PROPOSED RULE MAKING

Agency: Department of Ecology  AO # 15-10

☐ Preproposal Statement of Inquiry was filed as WSR 15-19-115
☐ Expedited Rule Making–Proposed notice was filed as WSR ________ ; or
☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).
☐ Original Notice
☐ Supplemental Notice to WSR 16-02-101
☐ Continuance of WSR ______

Title of rule and other identifying information: Ecology proposes a new rule (Chapter 173-442 WAC – Clean Air Rule) and amendments to one existing rule (Chapter 173-441 WAC – Reporting of Emissions of Greenhouse Gases). Ecology initially filed a proposal in 2016, but withdrew the proposal to allow additional time for updating and refining the rule language in response to stakeholder input. This subsequent proposal addresses input from stakeholders. If you submitted a comment on the previous proposal, you will need to submit a new comment if you want Ecology to include it in the record for this subsequent proposal. If your comment on the previous proposal has been addressed in the subsequent proposal, you do not need to resubmit your previous comment but are welcome to do so.

Hearing location(s):
See Attachment A, Hearing Locations.

Submit written comments to:
Name: Sam Wilson
Address: Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600
E-mail: AQComments@ecy.wa.gov
Fax: 360-407-7534
Online: Submitted through the online comment tool http://www.ecy.wa.gov/climatechange/engagement.htm
By: July 22, 2016

Date of intended adoption: September 15, 2016 (on or after)
(Note: This is NOT the effective date)

Assistance for persons with disabilities: For special accommodations or documents in alternate format, call 360-407-6800, 711 (relay service), or 877-833-6341 (TTY)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
Ecology proposes a new rule (Chapter 173-442 WAC – Clean Air Rule) and amendments to one existing rule (Chapter 173-441 WAC – Reporting of Emissions of Greenhouse Gases). Chapter 173-442 WAC will establish emission standards for greenhouse gas (GHG) emissions from certain stationary sources located in Washington State, petroleum product producers or importers, and natural gas distributors in Washington State. Parties covered under this program will reduce their GHG emissions over time. A wide variety of options to reduce emissions will be available.

Ecology will amend Chapter 173-441 WAC as necessary to change the emissions covered by the reporting program, modify reporting requirements, and update administrative procedures to align with the new rule (Chapter 173-442 WAC – Clean Air Rule). Ecology is no longer proposing to revise Chapter 173-400 WAC as part of this rulemaking.


Statutory authority for adoption:
Chapter 70.94 RCW and Chapter 70.235 RCW

Statute being implemented:
Chapter 70.94 RCW and Chapter 70.235 RCW

Is rule necessary because of a:
Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION: [King County Superior Court No. 14-2-25295-1]

DATE 5/31/16

NAME Polly Zehm

SIGNATURE

TITLE Deputy Director, Department of Ecology

(COMPLETE REVERSE SIDE)
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Under RCW 70.94.331, Ecology may adopt rules establishing emission standards for types of emissions or types of sources of emissions, or a combination of these.

Chapter 173-442 WAC is intended to establish emission standards for greenhouse gas emissions from certain stationary sources located in Washington State, petroleum product producers or importers, and natural gas distributors in Washington State.

Ecology has made a preliminary determination that it is in the public interest and will best protect the public welfare of the state if Chapter 173-442 WAC is implemented and enforced statewide solely by Ecology because:

- the covered parties regulated by the rule are located throughout the state; and
- as the agency that crafted the rule, Ecology is in the best position to ensure that the rule is implemented and enforced as intended; and
- as a single agency, Ecology can ensure that the rule is consistently implemented and enforced statewide.

Sole jurisdiction establishes a single regulating entity for business owners to interact with and provides greater confidence that regulatory determinations are made on an objective, impartial, and consistent basis.

Ecology is accepting comments on this issue during the formal public comment period, which ends on July 22, 2016.

