



Small Business Economic Impact Analysis

For

Revision of Chapter 173-434 WAC

Solid Waste Incinerator Facilities

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Table of Contents

Summary	4
Background	4
The proposed regulatory revision	4
Small business economic impact analysis	4
Step I: What businesses are affected by the proposed regulation?	6
Step II: What is the employment profile of businesses affected by the proposed regulation?	6
Conclusion	6

Small Business Economic Impact Analysis

Draft revisions to Chapter 173-434 WAC, Solid Waste Incinerator Facilities.

Summary:

No small business will have an impact from the proposed changes.

The businesses that might be affected by this proposed change are not small businesses. Therefore, a small business impact statement is not required. The remainder of this document is a preset format and is not required. It is presented for informational purposes only.

Background information:

Solid waste incinerators in Washington State are regulated by Chapter 173-434 WAC, Solid Waste Incinerator Facilities. This WAC establishes emission standards, design requirements, and performance standards for these facilities. It applies to facilities that incinerate more than 12 tons of solid waste per day. There are currently three facilities in Washington that burn more than 12 tons per day of municipal solid waste (MSW). These facilities are located in Tacoma, Everett, and Spokane. The Puget Sound Clean Air Agency (PSCAA) and the Spokane County Air Pollution Control Authority (SCAPCA) enforce regulations for the Tacoma and Spokane facilities. A third, the Everett facility, is regulated by the Department of Ecology because it is a pulp mill.

“Solid waste” includes garbage, ashes, industrial wastes, swill, demolition and construction wastes, and abandoned vehicles or their parts. It can also include discharge from septic tanks and dangerous wastes.

Solid waste incinerators are a source of air pollutants such as dioxin, mercury, and sulfur dioxide.

The proposed regulatory revisions:

The Washington State Department of Ecology (Ecology) is proposing to amend Chapter 173-434 WAC for solid waste incinerator facilities. For affected facilities, the proposed amendments would replace the existing requirements in the WAC with the Environmental Protection Agency’s (EPA’s) most stringent waste incinerator rules, found in 40 CFR, Part 60, Subpart Eb. Using the EPA rules would result in significantly tighter controls on incineration of solid waste, including MSW. It would also mean the rules would apply to a wider range of facilities. Also because of this change, burning of creosote treated wood would no longer be subject to this regulation.

Small Business Economic Impact Statements:

The purpose of this report is to assist Ecology in making decisions about the proposed rule amendments. It will also assist in complying with legal requirements.

The RCW 34.05.328 requires the evaluation of the economic aspects of state agency rules prior to promulgation. If there is a disproportionate impact on small businesses, then the agency must reduce the cost of the rule if it is legal and feasible to do so.

Each rule proposed by Ecology in response to legislative mandates must comply with the Administrative Procedures Act (RCW 34.05.328) and the Regulatory Fairness Act (Chapter 19.85 RCW).

The Regulatory Fairness Act requires state agencies to prepare a Small Business Economic Impact Statement (SBEIS) prior to proposing to amend or adopt a regulation. The impetus for the legislation was a concern that regulatory mandates could “threaten the very existence of some small businesses.” RCW 19.85.020 defines a small business as “any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees”.

Ecology used the following process to determine whether it should provide regulatory relief to small businesses in the proposed rule.

- Step I Determine the categories of businesses affected by the proposed regulations
- Step II Determine the range of employment for each category of business
- Step III Determine the “more than minor” cost threshold for each category of business
- Step IV Determine whether the estimated cost exceeds the “more than minor” cost threshold for each category of business
- Step V Determine whether the proposed regulations impose a disproportionate cost burden on small businesses
- Step VI Determine whether regulatory relief for small businesses is legal and feasible
- Step VII Describe the regulatory relief provided to small businesses
- Step VIII Miscellaneous SBEIS requirements

This process does not always result in the provision of regulatory relief. At several steps along this process, Ecology may determine that regulatory relief is unwarranted or that a full SBEIS is unnecessary.

For example, if Ecology found in Step II that all businesses within an industrial category had more than 50 employees, the regulation could not, by definition, disproportionately affect small businesses. Such a finding would obviate the need to provide regulatory relief. Or, if the cost to businesses determined in Step IV were below the “more than minor” cost threshold, then, by law, an SBEIS is not required. Similarly, Ecology could determine that it could not legally provide regulatory relief in Step VI. The analyses must proceed to Step VII for Ecology to be obligated to provide regulatory relief to small businesses.

Step I: What Businesses are Affected by the Proposed Regulation?

There are currently three active solid waste incinerators in the state of Washington. Two of the incinerators are municipally owned and are non-profit in nature. One is located in Spokane and the other is located in Tacoma. They are under SIC # 4911 or NAIC #221112. The Tacoma facility is expected to voluntarily operate under the proposed WAC changes. The exclusion of creosote treated wood will have an effect on Kimberly Clark of Everett by allowing it to be exempt, because of the railroad ties it burns, from Chapter 170-434 WAC. The incinerator in Spokane will not be affected by the proposed changes due to the fact of its construction prior to adoption of EPA's regulation. It is complying with the current federal regulations and Chapter 170-434 WAC and will continue to operate under this WAC.

Step II: What is the Employment Profile of Businesses Affected by the Proposed Regulation?

The City of Tacoma currently has 3,449 employees.

The City of Spokane currently has 2,218 full time equivalent employees.

The Publicly traded corporation of Kimberly-Clark currently has 64,200 employees.

Conclusion:

No Small Business Economic Impact Statement is required.

None of the businesses that might be affected by the proposed changes to Chapter 170-434 WAC are a small business by definition. The other aspect of this change is that currently only the Tacoma Steam Plant might be directly affected by this proposal. The impacts would therefore not be disproportional.