

WAC 173-460-100 Third tier review. (1) Applicability. An applicant for a project that exceeds the second tier review thresholds may submit a third tier petition requesting that the director of ecology approve the project based on a risk management analysis.

(2) Contents of the petition.

The petition must meet the submittal requirements of WAC 173-460-090. The applicant may submit the request for a risk management decision concurrently with the second tier petition. Prior denial of a second tier petition submitted under WAC 173-460-090 is not required.

(3) Criteria for approval. Ecology's director must find that the following conditions are met before approving a third tier petition:

(a) Proposed emission controls represent at least tBACT; and

(b) A HIA has been completed as described in WAC 173-460-090(3); and

(c) Approval of the project will result in a greater environmental benefit to the state of Washington.

(4) Additional methods to reduce toxic air pollutants. In addition to the requirements in subsection (3) of this section, the applicant may propose and ecology may consider measures that would reduce community exposure, especially exposure of that portion of the community subject to the greatest additional risk, to comparable toxic air pollutants provided that such measures are not already required.

(5) Application processing. Within thirty days of receiving a third tier petition ecology must determine if the petition includes the information required in WAC 173-460-090. If the petition is deemed complete, ecology must begin substantive review. If the petition is deemed incomplete, ecology must give written notification to the applicant of the information that is required to make the petition complete.

(6) Public involvement. Ecology will initiate public notice and comment within sixty days of determining that a third tier petition is complete. In addition to the public notice and comment requirements of WAC 173-400-171, the applicant must hold a public hearing to:

(a) Present the results of the health impact analysis, the proposed emission controls, pollution prevention methods, additional proposed measures, and remaining risks; and

(b) Participate in discussions and answer questions.

(7) Recommendation.

(a) If ecology recommends approval of the third tier petition, the permitting authority may approve the notice of construction application. Any new emission limits or conditions specified by ecology must be incorporated into the approval order.

(b) If ecology recommends denial of the third tier petition then the permitting authority may not approve the project.

[Statutory Authority: Washington Clean Air Act, RCW 70.94.152. WSR 09-11-131 (Order 05-19), § 173-460-100, filed 5/20/09, effective 6/20/09. Statutory Authority: Chapter 70.94 RCW. WSR 94-03-072 (Order 93-19), § 173-460-100, filed 1/14/94, effective 2/14/94. Statutory Authority: RCW 70.94.331. WSR 91-13-079 (Order 90-62), § 173-460-100, filed 6/18/91, effective 9/18/91.]