



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO #13-12

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 14-09-097 ; or	<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)

Ecology proposes to amend an existing rule, Chapter 173-401 WAC Operating Permit Regulation.

Hearing location(s):

Date: See Attachment A

Time: See Attachment A

Location: See Attachment A

Submit written comments to:

Name: Margo Thompson
 Address: P.O. Box 47600, Olympia WA 98504-7600
 E-mail: AQComments@ecy.wa.gov
 Fax: 360-407-7534
 By: September 18, 2015

Date of intended adoption: 12/1/2015
 (Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact

For special accommodations or documents in alternate format, call 360-407-6800, 711 (relay service), or 877-833-6341 (TTY) by 9/8/15.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This rulemaking proposal is to amend Chapter 173-401 WAC Operating Permit Regulation. Amendments will:

- Update language for the complexity portion of Ecology's air operating permit (AOP) fees to allow for fairer fee distribution to Ecology AOP sources.
- Revise non-statutory audit provisions
- Clarify applicability requirements
- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Originally, Ecology proposed 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. Ecology realized this is not necessary, so we will not be amending them in this rulemaking.

Reasons supporting proposal:

See attachment B.

Statutory authority for adoption: 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.

Statute being implemented: RCW 70.94 Washington Clean Air Act

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:

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

**DATE: August 04, 2015
TIME: 2:18 PM**

WSR 15-16-112

DATE 8/4/15

NAME Polly Zehm

SIGNATURE

TITLE
Deputy Director, Department of Ecology

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

N/A

Name of proponent: (person or organization)

Washington State Department of Ecology

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting Margo Thompson	Department of Ecology, Lacey, WA	(360)-407-6827
Implementation Gail Spencer	Department of Ecology, Lacey, WA	(360)-407-7530
<u>Enforcement (Respective air agency)</u>	<u>Office Location</u>	<u>Phone</u>
Benton Clean Air Agency	Kennewick	(509) 783-1304
Northwest Clean Air Agency	Mount Vernon	(360) 428-1617
Olympic Clean Air Agency	Olympia	(800) 422-5623
Puget Sound Clean Air Agency	Seattle	(800) 552-3565
Southwest Clean Air Agency	Vancouver	(800) 633-0709
Spokane Regional Clean Air Agency	Spokane	(509) 477-4727
Yakima Regional Clean Air Agency	Yakima	(800) 540-6950
Department of Ecology – Central Regional Office	Union Gap	(509) 575-2490
Department of Ecology – Eastern Regional Office	Spokane	(509) 329-3400
Department of Ecology – Industrial Section	Lacey	(360) 407-6800

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.

A copy of the statement may be obtained by contacting:

Name: Kasia Patora

Address: Economics and Regulatory Research

Department of Ecology

P.O. Box 47600

Lacey, 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

Lacey, WA 98504-7600

phone (360) 407-6184

fax (360) 407-6989

e-mail kasia.patora@ecy.wa.gov

No: Please explain:

Public Hearing for the rule proposal for Chapter 173-401 WAC Operating Permit Regulation

Hearing Location:

Ecology is holding one public hearing on this rule proposal. The hearing 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 orally by those who attend in person or via the webinar. Staff will also accept written comments submitted at the hearing but **not** via the webinar.

Date: September 10, 2015

Time: 10:00 a.m.

Location: Department of Ecology, Headquarters
300 Desmond Drive SE
Lacey, WA 98503

Directions: http://www.ecy.wa.gov/directory_hq.html

Webinar: Ecology is also offering the presentation, Q&A session, and public hearing through a webinar. A webinar is an online meeting forum that can be accessed from any computer or smart phone with an internet connection.

To join the webinar, click on the following link for more information and instructions:

http://www.ecy.wa.gov/programs/air/rules/rules_laws/wac173401/1312/Involvement.htm

Submit your comments: You can give us your official comments in the following ways:

- 1) Oral testimony or submit written comments in person at the public hearing.
- 2) Provide oral testimony through the webinar
- 3) Email your comments to: AQComments@ecy.wa.gov
- 4) Mail comments to:
Department of Ecology
Margo Thompson
PO Box 47600
Olympia, WA 98504-7600
- 5) FAX: 360-407-7534

Reasons supporting proposal:

1. Fees – Air Operating Permit (AOP) sources are required under state and federal law to pay fees that cover the full cost of the AOP program. This rulemaking proposes to:
 - Allow flexibility for Ecology to develop fairer fee distribution associated with Ecology’s work load for Ecology AOP sources.
 - Establish annual public process for setting the distribution of fee burden. Under that process, some fees for Ecology AOP sources will increase and others may decrease.
2. Audits – Fiscal and performance audits of AOP permitting agencies are required by state law. This rulemaking proposes to:
 - Update fiscal and performance audit requirements to better align with needs of a mature program.
 - Reduce the frequency of performance audits to match the needs of a mature program. Reducing the performance audit frequency also lowers program costs.
 - Remove audit questions from the rule and redesign the performance audit focus. Redesigning the performance audit provisions provides more meaningful feedback to each permitting agency and their regulated communities.
3. Applicability – The applicability section of the rule determines which sources must comply with AOP requirements. This rulemaking proposes to:
 - Update applicability for nonmajor AOP sources to align with the federal operating permit rule.
4. Rule Language – This rulemaking proposes to:
 - Update language to align with federal rules.
 - Lessen confusion and increase usability of the rule.
 - Correct errors.