



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 checked="" 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) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

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

The Washington State Department of Ecology (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).

Hearing location(s):

See Attachment A, Hearing Locations.

Submit written comments to:

Name: Stacey Callaway
 Address: Department of Ecology
 P.O. Box 47600, Olympia, WA 98504-7600
 E-mail: AQComments@ecy.wa.gov
 Fax: 360-407-7534
 By: April 8, 2016

Date of intended adoption: June 1, 2016

(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:

The Washington State Department of Ecology (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 fuel producers or importers distributing fuel in Washington State, and natural gas distributors in Washington State.

Parties covered under this program will have an obligation to reduce their GHG emissions over time. A wide variety of options to reduce emissions will be available.

Ecology will amend Chapter 173-441 WAC to change the emissions covered by the reporting program, modify reporting requirements, and update administrative procedures.

On September 21, 2015, Ecology proposed amending Chapter 173-400 WAC, but at this time, Ecology is no longer proposing to revise Chapter 173-400 WAC.

Reasons supporting proposal:

See Attachment A, Reasons Supporting Proposal.

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?	<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 1/5/16

NAME (type or print)

Polly Zehm

SIGNATURE

TITLE

Deputy Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 05, 2016

TIME: 1:49 PM

WSR 16-02-101

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

Under RCW 70.94.395, Ecology may adopt and enforce rules to control and/or prevent the emissions from a particular type or class of air contaminant source on a statewide basis if Ecology finds that, after public hearing upon due notice to all interested parties, it is in the public interest and for the protection of the welfare of the citizens of the state.

Chapter 173-442 WAC is intended to establish emission standards for greenhouse gas emissions from certain stationary sources located in Washington State, petroleum fuel producers or importers distributing fuel in the state, and natural gas distributors in the 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 the greenhouse gas emission standards are 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;
- Because it is 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 April 8, 2016.

Name of proponent: (person or organization)

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
PO 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
PO 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.

The hearings will begin with a short presentation followed by a question and answer (Q&A) session. Testimony will start after the Q&A session. Comments may be provided verbally by those who attend in person or via the webinar. Staff will also accept written comments submitted at the hearings but **not** via the webinar.

<i>In-Person Hearings</i>	
<p><i>Eastern Washington - Evening</i></p> <p>Date: Wednesday March 23, 2016</p> <p>Time: 6:00 p.m.</p> <p>Location: Double Tree by Hilton Spokane City Center 322 North Spokane Falls Ct Spokane, WA 99201</p>	<p><i>Western Washington - Evening</i></p> <p>Date: Thursday March 31, 2016</p> <p>Time: 6:00 p.m.</p> <p>Location: Georgetown Campus South Seattle Community College 6737 Corson Ave S – Building C Seattle, WA 98108</p>

Ecology is also offering the presentation, Q&A session, and public hearing through two webinars. A webinar is an online meeting forum that can be accessed from any computer or smart phone with an internet connection. For more information about the webinar and instructions on how to join and participate through the webinar, visit:

<http://www.ecy.wa.gov/programs/air/rules/webinars.htm>.

<i>Webinar Hearings</i>	
To register for the daytime or evening webinar: http://www.ecy.wa.gov/programs/air/rules/webinars.htm	
<p><i>Daytime Webinar</i></p> <p>Date: Tuesday March 22, 2016</p> <p>Time: 10:00 a.m.</p>	<p><i>Evening Webinar</i></p> <p>Date: Tuesday March 29, 2016</p> <p>Time: 6:00 p.m.</p>

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

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

Formal Comments – due April 8, 2016

Staff will accept formal comments on this rulemaking and the issue of sole jurisdiction provided in the following ways:

- At the public hearing:
 - Verbally by those who attend in person or via the webinar
 - Written submitted by those who attend in person
 - Comments will not be accepted through the chat box by persons viewing the webinar
- Anytime during the comment period:
 - Emailed to staff
 - Mailed to staff
 - Faxed to staff
 - Submitted through the online comment tool <http://www.ecy.wa.gov/climatechange/engagement.htm>

Reasons Supporting Proposal

The purpose of this rulemaking is to establish greenhouse gas emission standards for certain large emitters and reduce greenhouse gas emissions to protect human health and the environment. GHG emissions as a result of human activities have increased to unprecedented levels, warming the climate. Washington has experienced long-term climate change impacts consistent with those expected from climate change. Washington faces serious economic and environmental disruption from the effects of these long-term changes. For instance:

- 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 because of sea level rise.
- An increase in ocean temperature and ocean acidification.
- 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).
- The heat stress to field crops and tree fruit will be more prevalent because of 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 greenhouse gases in the state to 1990 levels
- By 2035, reduce overall emissions of greenhouse gases in the state to 25 percent below 1990 levels
- By 2050, reduce overall emissions of greenhouse gases 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 greenhouse gas emissions, Ecology is using its existing authority under the Washington Clean Air Act to adopt a rule that limits emissions of greenhouse gases.