

Chapter 173-495 WAC

WEATHER MODIFICATION

WAC

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WAC 173-495-010 Purpose. This chapter, adopted under chapters 43.37 and 70.94 RCW establishes the responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control. This regulation provides the basic framework for carrying out the state's responsibility for such a program through the establishment of license and permit requirements and procedures, reporting, and fee requirements. The provisions of this chapter apply to all weather modification activities in all parts of the state except as specifically exempted in this chapter.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-010, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-010, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-010, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, words and phrases as used in this chapter have the following meanings:

(1) "Operation" means the performance of weather modification and control activities using a single permit or license under contract for the purpose of producing or attempting to produce a weather modifying effect within a geographical area.

(2) "Research and development" means theoretical analysis, exploration and experimentation, and the extension of investigative findings of theories of a scientific or technical nature into practical application for experimental and demonstration purposes. This includes the experimental production and testing of models, devices, equipment, materials, and processes.

(3) "Weather modification and control" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-020, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-020, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-020, filed 12/29/77. Formerly chapter 508-20 WAC.]

(9/6/07)

WAC 173-495-030 Requirement for licenses and permits. No person shall engage in weather modification activities except under and in accordance with a license and a permit issued by ecology, unless specifically exempt from this requirement in WAC 173-495-040.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-030, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-030, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-040 Requirements for exempt activities. The following weather modification and control activities are exempt from the license and permit requirements of RCW 43.37.100, and the liability requirements of RCW 43.37.190:

(1) All research and experiments related to weather modification control conducted within laboratories;

(2) Those weather modification operations designed to alleviate sudden, unexpected, hazardous conditions which require expeditious localized action for:

(a) Protection against fire;

(b) Prevention of frost;

(c) Dispersal of fog;

(3) Field research and development by institutions of higher learning;

(4) Any person proposing to conduct weather modification and control activities as described in subsection (2) of this section shall notify the air quality program, department of ecology, headquarters offices in Olympia, Washington, before proceeding. Notification must include the type of activity to be carried out, the person carrying out the activity, and the materials and technique of the application to be used;

(5) Any person proposing to conduct weather modification and control activities as described in subsection (3) of this section shall provide:

(a) A written description of the proposed program;

(b) Notice of actual operations ten days before beginning those activities; and

(c) Quarterly reports of operations and status to the Headquarters Office, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-040, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-040, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-040, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-045 Requirements for a regular license. All applicants for a weather modification license must be certified professional members of the American Meteorological Society or possess the academic achievements and professional experience necessary to receive such a certification. In cases where the applicant is an organization, the individual or individuals who will be in control and

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in charge of the weather modification and control activities must be required to meet the above standard.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-045, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-045, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-045, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-050 Requirements for a restricted license. (1) A restricted license may be issued to an applicant when:

(a) The applicant's proposed weather modification activities are limited solely to those designed to disperse fog over airports; and

(b) The applicant will be fully advised of the pertinent weather information by the meteorologist on duty during the airport fog dispersal activities.

(2) Applicants for restricted licenses are not required to meet the qualifications otherwise imposed by WAC 173-495-040.

[Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-050, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-050, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-060 Procedures for issuing license. (1) Any person or organization desiring to obtain a license or restricted license shall apply to ecology on the form prescribed, listing name, business address, etc.

(2) Ecology may require additional information of the applicant to determine competency in the field of meteorology. The additional information must be requested of the applicant by certified mail, and must be submitted in writing.

(3) Before issuing any license, the applicant shall pay a fee as outlined in chapter 173-455 WAC.

(4) The application shall be deemed received by ecology when received at the Headquarters Offices, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, Washington, 98504-7600.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892, [70.94.]011. 07-19-005 (Order 07-10), § 173-495-060, filed 9/6/07, effective 10/7/07. Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-060, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-060, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-060, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-065 Period of license. (1) Licenses issued under chapter 43.37 RCW and these regulations are effective for a period of one year, and will terminate at the end of the calendar year of issuance.

(2) The licensee may request a renewal of the license no later than December 1st. Ecology shall review the license renewal request after receiving a renewal fee outlined in chapter 173-455 WAC.

(3) In the determination of whether or not to grant a license renewal, ecology shall consider information provided by the applicant on the facts and circumstances used to issue the original permit that were changed or altered. If ecology determines that the licensee no longer meets the requirements of competency in the field of meteorology, ecology may refuse to renew the license.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892, [70.94.]011. 07-19-005 (Order 07-10), § 173-495-065, filed 9/6/07, effective 10/7/07. Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-065, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-065, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-065, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-070 Permit requirements. (1) Each weather modification operation not specifically exempted by statute or these regulations requires a permit. A separate permit must be issued for each operation.

(2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to ecology.

(3) The permit applicant must hold a valid weather modification license from the state of Washington.

(4) The applicant shall publish a notice of intention at least once a week for three consecutive weeks in a newspaper that has general circulation within the county in which the operation is to be conducted or affected.

(5) The licensee shall file proof of publication of the notice of intention with ecology within fifteen days from the date of last publication of the notice.

(6) The notice of intention must contain at least the following:

(a) The name and address of the licensee;

(b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;

(c) The area in which and the appropriate time during which the operation will be conducted;

(d) The area intended to be affected by the operation; and

(e) The materials and methods to be used in conducting the operation.

(7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.

(8) The applicant shall pay a permit fee outlined in chapter 173-455 WAC.

(9) Before issuing a permit, ecology shall state, in writing, that the weather modification and control activities proposed have been determined to be for the general welfare and public good.

(10) Ecology shall hold a public hearing before any weather modification permit is issued.

[Statutory Authority: RCW 70.94.181, [70.94.]152, [70.94.]331, [70.94.]650, [70.94.]745, [70.94.]892, [70.94.]011. 07-19-005 (Order 07-10), § 173-495-070, filed 9/6/07, effective 10/7/07. Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-070, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-070, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-070, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-080 Permittee's report of operations—Requirement. The permittee is required to maintain reports on all operations on a daily basis, and submit them twice a month (1st day and 15th day) to ecology. The semi-monthly reports must include the following information:

(1) Number of days under contract;

(2) Number of days of operation and number of hours of each day, for all stations operated;

(3) The consumption rate and name of seeding agent used;

(4) A brief summary statement evaluating the past fifteen day period in regard to the seeding potential and experience;

(5) Location of operations;

(6) Name and mailing address of each individual, other than the licensee, participating or assisting in the operation;

(7) A brief statement of projected plans for the upcoming fifteen-day period;

(8) The permittee shall, in the event operations are unexpectedly terminated, submit a special report covering the portion of the half-month period of operation. All reports must be post-marked not later than one day after due date;

(9) All semi-monthly reports are public records, which are open to public inspection.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-080, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-080, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-080, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-100 Revocation, suspension, modification. (1) All permits authorized by RCW 43.37.110 must contain the following provisions: "Ecology may, if it appears that continuing operation under this permit will cause immediate injury to persons or property, terminate or otherwise modify the terms of this permit in order to alleviate an emergency situation by giving notice to the permittee by telegram or other writing."

(2) All permits authorized by RCW 43.37.110 may be revoked, suspended, or modified when ecology has reason to believe that good cause exists and that the revocation, suspension, or modification is required for the general welfare and public good. A written notice must be sent by certified mail to the permittee before any revocation, suspension, or modification of the permit is executed. Opportunity for comment by the permittee must be allowed. Any final ecology decision must be in writing.

(3) In the event the applicant desires to appeal any permit revocation, modification, or suspension action by ecology the appeal must be filed with the pollution control hearings board in Olympia within thirty days of ecology's action. An appeal does not constitute a stay.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-100, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-100, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-100, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-120 Proof of financial responsibility. A permit applicant shall furnish proof of financial responsibility to ecology by one of the following:

(1) Copy of insurance policy or binder for the operator;

(2) A current balance sheet showing sufficient assets to demonstrate financial responsibility;

(3) A bond for safe performance; or

(4) Other information the applicant may provide to ecology, in writing, if the alternate documents contained in subsections (1) through (3) of this section, are not feasible or available. If other information is provided, the applicants must explain the reason the documents listed in subsections (1) through (3) of this section are not provided.

[Statutory Authority: RCW 79.94.331, chapters 70.94 and 43.37 RCW. 00-01-009 (Order 99-14), § 173-495-120, filed 12/3/99, effective 1/3/00. Statutory Authority: RCW 70.94.331. 90-19-062 (Order 90-10), § 173-495-120, filed 9/17/90, effective 10/18/90; Order DE 77-29, § 173-495-120, filed 12/29/77.]