

Requirements for New Sources of Air Pollution

Pre-Construction Approval

Washington air quality law and regulations require new sources of air pollution to have pre-construction review and approval before beginning construction on a proposed project. The purpose of these requirements is to control emissions of air pollutants that can harm public health.

The Department of Ecology must issue a final Notice of Construction (NOC) Approval Order before actual construction begins.

What is considered "beginning actual construction?"

"Beginning actual construction" means starting physical on-site construction activities of a permanent nature on an emission unit. These activities include, but are not limited to:

- Installing building supports and foundations
- Laying underground pipe work
- Constructing permanent storage structures

See WAC 173-400-030(11) for more detailed information.

What can you do before receiving a NOC Approval Order?

You may:

- Construct permanent buildings as long as they are not specifically constructed to accommodate the emission unit(s) requiring a permit
- Install temporary utilities and temporary structures
- Order and purchase emission units (with the risk Ecology may not approve the equipment for installation and operation)
- Store prefabricated emission units or emission unit parts onsite

The above list of activities is not meant to be inclusive; for further information, refer to WAC 173-400, or contact Ecology as shown in the box at right.

MORE INFORMATION

In addition to new air pollutant sources, pre-construction approval is also required before an air pollution source changes an *existing facility's* method of operations.

A "change in method of operations" means any change in how a source operates that is likely to:

- increase air pollutant emissions or
- result in emission of an air pollutant that was not emitted before.

Some examples are:

- Changing from wood fuel to residual oil fuel, resulting in increased SO₂ emissions.
- Changing solvents used for cleaning, resulting in new or increased emissions of volatile organic compounds or toxic air pollutants.

See WAC 173-400-030(11) for more detailed information.

Contact information:

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Special accommodations:

If you need this publication in an alternative format, call the Air Quality Program at 360-407-6800. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

Will Ecology use enforcement discretion?

It depends on the situation. If you choose to order or purchase equipment that requires NOC approval, you do so at your own risk. Ecology may not approve the equipment, and you may be required to purchase alternative equipment. The costs of ordering or purchasing equipment may not be considered when conducting cost analyses during the permitting process.

If you choose to begin physical on-site construction activities on an emission unit before you have approval, you do so at your own risk and in violation of state law and regulation. Ecology may not approve the emission units as constructed and you may be required to replace or remove equipment already installed. This may also result in enforcement action against you or your company.

Ecology has the authority to initiate enforcement action for pre-permit construction activities that violate state law. If you choose to begin physical on-site construction activities before receiving your Notice of Construction Approval Order, Ecology may either:

- take enforcement action against you, or
- use enforcement discretion on a case-by-case basis.

Enforcement discretion may not be an option for projects subject to Prevention of Significant Deterioration (PSD) or projects at Title V Air Operating Permit (AOP) facilities. Ecology strongly encourages PSD and AOP sources to remain strictly within the pre-permit construction legal requirements.

Though it is definitely not guaranteed, Ecology is most likely to use enforcement discretion if you:

- disclosed your intent to begin physical on-site construction to Ecology in advance, and
- did not cause air emissions subject to Notice of Construction review before receiving your Approval Order.