<table>
<thead>
<tr>
<th>Name of proponent:</th>
<th>Department of Ecology Air Quality Program</th>
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<tbody>
<tr>
<td>Name of agency personnel responsible for:</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Office Location</td>
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<tr>
<td>Drafting</td>
<td>Neil Caudill</td>
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<td></td>
<td>Bill Drumheller</td>
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<td>Implementation</td>
<td>Air Quality Program</td>
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<tr>
<td>Enforcement</td>
<td>Air Quality Program</td>
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Has a small business economic impact statement been prepared under Chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, Chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

Name: Kasia Patora
Address: Economics and Regulatory Research - Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600
Phone: (360) 407-6184
Fax: (360) 407-6989
E-mail: Kasia.Patora@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Kasia Patora
Address: Economics and Regulatory Research - Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600
Phone: (360) 407-6184
Fax: (360) 407-6989
E-mail: Kasia.Patora@ecy.wa.gov

☐ No: Please explain:
Attachment A

Hearing Locations
Ecology is holding four public hearings on this rule proposal, one in Western Washington, one in Eastern Washington, and two webinars.

**In-Person Hearings**
The event will begin with a short presentation followed by a question and answer (Q&A) session. The hearing will start after the Q&A session and that is when Ecology will accept oral comments. Staff will accept written comments at any time during the event. In-person hearings will conclude if no one has signed up to testify within 30 minutes of opening the hearing.

<table>
<thead>
<tr>
<th>Eastern Washington - Evening</th>
<th>Western Washington - Evening</th>
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<tbody>
<tr>
<td><strong>Date:</strong> Tuesday July 12, 2016</td>
<td><strong>Date:</strong> Thursday July 14, 2016</td>
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<tr>
<td><strong>Time:</strong> 6:00 p.m.</td>
<td><strong>Time:</strong> 6:00 p.m.</td>
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<tr>
<td><strong>Location:</strong> The Davenport Grand Hotel 333 W. Spokane Falls Blvd Spokane, WA 99201</td>
<td><strong>Location:</strong> The Red Lion Hotel 2300 Evergreen Park Dr SW Olympia, WA 98502</td>
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**Webinar Hearings**
A webinar is an online forum accessible from any computer or smart phone with an internet connection. For more information about the webinar, and instructions on how to register and participate through the webinar, visit: [http://www.ecy.wa.gov/programs/air/rules/webinars.htm](http://www.ecy.wa.gov/programs/air/rules/webinars.htm)

<table>
<thead>
<tr>
<th>Evening Webinar</th>
<th>Daytime Webinar</th>
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<tr>
<td><strong>Date:</strong> Thursday July 7, 2016</td>
<td><strong>Date:</strong> Friday July 15, 2016</td>
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<td><strong>Time:</strong> 6:00 p.m.</td>
<td><strong>Time:</strong> 10:00 a.m.</td>
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Ecology is offering the presentation, Q&A session, and public hearing, where we will accept oral comments, at this webinar. The webinar hearing will conclude if no one has signed up to testify within 30 minutes of opening the hearing.

For more information about the public hearings, visit our website:
Reasons Supporting Proposal

The purpose of this rulemaking is to establish greenhouse gas (GHG) emission standards for certain large emitters and reduce greenhouse gas emissions to protect human health and the environment. Over the past century, GHG emissions from human activity have risen to unprecedented levels, increasing the average global temperature and the ocean’s acidity. Washington has experienced long-term climate change impacts consistent with those expected from climate change. Our state faces serious economic and environmental disruption from the effects of these long-term changes including:

- an increase in pollution-related illness and death due to poor air quality;
- declining water supply for drinking, agriculture, wildlife, and recreation;
- an increase in tree die-off and forest mortality because of increasing wildfires, insect outbreaks, and tree diseases;
- the loss of coastal lands due to sea level rise;
- an increase in ocean temperature and acidity;
- an increase in disease and mortality in freshwater fish (salmon, steelhead, and trout), because of warmer water temperatures in the summer and more fluctuation of water levels (river flooding and an increase of water flow in winter while summer flows decrease); and
- elevated heat stress to field crops and tree fruit due to an increase in temperatures and a decline in irrigation water.

Compliance actions to reduce GHG emissions, such as producing cleaner energy and increasing energy efficiency, potentially have the dual benefit of reducing other types of air pollution.

In 2008, Washington’s Legislature required the specific statewide greenhouse gas reductions (RCW 70.235.020) below.

- By 2020, reduce overall emissions of GHGs in the state to 1990 levels
- By 2035, reduce overall emissions of GHGs in the state to 25 percent below 1990 levels
- By 2050, reduce overall emissions of GHGs in the state to 50 percent below 1990 levels or 70 percent below the state’s expected emissions that year

Consistent with the Legislature’s intent to reduce GHG emissions, Ecology is using its existing authority under the Washington Clean Air Act to adopt a rule that limits emissions of GHGs.