



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 15-10

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 15-19-115	<input type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input checked="" type="checkbox"/> Supplemental Notice to WSR 16-02-101
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> 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.

<p>Hearing location(s): See Attachment A, Hearing Locations.</p>	<p>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</p>
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<p>Date of intended adoption: September 15, 2016 (on or after) (Note: This is NOT the effective date)</p>	<p>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)</p>
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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.

Reasons supporting proposal: See Attachment A, Reasons Supporting Proposal.

<p>Statutory authority for adoption: Chapter 70.94 RCW and Chapter 70.235 RCW</p>	<p>Statute being implemented: Chapter 70.94 RCW and Chapter 70.235 RCW</p>
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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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 31, 2016
TIME: 3:26 PM
WSR 16-12-098

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.

Name of proponent:

Department of Ecology Air Quality Program

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Neil Caudill	Olympia, WA	(360) 407-6811
	Bill Drumheller	Olympia, WA	(360) 407-7657
Implementation	Air Quality Program	Olympia, WA	(360) 407-6000
Enforcement	Air Quality Program	Olympia, WA	(360) 407-6000

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.

<i>In-Person Hearings</i>	
<p>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.</p>	
<p><i>Eastern Washington - Evening</i> Date: Tuesday July 12, 2016 Time: 6:00 p.m. Location: The Davenport Grand Hotel 333 W. Spokane Falls Blvd Spokane, WA 99201</p>	<p><i>Western Washington - Evening</i> Date: Thursday July 14, 2016 Time: 6:00 p.m. Location: The Red Lion Hotel 2300 Evergreen Park Dr SW Olympia, WA 98502</p>
<i>Webinar Hearings</i>	
<p>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</p>	
<p><i>Evening Webinar</i> Date: Thursday July 7, 2016 Time: 6:00 p.m.</p> <p>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.</p>	<p><i>Daytime Webinar</i> Date: Friday July 15, 2016 Time: 10:00 a.m.</p> <p>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.</p>

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

<http://www.ecy.wa.gov/programs/air/rules/wac173442/1510inv.html>

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.