

Rule Proposal Notice

Air Quality Program

October 2010

Operating Permit Regulation, Chapter 173-401 WAC

The Department of Ecology is proposing to amend the Operating Permit Regulation, Chapter 173-401 WAC. The rule notice will be published in the Washington State Register on October 20, 2010.

The purpose of this rule proposal is to change the state rule to match U.S. Environmental Protection Agency's (EPA) requirements. This also means that Ecology must complete our rule adoption by January 2011.

Ecology has issued a Determination of Nonsignificance (DNS) under the State Environmental Policy Act. This document and the proposed rule are available for review and comment until November 17, 2010. You can find them at the web site shown in the box to the right.

What is an air operating permit?

The federal Clean Air Act regulates many pollutants such as lead, sulfur dioxide and nitrogen dioxide. Facilities that emit these pollutants (emitters) must have an air operating permit. An air operating permit contains all the emitter's requirements for limiting air pollution emissions.

Which emitters need permits now?

Right now, EPA requires permits for air pollution sources that emit more than 100 or 250 tons of air pollution per year. (The amount of pollution requiring a permit depends on what type of pollution is emitted.)

Which emitters will need permits when the rule changes?

Up to now, greenhouse gas emissions have not been regulated. Beginning in January 2011, these emissions will be regulated for the first time. Sources emitting, or having the potential to emit, 100,000 tons or more of greenhouse gases each year will have to get new permits.

WHY IT MATTERS

These changes establish when facilities that already have an air operating permit must begin reporting their greenhouse gas emissions. They also establish that facilities that don't currently require an air operating permit must apply for an air operating permit before July 2012 if they have the potential to emit at least 100,000 tons per year of greenhouse gas emissions. Emitters of less than this threshold won't require this permit unless they already need one for other air pollutants.

Online:

<http://www.ecy.wa.gov/laws-rules/wac173401/1013.html>

Contact information:

Elena Guilfoil

360-407-6855

elena.guilfoil@ecy.wa.gov

Special accommodations:

If you need this publication in an alternate 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.

Why won't small emitters need a permit?

Emissions of greenhouse gases from all activities, including industrial facilities, are much higher than emissions of other air pollutants. If the same permit thresholds were used for greenhouse gases as for other air pollutants (100 or 250 tons), the number of facilities needing permits would be overwhelming. Instead of requiring these facilities to get air operating permits, EPA set levels that exempt smaller sources of greenhouse gases (for example, farms, restaurants, and schools). This is called the "tailoring rule," since it "tailors" permitting programs to limit the number of facilities that must get permits. Power plants, refineries, wood product industries and other large industrial plants will still have to get permits for greenhouse gases.

Effects of the rule change

There will be a few emitters that haven't previously needed permits that will need to get an air operating permit because of their greenhouse gas emissions. However, Ecology expects that changing state rules to match the EPA "tailoring rule" will keep most small businesses from needing permits. In Washington, the fee for an air operating permit ranges from \$20,000 to \$135,000. Without the "tailoring rule," Ecology estimates about a thousand businesses in Washington could need permits for greenhouse gas emissions.

What does this mean for emitters?

Beginning January 2, 2011, emitters with an air operating permit (for other pollutants) will need to provide information about their greenhouse gas emissions if and when they apply for, renew or revise their permits.

Beginning July 1, 2011, each facility that has the potential to emit at least 100,000 tons per year of greenhouse gases will need an air operating permit. These facilities must apply for a permit on or before July 1, 2012, unless the permitting authority sets an earlier deadline.

A business with actual greenhouse gas emissions lower than 100,000 tons per year may request a limit on their operations. The permit restrictions must ensure that greenhouse gas emissions remain below the potential to emit threshold. An operating permit is not required if these conditions are included in a federally enforceable permit. An emitter may also want to establish these lower limits to stay out of the Prevention of Significant Deterioration Program. Emitters can contact their permitting agency to find out more about this option.

Public hearing schedule

Ecology has scheduled a public hearing to receive comments on the draft rule:

6:30 p.m. Wednesday, November 10, 2010
Ecology's Lacey Headquarters Building
300 Desmond Drive
Lacey, Washington 98503

How to submit your comments

The public comment period ends November 17, 2010.

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

1. Testify at public hearings.
2. Email your comments to: elena.guilfoil@ecy.wa.gov.
3. Mail comments to:

Department of Ecology
Elena Guilfoil
PO Box 47600
Olympia, WA 98504-7600

Ecology's response to your comments

All of the comments we receive will become part of the official record and responded to in a document called a Concise Explanatory Statement. The Concise Explanatory Statement is required by the Administrative Procedure Act (Chapter 34.05 RCW) and is published after the rule is adopted. You will be able to find your name listed in the document with a reference to where, in the document, Ecology responded your comments.

Expected adoption date

Ecology expects to adopt this rule no earlier than December 1, 2010.

Information on Ecology's New Rule for Reporting of Greenhouse Gas Emissions

You can find information about GHG reporting, Chapter 173-441 WAC, on Ecology's web site. Go to www.ecy.wa.gov/programs/air/globalwarm_RegHaze/GreenHouseGasreporting_rule.html.

This rule making proposes to adopt a mandatory greenhouse gas reporting rule for:

- Facilities that emit at least 10,000 metric tons of greenhouse gases per year in Washington; or
- Suppliers of liquid motor vehicle fuel, special fuel, or aircraft fuel that supply products equivalent to at least 10,000 metric tons of carbon dioxide per year in Washington.

