



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 20, 2021

TIME: 8:06 AM

WSR 21-15-095

Agency: Department of Ecology AO # 21-04

Subject of possible rule making: To implement the Transportation Fuel - Clean Fuels Program (Engrossed Third Substitute House Bill 1091), Chapter 317, Laws of 2021, Ecology is beginning rulemaking to:

- Add a new Chapter 173-424 WAC – Clean Fuels Program Rule
- Amend Chapter 173-455 WAC – Air Quality Fee Rule.

The new rule may:

- Establish carbon intensity standards for transportation fuels used in Washington.
- Assign compliance obligations to fuels with carbon intensities that exceed the standard.
- Establish compliance methods including assigning credits to fuels that have carbon intensities below the standard.

This rulemaking will also consider amendments to Chapter 173-455 WAC to establish the process for setting fees to recover the cost of developing and implementing the program.

Statutes authorizing the agency to adopt rules on this subject: Transportation Fuel – Clean Fuels Program (Engrossed Third Substitute House Bill 1091), Chapter 317, Laws of 2021

Reasons why rules on this subject may be needed and what they might accomplish:

Transportation is the largest source of greenhouse gas (GHG) emissions in Washington, contributing about 45 percent of statewide total GHG emissions. Washington enacted the Transportation Fuel – Clean Fuels Program (Engrossed Third Substitute House Bill 1091), Chapter 317, Laws of 2021, to reduce emissions of GHGs and conventional air pollutants from transportation and to spur economic development through deployment of clean fuel technology. As a result, Washington joins California, Oregon, and British Columbia, which already have similar clean (low carbon) fuel programs.

The law directs Ecology to adopt rules to start the program by January 1, 2023 that reduce the carbon intensity of transportation fuels used in Washington by 20 percent below the 2017 levels by 2038. Carbon intensity accounts for GHG emissions throughout the full life cycle of the fuel (i.e., GHG emissions from feedstock production and transport, fuel production and transport, and use of the fuel) per unit energy of the fuel.

The law allows Ecology to charge fees to recover the direct and indirect costs of developing and implementing the program, including the associated fuel supply forecasting work of the Department of Commerce (Commerce).

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The law requires Commerce to develop a periodic fuel supply forecast, and directs Ecology to enter into an interagency agreement with Commerce to conduct biennial workload analyses of the program to serve as the basis for fee assessment. These workload analyses will occur outside of the rulemaking process.

The law also directs Ecology to consult with Commerce and the Governor's Office in declaring and terminating deferrals from compliance with the carbon intensity standard in the rule.

The law requires Ecology to harmonize the Clean Fuels Program with similar programs in California and Oregon.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) 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:

Name: Debebe Dererie	(If necessary) Name:
Address: Department of Ecology Air Quality Program P.O. Box 47600 Olympia, WA 98504-7600	Address:
Phone: Mobile: 360-688-8103; Office: 360-407-7558	Phone:
Fax: N/A	Fax:
TTY: For Washington Relay Service or TTY call 711 or 877-833-6341.	TTY:
Email: debebe.dererie@ecy.wa.gov	Email:
Web site: https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-424-455	Web site:
Other: http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=WA-CLEAN-FUELS-UPDATE&A=1	Other:

Additional comments: Interested parties can stay informed about the rulemaking 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.

Date: July 20, 2021	Signature: 
Name: Kathy Taylor	
Title: Air Quality Program Manager	