WSR 26-19-073
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 26-08—Filed September 16, 2026, 7:38 a.m.]

Subject of Possible Rule Making: The department of ecology (ecology) is considering amendments to chapter 173-460 WAC, Controls for new sources of toxic air pollutants. Toxic air pollutants (TAPs), also known as air toxics, are pollutants known or suspected to cause cancer or other adverse health and environmental impacts when emitted in significant quantities. Ecology's rule reduces risks from TAPs by limiting emission concentrations and requiring pollution controls for new and modified sources.

This rule making will consider updates to the emission thresholds, known as acceptable source impact levels (ASILs), used in permitting review of new and modified TAP sources. Ecology is also considering updating the list of TAPs and establishing multiple averaging times for certain pollutants.

In addition to the ASIL-related revisions, ecology is also considering updates to its process for considering background concentrations of TAPs during permitting review. Other changes may include clarifying rule language about emissions offsets, establishing toxic equivalency factors for certain pollutants, and making other changes to improve implementation of the rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.15 RCW, Washington Clean Air Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amending the list of TAPs, as well as their ASILs and averaging times, is needed to strengthen protections against air toxic emissions and align ecology's rule with the latest scientific standards.

To better address the full scope of toxic sources in Washington, ecology may also add emerging chemicals of concern such as polyfluoroalkyl substances to the list of TAPs that may require regulatory review and require emission controls meeting best available control technology for toxics standards. New pollutants of concern would not be assigned a numerical ASIL value during this rule making but would be monitored for future regulatory updates.

In considering rule amendments related to background risks, ecology will explore methods of creating a more consistent and comprehensive process for analyzing these exposures during the permitting process. These updates are intended to strengthen Washington's protections against toxic exposure, especially in communities already burdened by high amounts of air pollution, while limiting additional burdens for permitting authorities and permit applicants.

The other changes under consideration are intended to improve implementation, clarify rule language, and align the rule with the latest scientific and technical standards.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Most permitting reviews for new and modified toxic sources in Washington are conducted by local clean air agencies (LCAAs), with assistance from ecology. Ecology will coordinate with LCAAs and permitting authorities throughout the rule development period to explain the potential rule changes and how they may affect permitting procedures.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Adam Saul, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-742-7998, TTY 711, visit Ecology.wa.gov/ADA for more accessibility information, email adam.saul@ecy.wa.gov, website https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-460.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

Ecology will conduct an environmental justice assessment in accordance with RCW 70A.02.060 as a part of this rule making.

September 16, 2026
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