



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)  
(Implements RCW 34.05.310)**

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WSR 18-15-099

**Agency:** Department of Ecology AO # 18-07

**Subject of possible rule making:** Chapter 173-460 WAC Controls for New Sources of Toxic Air Pollutants. This rule includes air quality permitting requirements for businesses that emit toxic air pollutants.

The rulemaking will use the latest, best available health effects information to:

- Update the list of toxic air pollutants
- Recalculate:
  - Acceptable source impact levels (ASIL)
  - Small quantity emission rates (SQER)
  - De minimis emission values
- Update the rule to support the changes described above

We are starting a different process we call an exploratory rulemaking process to assess possible amendments to the rest of Chapter 173-460 WAC. Find out more about this process: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-460-Exploratory-rulemaking>.

**Statutes authorizing the agency to adopt rules on this subject:** Chapter 70.94 RCW, RCW 70.94.152, RCW 70.94.331

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

We intend to update the list of toxic air pollutants to:

- Add or subtract chemicals based on updated toxicity information available from the U.S. Environmental Protection Agency (EPA), California Office of Environmental Health Hazard Assessment (OEHHA), and Agency for Toxic Substances and Disease Registry (ATSDR). Our list of toxic air pollutants is based on the inhalation toxicity values established by these three agencies.
- Review ammonium sulfate as a toxic air pollutant and its associated toxicity value. This is in response to a request from the Far West Agribusiness Association to remove ammonium sulfate from the list of toxic air pollutants.
- Evaluate whether the rule should continue to list criteria pollutants as toxic air pollutants. If determined it should, retain criteria pollutants on the list of toxic air pollutants.
- Evaluate whether to establish additional acceptable source impact levels for specific groups of chemicals with established toxic equivalency factors. This approach would consider mixtures of similar chemicals (i.e., dioxin-like compounds and carcinogenic polycyclic aromatic hydrocarbons) to be a single toxic air pollutant based on toxic equivalency. If determined it should, update the toxic air pollutants list to include new acceptable source impact levels.
- Revise the small quantity emission rates and de minimis values based on updates to the acceptable source impact levels and the use of the latest version of EPA's AERSCREEN air quality dispersion model.
- Evaluate the use of early life adjustment factors when deriving acceptable source impact levels for chemicals that are considered to cause cancer through a mutagenic mode of action. These chemicals may pose a greater risk to infants and children than is reflected in their toxicity value.
- Update the rule to support changes described above.

See the "Guidance for Updating the Toxic Air Pollutants List" on our rulemaking web page for the process we will use to evaluate the list of toxic air pollutants.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** In addition to coordinating with the Ecology's Air Quality Program, Industrial Section, and the Nuclear Waste Program, we will seek input from, and coordinate with, the seven local clean air agencies and the Energy Facility Site Evaluation Council throughout the rulemaking process.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Ecology will follow the standard process for adopting rules as listed in the Administrative Procedure Act (Chapter 34.05 RCW).

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Elena Guilfoil	(If necessary) Name:
Address: Department of Ecology Air Quality Program P.O. Box 47600 Olympia, WA 98504-7600	Address:
Phone: (360) 407-6855	Phone:
Fax: N/A	Fax:
TTY: To request ADA accommodation, call Ecology at (360) 407-7668, 711 (relay service), or (877) 833-6341 (TTY).	TTY:
Email: elena.guilfoil@ecy.wa.gov	Email:
Web site: <a href="https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-460">https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-460</a>	Web site:
Other: Sign up to receive email notices from our new air toxics rulemaking distribution list: <a href="http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=AIR-TOXICS-RULEMAKING&amp;Y=egui461%40ecy.wa.gov">http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=AIR-TOXICS-RULEMAKING&amp;Y=egui461%40ecy.wa.gov</a>	Other:

Additional comments: Attend the first stakeholder meeting for this rulemaking on August 20. Find out more at our rulemaking web site (<https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-460>).

Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

We will start a different rulemaking process to assess possible changes to other parts of Chapter 173-460 WAC called an exploratory rulemaking process. Find out more about this process at <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-460-Exploratory-rulemaking>. Attend a public workshop on this process on August 8.

**Date:** July 18, 2018

**Name:** Stuart A. Clark

**Title:** Air Quality Program Manager

**Signature:**

