



PREPROPOSAL STATEMENT OF INQUIRY

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

Do **NOT** use for expedited rule making

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DATE: July 30, 2019

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WSR 19-16-060

Agency: Department of Ecology AO #19-04

Subject of possible rule making: The Department of Ecology (Ecology) is beginning permanent rulemaking for Chapter 173-443 WAC Hydrofluorocarbons (HFCs) to establish a program to implement and enforce the requirements of Chapter 284, Laws of 2019 (Engrossed Second Substitute House Bill 1112) related to reducing greenhouse gasses by transitioning to the use of less damaging HFCs or suitable substitutes.

The rulemaking will address the law's requirements for manufacturers, importers, and distributors to submit to Ecology information about the use of various products and equipment containing HFCs, in a manner similar to the Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP). The rulemaking will also address other requirements and provisions of the law including the requirements on product labelling. In addition, the rulemaking will consider changes adopted or planned for adoption by other states and countries.

We adopted an emergency rule at the same time that we began this permanent rulemaking process.

Please visit our website for more information and to participate in the rulemaking process:

<https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443>

Statutes authorizing the agency to adopt rules on this subject: Chapter 284, Laws of 2019 (Engrossed Second Substitute House Bill 1112) Hydrofluorocarbons Greenhouse Gas Emissions, Chapter 70.235 RCW Limiting Greenhouse Gas Emissions, Chapter 70.94 RCW Washington Clean Air Act.

Reasons why rules on this subject may be needed and what they might accomplish: Chapter 284, Laws of 2019 (Engrossed Second Substitute House Bill 1112) was signed into law on May 7, 2019. This legislation establishes restriction deadlines for various products and equipment containing HFCs. It requires manufacturers, importers, and distributors to submit to Ecology, in a manner determined by rule, information about the use of HFCs and other substitutes used in products and equipment sold, leased, rented, or installed in Washington.

It is the intent of the law to transition to the use of less damaging HFCs or suitable substitutes in various products and equipment, in a manner similar to the regulations that were adopted by the EPA and subsequently adopted or proposed for adoption in other states and countries.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The law is modeled after EPA's SNAP program. The law specifically addresses former SNAP rules number 20 and 21, which were partially vacated by the District of Columbia Circuit Court of Appeals in 2017 and 2019. See *Mexichem Fluor, Inc. v. EPA*, 866 F.3d 451 (D.C. Cir. 2017); *Mexichem Fluor, Inc. v. EPA*, No. 17-1024 (D.C. Cir. Apr. 5, 2019)(unpublished). SNAP implements section 612 of the amended federal Clean Air Act of 1990, which requires EPA to evaluate substitutes for the ozone-depleting substances to reduce overall risk to human health and the environment. Specifics on SNAP can be found at <https://www.epa.gov/snap/snap-regulations>.

California, New York, Maryland Vermont, and Connecticut are joining Washington to phase out use of HFCs. They are in various stages of rulemaking.


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: Linda Kildahl	(If necessary)
Address: Department of Ecology Air Quality Program P.O. Box 47600 Olympia, WA 98504-7600	Name: Address:
Phone: 360-407-7655	Phone:
Fax: N/A	Fax:
TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.	TTY:
Email: Sign up to receive email: notices: http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=ECY-AQ-RULE-AND-SIP-UPDATES	Email:
Web site: https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443	Web site:
Other: N/A	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 30, 2019	Signature: 
Name: Maia D. Bellon	
Title: Director	