



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 16, 2020

TIME: 3:31 PM

WSR 20-13-089

Agency: Department of Ecology AO # 19-04

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-16-060 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Ecology is proposing a new permanent rule for Chapter 173-443 WAC, Hydrofluorocarbons (HFCs), to reduce greenhouse gases in Washington by transitioning to the use of less damaging HFCs or suitable substitutes.

For more information on this rulemaking visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443>

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 21, 2020	9:30 a.m. PDT	Webinar only	<p>Presentation, question and answer session followed by the hearing.</p> <p>We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.</p> <p>Join online and see instructions: https://watech.webex.com/watech/onstage/g.php?MTID=e2dea34b45e060fd36c5f76c6ab8aa601</p> <p>For audio call US Toll number 1-855-929-3239 and enter access code 284 632 939. Or to receive a free call back, provide your phone number when you join the event.</p>

Date of intended adoption: November 17, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Linda Kildahl

Address: Send US mail at:

[Department of Ecology

[Air Quality Program]

PO Box 47600, Olympia, WA 98504-7600 (US mail).

Or,

Send parcel delivery services to:

Department of Ecology

[Air Quality Program]

300 Desmond Dr. SE, Lacey, WA 98503

Email: Submit comments by mail, online, or at the hearing(s).

Fax: N/A

Other: Online: <http://aq.ecology.commentinput.com/?id=g7B9h>

By (date) July 28, 2020

Assistance for persons with disabilities:

Contact Ecology ADA Coordinator

Phone: 360-407-6831

Fax: N/A

TTY: For Washington Relay Service or TTY call 711 or 877-833-6341.

Email: ecyADAcordinator@ecy.wa.gov

Other: Visit <https://ecology.wa.gov/accessibility> for more information.

By (date) July 17, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rule prohibits the use of HFCs and other substitutes in various products and equipment in the air conditioning and refrigeration, aerosol propellant, and foam end-use categories. This will occur in a phased approach, similar to rules adopted under EPA's Significant New Alternatives Policy (SNAP) program and HFC rules adopted or proposed for adoption by other states around the country.

The proposed rule defines requirements for manufacturers, importers, and distributors of covered products and equipment to:

- Notify Ecology about the use of HFCs and other prohibited substitutes.
- Disclose HFCs and other substitutes used in an on-product label or other designated format.

Ecology modified the prohibition date for the new and existing vending machine end-use category from January 1, 2020, to January 1, 2022

Reasons supporting proposal: The Washington Legislature specifically directed Ecology to engage in rulemaking to implement a program for transitioning away from HFCs. The proposed rule implements the prohibitions in the same end-use categories as in SNAP Rules 20 and 21 that were in effect on January 3, 2017, but with a new timeline for the prohibitions to take effect.

Consistent with RCW 70.235.080(3)(a), Ecology determined that the modified effective date for new and existing vending machines from January 1, 2020, to January 1, 2022, reduces the overall risk to human health or the environment and reflects the earliest date that a lower risk substitute is currently or potentially available.

Statutory authority for adoption: Chapter 70.235 RCW, Limiting Greenhouse Gas Emissions

Statute being implemented: Chapter 70.235 RCW

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: To meet statutory deadlines in the law, Ecology adopted three emergency rules while working on the permanent rule. Ecology plans to adopt two more emergency rules before the permanent rule goes into effect by the end of 2020.

The emergency rules were adopted as follows:

The first emergency rule on July 30, 2019 (WSR 19-16-059)

The second emergency rule on November 21, 2019 (WSR 19-24-005)

The third emergency rule on March 16, 2020 (WSR 20-07-076)

Name of proponent: (person or organization) Department of Ecology

Private

Public

Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Linda Kildahl	300 Desmond Drive, Lacey, WA 98503	360-407-7655

Implementation:	Abbey Brown	300 Desmond Drive, Lacey, WA 98503	360-407-6826
Enforcement:	Abbey Brown	300 Desmond Drive, Lacey, WA 98503	360-407-6826

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name: N/A
Address: N/A
Phone: N/A
Fax: N/A
TTY: N/A
Email: N/A
Other: N/A

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Linda Kildahl
Address: 300 Desmond Drive, Lacey, WA 98503
Phone: 360-407-7655
Fax: N/A
TTY: For Washington Relay Service or TTY call 711 or 877-833-6341
Email: linda.kildahl@ecy.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.020(1), 19.85.030(1), 19.85.025(4).

Explanation of exemptions, if necessary: The Regulatory Fairness Act (RFA; RCW 19.85.070) requires Ecology to perform a set of analyses and make certain determinations regarding proposed rules, if they impose more than minor compliance costs on businesses in an industry.

We analyzed the compliance costs of the proposed rule, and whom they fall on, in Chapter 3 of this document. We determined that no businesses in Washington State would incur compliance costs under the proposed rule. Based on the available list of manufacturers (who were all required to report to Ecology by December 31, 2019 under the baseline), we expect all affected manufacturers to be businesses outside of Washington State (in other states or other countries, while their products are sold in Washington).

Based on this analysis, Ecology is exempt from performing additional analyses under the RFA, specifically (bold added for emphasis):

- RCW 19.85.020(1), which defines industry: “ **Industry** means all of the businesses in this state in any one four-digit standard industrial classification as published by the United States department of commerce, or the North American industry classification system as published by the executive office of the president and the office of management and budget.”
- RCW 19.85.030(1)(a), which states: “In the adoption of a rule under chapter [34.05](#) RCW, an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on **businesses in an industry**; or (ii) if requested to do so by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rulemaking under RCW 34.05.320.”
- RCW 19.85.025(4), which states: “This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect **small businesses**.”


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency’s analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY: .
 Email:
 Other:

Date: June 16, 2020	Signature: 
Name: Heather Bartlett	
Title: Deputy Director	