



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Ecology AO # 15-07

Subject of possible rule making:

The Washington State Department of Ecology (Ecology) proposes to amend Chapter 173-400 WAC – General Regulations for Air Pollution Sources. The scope of the proposed amendments includes:

- Updating the rule to comply with the EPA’s Final Action signed on May 22, 2015, related to the Startup, Shutdown, or Malfunction (SSM) State Implementation Plan (SIP) Call, including the 2015 SSM policy ([80 FR 33839](#))
- Updating adoption by reference dates
- Making technical clarifications, correcting errors, improving readability, and housekeeping

Additionally, Ecology received requests from stakeholders to update a number of requirements in Chapter 173-400 WAC. Due to the short schedule, Ecology is proposing to make a few of those changes at this time. Ecology is not proposing to change requirements in the sections listed in Attachment A, except to make technical clarifications, correct errors, improve readability, and conduct housekeeping. See Attachment A.

Statutes authorizing the agency to adopt rules on this subject:

Chapter 70.94 RCW, RCW 70.94.011, RCW 70.94.331, RCW 70.94.431

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

See Attachment B.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

Throughout this rule revision process, Ecology will communicate with, and seek input from, the following agencies.

- The EPA to ensure compliance with the EPA’s Final Action signed on May 22, 2015 ([80 FR 33839](#))
- The Energy Facility Site Evaluation Council (EFSEC)
- Local Clean Air Agencies

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

Throughout this rule revision process, Ecology will:

- Communicate with stakeholders about key issues and ask for input as Ecology revises the rule
- Hold stakeholder meetings and a public hearing
- Provide information through email listservs and posting on Ecology’s rulemaking webpages

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information)

Interested parties can participate by:

- Following updates on Ecology’s rulemaking webpages, http://www.ecy.wa.gov/programs/air/rules/rules_laws.html
- Contacting Ecology staff, see below
- Signing up for email updates, by going to <http://listserv.wa.gov/cgi-bin/wa?SUBED1=ECY-AQ-RULE-AND-SIP-UPDATES&A=1>
- Participating in a stakeholder meeting and/or a public hearing

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DATE
7/21/15

NAME (TYPE OR PRINT)
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SIGNATURE

TITLE
Air Quality Program Manager

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 21, 2015
TIME: 3:22 PM

WSR 15-15-162

Attachment A

Section	Section Name	Included in this Rulemaking
010	Policy and purpose	No
020	Applicability	No
030	Definitions	Yes
035	Nonroad engines	Yes
036	Relocations of portable sources	No
040	General standards for maximum emissions	Yes
045	Control technology fees	No
050	Emission standards for combustion and incineration units	Yes
060	Emission standards for general process units	Yes
070	Emission standards for certain source categories	Yes
075	Emission standards for sources emitting hazardous air pollutants	Yes
081	Startup and shutdown	Yes
091	Voluntary limits on emissions	No
099	Registration program	No
100	Source classifications	No
101	Registration issuance	No
102	Scope of registration and reporting requirements	No
103	Emission estimates	Yes
104	Registration fees	No
105	Records, monitoring, and reporting	Yes
107	Excess emissions	Yes
108	Excess emissions reporting	Yes
109	Unavoidable excess emissions	Yes
110	New source review (NSR) for sources and portable sources	No
111	Processing notice of construction applications for sources, stationary sources, and portable sources	Yes
112	Requirements for new sources in nonattainment areas - Review for compliance with regulations	Yes
113	New sources in attainment or unclassifiable areas - Review for compliance with regulations	Yes
114	Requirements for replacement or substantial alteration of emission control technology at an existing stationary source	No
115	Standards of performance for new sources	Yes
116	Increment protection	No
117	Special protection requirements for federal Class I areas	No

Section	Section Name	Included in this Rulemaking
118	Designation of Class I, II, and III areas	No
120	Bubble rules	No
131	Issuance of emission reduction credits (ERC)	No
136	Use of emission reduction credits (ERC)	No
151	Retrofit requirements for visibility protection	No
161	Compliance schedules	No
171	Public notice and opportunity for public comment	Yes
175	Public information	No
180	Variance	No
190	Requirements for nonattainment areas	No
200	Creditable stack height and dispersion techniques	No
205	Adjustment for atmospheric conditions	No
210	Emission requirements of prior jurisdictions	No
220	Requirements for board members	Yes
230	Regulatory actions	No
240	Criminal penalties	No
250	Appeals	No
260	Conflict of interest	Yes
560	General order of approval	No
<i>Permitting of Major Stationary Sources and Major Modifications to Major Stationary Sources</i>		
700	Review of major stationary sources of air pollution	No
710	Definitions	No
720	Prevention of significant deterioration (PSD)	Yes
730	Prevention of significant deterioration application processing procedures	No
740	PSD permitting public involvement requirements	No
750	Revisions to PSD permits	No
800	Major stationary source and major modification in a nonattainment area	No
810	Major stationary source and major modification definitions	No
820	Determining if a new stationary source or modification to a stationary source is subject to these requirements	No
830	Permitting requirements	No
840	Emission offset requirements	No
850	Actual emissions plantwide applicability limitation (PAL)	No
860	Public involvement procedures	No
930	Emergency engines	No

Attachment B

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

On May 22, 2015, the EPA took final action on a petition for rulemaking filed by the Sierra Club that concerns how provisions in EPA-approved state implementation plans (SIPs) treat excess emissions during periods of startup, shutdown, or malfunction (SSM). In EPA's final action, Ecology was listed as 1 of 36 states as having existing SIP provisions that are inadequate to meet the Federal Clean Air Act requirements.

Ecology proposes to conduct this rulemaking because existing rules and SIP provisions do not meet the more stringent federal requirements. In order to comply with the EPA's final action, Ecology has until November 22, 2016, to adopt revisions to Chapter 173-400 WAC and to submit the revised SIP to the EPA.

Additionally, changing the requirements for facilities during SSM events has the potential to reduce emissions which could protect human health and help Washington State stay below the National Ambient Air Quality Standard (an emissions standard set by the EPA).