agency (EPA) in the rule-making process. Ecology will develop a distribution list, invite these participants to participate in stakeholder meetings, send out public notices and post information about this rule making on our web site.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

Ecology is amending existing rules. During the rule-development process Ecology will ask for feedback from stakeholders on key issues related to this rule making and proposed rule language changes. Ecology will post rule-making information on our rule-making web site, hold one or more stakeholder meetings, and maintain and use email distribution lists to keep interested parties informed. During the formal comment period Ecology will hold at least one public hearing on the proposed rules.

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

Interested parties can participate in the formulation of the proposed rules via stakeholder meetings, by contacting Ecology staff directly, and by commenting on the proposed rule. To follow our rule-making process, click on [http://www.ecy.wa.gov/programs/air/rules/rules\\_laws/wac173401/1312/overview.html](http://www.ecy.wa.gov/programs/air/rules/rules_laws/wac173401/1312/overview.html). Contact: Crystal Rau, Department of Ecology, Air Quality Program, 4601 N Monroe St, Spokane, WA 99205-1295, crystal.rau@ecy.wa.gov and 509-329-3595

**DATE**  
4/21/2014

**NAME (TYPE OR PRINT)**  
Stu Clark

**SIGNATURE**

**TITLE**  
Air Quality Program Manager

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STATE OF WASHINGTON  
FILED

**DATE: April 22, 2014**

**TIME: 11:03 AM**

**WSR 14-09-097**

**Reasons why rules on this subject may be needed and what they might accomplish:**

This rule making focuses on 4 areas:

1. Fees – sources are required under state and federal law to pay fees that cover the full cost of the program.
  - Align fee allocation methodology with work load. This provides a fair fee distribution across Ecology's air operating permit sources. Some fees will increase and others may decrease.
  - Determine how fees for synthetic minors and certain incineration units should be assessed.
2. Audits – audits of permitting agencies are required by state law.
  - Reduce the frequency to match the needs of a mature program. Reducing the audit frequencies lowers program costs.
  - Remove audit questions from the rule and redesign the audit's focus. Redesigning the audit provisions provides more meaningful feedback to each permitting agency and their regulated communities.
3. Applicability – determines which sources must comply with air operating permit requirements.
  - Update applicability for certain incineration units to match the federal operating permit rule.
  - Identify applicability for synthetic minor sources. This will address work load associated with regulating these sources, which would have been required to get an operating permit if they had not limited their emissions.
4. Rule Language – rule language will be updated to align with federal rules, lessen confusion and increase usability of the rule, and correct errors. If needed, Chapter 173-400 WAC and Chapter 173-455 WAC will be updated to maintain consistency with changes to Chapter 173-401 WAC.