



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: November 07, 2018

TIME: 7:14 AM

WSR 18-22-123

Agency: Department of Ecology AO # 18-11

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR _____ ; 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)

Chapter 173-423 WAC, Low emission vehicles, establishes rules implementing the California motor vehicle emission standards adopted by the 2005 Washington Legislature. This rulemaking incorporates by reference recent changes to California clean car rules to maintain consistency with the California motor vehicle emission standards and compliance with federal law.

For [more information on this rulemaking](https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423), visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423>.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 11, 2018	2:00 pm	Webinar and in-person at: Department of Ecology 300 Desmond Drive Lacey, WA 98503	<p>Presentation, question and answer session followed by the hearing.</p> <p>We are also 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=e788c16198495653d0aed408e8f72e37e.</p> <p>For audio call US Toll number 1-855-929-3239 and enter access code 809 005 897. Or to receive a free call back, provide your phone number when you join the event.</p>

Date of intended adoption: Dec. 27, 2018 (Note: This is NOT the effective date)

Submit written comments to:

Name: Elena Guilfoil
 Address: Department of Ecology
 Air Quality Program
 PO Box 47600
 Olympia, WA 98504-7600
 Email: Submit comments by mail, online, or at the hearing(s).
 Fax: N/A
 Other: Online: <http://ac.ecology.commentinput.com/?id=x2Sih>
 By (date) December 18, 2018

Assistance for persons with disabilities:

Contact Sultana Shah
 Phone: 360-407-7832
 Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.

Email: sultana.shaw@ecy.wa.gov

Other: N/A

By (date) December 4, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: We propose to update our rule to match revisions to California's motor vehicle emission standards for greenhouse gases approved by the California Air Resources Board on Sept. 28, 2018. These changes:

- Clarify that automobile makers who want to sell cars and light-duty trucks in California (and by extension in Washington) for model years 2021 through 2025 would need to meet the existing standards agreed to by California, the federal government, and automakers in 2012; and
- Update requirements and test procedures for certifying compliance with the vehicle emission standards.

Other changes

- Update requirements for on-board diagnostic systems from California's 2015 rulemaking in Section 1968.2 and Section 1968.5.
- Update the California effective date for two sections to reflect the current date rather than the revision date for that citation:
 - Section 1956.8 (g) and (h): California revisions to Section 1956.8 did not change the content in (g) and (h); and
 - Appendix A to Article 2.1: Appendix A is part of Section 2112 so the effective date should be the effective date for Section 2112 not the date Appendix A was last revised.
- Correct that ten sections are located in Article 2 not Article 1: Section 1956.8 (g) and (h), Section 1960.1, Section 1961, Section 1961.1, Section 1961.2, Section 1961.3, Section 1965, Section 1968.2, Section 1968.5, Section 1976, and Section 1978.

Reasons supporting proposal:

The Washington Legislature requires automotive emissions standards to be consistent with California low emission vehicle standards in Title 13 of the California Code of Regulations. RCW 70.120A.010 directs Ecology to "amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards." This rulemaking will incorporate by reference recent updates of Title 13 of the California Code of Regulations into Chapter 173-423 WAC.

The federal Clean Air Act allows states that want to be more stringent than the federal standards for new vehicles to adopt the California clean car program and requires these states to maintain consistency with the California vehicle emission standards.

Statutory authority for adoption: RCW 70.120A.010

Statute being implemented: Chapter 70.120A RCW, Motor Vehicle Emission Standards

Is rule necessary because of a:

Federal Law?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: 42 U.S.C. Sec. 7507

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: In 2012, California, the federal government (National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency), and automakers agreed to establish one national program for fleet-wide emission standards. With that decision, California adopted rules in 2012 declaring that cars meeting federal standards for model years 2017-2025 comply with California's greenhouse gas standards. Twelve other states and the District of Columbia have adopted California's standards. Colorado is in the process of adopting the California standards. These states make up more than 35 percent of the U.S. new car market.

In August 2018, the National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency announced they were considering freezing the current federal fuel efficiency and greenhouse gas emissions standards at the 2020 levels. The existing federal and California standards require automobile makers to increase efficiency and reduce emissions year over year through model year 2025.

On September 28, 2018, the California Air Resources Board endorsed rules to clarify that automobile makers who want to sell cars and light-duty trucks in California after the 2020 model year would need to meet the existing standards, rather than

weaker standards that the National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency may adopt. We intend to adopt by reference California's rule revisions when they adopt their rule changes.

- California 2018 rulemaking documents: <https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm>
- California 2015 rulemaking documents: <https://www.arb.ca.gov/regact/2015/obdii2015/obdii2015.htm>

Name of proponent: (person or organization) Department of Ecology Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Elena Guilfoil	Lacey	(360) 407-6855
Implementation:	Transportation planner	Lacey	(360) 407-6600
Enforcement:	Transportation planner	Lacey	(360) 407-6600

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:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: RCW 34.05.328 (5)(v) exempts rules the content of which is explicitly and specifically dictated by statute (in this case RCW 70.120A.010 directs Ecology to amend its rules to maintain consistency with the California motor vehicle emission standards).

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:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

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 ____.

Explanation of exemptions, if necessary:

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: November 6, 2018

Name: Polly Zehm

Title: Deputy Director

Signature:

