



# PROPOSED RULE MAKING

**CR-102 (July 2022)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 07, 2022

TIME: 11:40 AM

WSR 22-18-103

Agency: Department of Ecology AO # 21-12

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 22-03-078 ; 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 revising two rules:

- o Chapter 173-423 WAC, Clean Vehicles Program.
  - This rulemaking will adopt California's Advanced Clean Cars II (ACC II) rule, which will ramp up sales of zero emission vehicles (ZEVs) in Washington State starting in model year 2026. It will also adopt California's Heavy-Duty Engine and Vehicle Omnibus rules, establish a credit system for ZEV sales, and institute a one-time fleet reporting requirement.
- o Chapter 173-400 WAC, General Regulations for Air Pollution Sources.
  - This rulemaking will update the adoption date of federal rules by amending the following sections:
    - WAC 173-400-025 Adoption by reference
    - WAC 173-400-050 Emission standards for combustion and incineration units
    - WAC 173-400-070 Emission standards for certain source categories
    - WAC 173-400-115 Standards of performance for new sources
    - WAC 173-400-720 Prevention of significant deterioration (PSD). The rule will retain the current definition of "project emissions accounting."

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 12, 2022	1:00 PM	We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.	We will be holding a presentation and question and answer session, followed by the hearing.  Register in advance for this meeting: <a href="https://waecy-wa.gov.zoom.us/join/91234567890">https://waecy-wa.gov.zoom.us/join/91234567890</a>

Date of intended adoption: 12/19/2022 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Adam Saul  
Address: Send US mail to:  
Department of Ecology  
Air Quality Program  
PO Box 47600, Olympia, WA 98504-7600  
Email: adam.saul@ecy.wa.gov

Fax: N/A

Other: N/A

By (date) October 19, 2022

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: [ecyadacoordinator@ecy.wa.gov](mailto:ecyadacoordinator@ecy.wa.gov)

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

By (date) October 7, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** RCW 70A.30.010 directs Ecology to adopt rules implementing California's vehicle emission standards and to maintain consistency with new iterations of California's standards and 42 U.S.C. Section 7507.

This rulemaking will adopt the following rules from California's Code of Regulations and update 173-423 WAC to reflect the new adoption date of California's rules:

- Heavy-Duty Engine and Vehicle Omnibus Regulation and associated amendments. These rules require cleaner, less-polluting heavy-duty engines that emit much lower quantities of nitrogen oxide (NOx) and particulate matter (PM).
- Advanced Clean Cars II (ACC II). This rule will increase the zero emission vehicle (ZEV) sales of passenger cars, light-duty trucks and medium-duty vehicles in Washington State. The sales mandate would take effect in model year 2026 and begin by requiring 35% of new passenger vehicle sales to be ZEV, with that percentage increasing between 6-8% per year until ZEVs make up 100% of new sales starting in model year 2035. It will also require light and medium-duty vehicles to meet stronger emissions standards.

This rulemaking will also include the following:

- Early Action ZEV Credits: Adopt provisions to provide automakers with optional ZEV sales credits for model years 2023 and 2024. This would ensure Washingtonians have access to a wide variety of ZEV vehicle models before regulatory requirements take effect in model year 2025.
- One-time Fleet Reporting Rule: Require fleet owners and operators to report information about medium- and heavy-duty vehicles (defined as vehicles above 8,500 pounds) in their fleet. This requirement mirrors a similar requirement in California's Advanced Clean Trucks rule. Ecology currently has very little data on fleets, and the inventory of existing heavy-duty fleets and information about where these vehicles operate would enable Ecology to develop and implement strategies to reduce their emissions.

**Chapter 173-400 WAC, General Air Quality Regulations for Air Pollution Sources:** The rulemaking will update the adoption date of federal rules. Ecology can only implement and enforce federal rules that the rule adopts by reference. This action will amend the following sections:

- WAC 173-400-025 Adoption by reference
- WAC 173-400-050 Emission standards for combustion and incineration units
- WAC 173-400-070 Emission standards for certain source categories
- WAC 173-400-115 Standards of performance for new sources
- WAC 173-400-720 Prevention of significant deterioration (PSD). The rule will retain the current definition of "project emissions accounting."

**Reasons supporting proposal:** Vehicle emissions are the biggest source of carbon pollution in Washington, accounting for about 45% of total greenhouse gas emissions in our state. Most of that pollution comes from passenger cars and trucks. We cannot make meaningful progress to address climate change without significantly reducing vehicle emissions.

This rulemaking will rapidly scale up ZEVs as a proportion of new vehicle sales, take polluting engines off the road, and mitigate the climate impacts of tailpipe emissions. Along with cutting greenhouse gases, reducing emissions from vehicles will improve air quality and protect public health, especially in communities nearby transportation corridors, ports, freeways, and other areas of concentrated emissions. Because more low-income people and people of color live in these communities, they are disproportionately harmed by vehicle emissions.

The new heavy-duty truck engine standards will reduce pollution and health risks by cutting emissions of NOx by 90% and PM by 50%. Exposure to these pollutants is linked to serious health problems, including asthma, lung, and heart disease. The rule changes also add other requirements that reduce emissions and extend engine warranties and useful life.

**Statutory authority for adoption:** Chapter 70A.30 RCW, Motor Vehicle Emission Standards and Chapter 70A.15 RCW, Washington Clean Air Act

**Statute being implemented:** Chapter 70A.30 RCW, Motor Vehicle Emission Standards and Chapter 70A.15 RCW, Washington Clean Air Act

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" 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: N/A

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** More information is available in the Preliminary Regulatory Analysis and the Determination of Nonsignificance and Environmental Checklist prepared to comply with the State Environmental Policy Act (SEPA). Refer to the rulemaking web page for a link to these documents: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-423-400Jan18>

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

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Adam Saul	Lacey	(360) 742-7998
Implementation:	Dustin Watson	Lacey	(360) 764-6785
Enforcement:	Dustin Watson	Lacey	(360) 764-6785

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

**Is a cost-benefit analysis required under [RCW 34.05.328?](#)**

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
- Name: Adam Saul  
Address: Department of Ecology  
Air Quality Program  
PO Box 47600  
Olympia, WA 98504-7600  
Phone: 360-742-7998  
Fax: N/A  
TTY: For Washington Relay Service or TTY call 711 or 877-833-6341  
Email: adam.saul@ecy.wa.gov  
Other:
- No: Please explain:

**Regulatory Fairness Act and Small Business Economic Impact Statement**  
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**  
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations)         | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)  | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)   |
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(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 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule:

**(2) Scope of exemptions:** *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

**Explanation of Partial Exemption**

Ecology baselines are typically complex, consisting of multiple requirements fully or partially specified by existing rules, statutes, or federal laws. Where the proposed rule differs from this baseline of existing requirements, it is typically subject to (i.e., not exempt from) analysis required under the Regulatory Fairness Act (Chapter 19.85 RCW). Where the proposed rule is identical to baseline (dictated by existing rule, statute, or federal law), it is exempt from analysis.

See the SBEIS below for a summary of the baseline for this rulemaking, and whether or how the proposed rule differs from the baseline. Additional exemptions under the Regulatory Fairness Act are identified if applicable.

- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

**SBEIS**

This Small Business Economic Impact Statement (SBEIS) presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by Ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (chapter 19.85 RCW) as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment—the regulations in the absence of the rule. The SBEIS only considers costs to “businesses in an industry” in Washington State. This means that impacts, for this document,

are not evaluated for government agencies.

The existing regulatory environment is called the “baseline” in this document. It includes only existing laws and rules at federal and state levels.

This information is exempted from Ecology’s complete set of regulatory analyses for this rulemaking. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the associated Regulatory Analyses document (Ecology publication no. 22-02-030, September 2022).

## **COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES**

### **Baseline**

The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this rulemaking, the baseline includes:

- RCW 70A.30.010: Adopts California’s vehicle emission standards and directs Ecology to adopt rules implementing them, and to amend the rules to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Section 7507.
- Section 177 of the Clean Air Act (42 U.S.C. §7507): Authorizes other states to choose to adopt California’s standards instead of federal requirements.
- Chapter 70A.15 RCW, Washington Clean Air Act.
- The existing rules:
  - Chapter 173-423 WAC, Clean Vehicles Program.
  - Chapter 173-400 WAC, General Air Quality Regulations for Air Pollution Sources: Establishes the regulatory framework to ensure that healthy air quality exists in Washington, including meeting federal air quality standards.

## **Adopt California’s Heavy-Duty Engine and Vehicle Omnibus Regulation and associated amendments**

### **Baseline**

RCW 70A.30.010 directs Ecology to adopt rules implementing California’s vehicle emission standards and to amend the rule to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Section 7507.

### **Proposed**

The proposed amendments would adopt by reference sections of the California Code of Regulations, which require to drastically cutting smog-forming nitrogen oxides (NOx) from conventional heavy-duty engines. The Omnibus Regulation would significantly increase the stringency of NOx emissions standards and would lengthen the useful life and emissions warranty of heavy-duty diesel engines for use in vehicles with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. The more stringent NOx emission standards begin with the 2024 model year engines and become more stringent with 2027 and subsequent model year engines.

### **Expected impact**

Ecology is required by statute to adopt California’s vehicle emission standards and to amend the rule from time to time to maintain consistency with the California motor vehicle emission standards; therefore, we do not expect any costs or benefits associated with this change as compared to the baseline.

California’s rule includes a provisional exemption for transit buses. Washington State does not have specific regulations for transit buses like California and will not adopt such regulations in this year’s rulemaking. This gives Ecology time to review California’s Innovative Clean Transit rule.

### **Relevant Exemptions**

RCW 19.85.025(3), RCW 34.05.310(4)(e)

RCW 19.85.025(3), RCW 34.05.310(4)(c)

## **Adopt California’s Advanced Clean Cars II rule**

### **Baseline**

In 2020, the Legislature adopted the California rules as written, and directed Ecology to adopt rules implementing them (RCW 70A.30.010). In November 2021, Ecology amended Chapter 173-423 WAC – Clean Vehicles Program to incorporate

the California Advanced Clean Cars I Program. This program combines the control of criteria pollutants, other pollutants, and greenhouse gas emissions into a coordinated regulatory package. The rule adopts California’s motor vehicle emission standards that apply to:

- Low emission vehicles – passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans)
- Zero emission vehicles – passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans)
- Zero emission trucks – vehicles greater than 8,500 pounds gross vehicle weight rating (delivery vans, work trucks, long-haul trucks, drayage trucks, transit buses, garbage trucks, and other commercial work vehicles). This is California’s Advanced Clean Trucks rule

### **Proposed**

Ecology is proposing to adopt the Advanced Clean Cars II (ACC II) Program after California’s adoption of the program on August 25, 2022. The newly proposed CARB amendments would set ZEV and LEV requirements for model year 2026 and subsequent model year vehicles, including new supporting ZEV and LEV test procedures. It would also establish ZEV assurance measures, which include new requirements for:

- Durability
- Warranty
- Serviceability
- Data standardization
- Battery labeling

These rules are intended to ensure ZEVs are able to serve as true replacements to conventional internal combustion engine vehicles (ICEVs), thereby ensuring emissions reductions occur and providing consumer confidence needed to support the full entry of ZEVs into new and used vehicle markets.

### **Expected impact**

Ecology is required by statute to adopt California’s vehicle emission standards and to amend the rule from time to time to maintain consistency with the California motor vehicle emission standards; therefore, we do not expect any costs or benefits associated with this change as compared to the baseline.

### **Relevant Exemptions**

RCW 19.85.025(3), RCW 34.05.310(4)(e)

RCW 19.85.025(3), RCW 34.05.310(4)(c)

## **Allow automakers to earn credits for model years 2023 and 2024**

### **Baseline**

In November 2021, Ecology adopted the California ZEV requirement into Chapter 173-423 WAC to require automakers delivering new, light-duty vehicles for sale in Washington State to make a certain percentage of those vehicles ZEVs. ZEVs can include:

- Battery electric vehicles (BEV),
- Plug-in hybrid electric vehicles (PHEV), or
- Hydrogen fuel cell electric vehicles (FCEV).

When Ecology adopted the rule, we opted to defer consideration of issuing proportional or early action credits (for selling ZEVs in the state before the rules take effect), due to existing robust sales of ZEVs in the state.

### **Proposed**

The proposed rule amendments would provide an option for automakers to earn early action credits for ZEV sales for model years 2023 and 2024.

An early action credit is an optional credit for a ZEV sale before the ZEV compliance period starts in model year 2025. For model year 2025, earned credits would be regulatory credits under ACC I. Both early action and regulatory credits will be allocated based on the performance of the ZEV being sold. For example, long-range BEVs are eligible for the maximum of four credits, whereas some PHEVs with limited range can receive as little as a fraction of one credit.

Starting in model year 2026, ZEVs will receive a maximum of one credit per sale. All credits banked under the previous rules will be converted to Historical Credits. Ecology considered multiple options on how to assign credits and, seeking public input, presented the revised early credit options report to the stakeholders.

Ecology considered the following options:

- Option 1. Full proportional credits: Washington credits are proportional to banked California credits.

- Option 2. Adjusted proportional credits: Washington credits are proportional to banked California credits but adjusted for robust Washington sales.
- Option 3. No credits.
- Option 4. Credits for model year 2023 and model year 2024.
- Option 5. Combination: a mix of proportional credits and early action credits.

After reviewing and considering input received during the informal comment period, Ecology concluded that the stakeholders recognize Option 4 - Credits for model year 2023 and model year 2024 - as the most beneficial. This option would provide early action - a credit for a ZEV sale before the ZEV compliance period starts with model year 2025.

### **Expected impact**

The amended rule would provide benefits to EV automakers with sales in Washington, and to all Washingtonians. Offering early action credits provides a new incentive to automakers to make EV models available in Washington State for the two years before the start of our Clean Vehicles program. Without the ability to generate credits during this period, some automakers may choose to send EVs to states that offer credits to meet compliance obligations. Some automakers do not currently offer certain ZEV models for purchase in Washington due to the lack of ZEV credits, and will likely continue to keep those models off the Washington market until credits are available. Without early action credits, Washingtonians may continue to be unable to purchase some popular ZEV models in Washington.

### **Relevant Exemptions**

None. Analysis required, but as discussed above no associated compliance costs.

### **Update the adoption date of California's rules**

#### **Baseline**

The current rule incorporates California Code of Regulations as they existed on June 22, 2021 or the adoption by reference date: September 7, 2022, whichever is later.

#### **Proposed**

The amended rule would incorporate California Code of Regulations, as they exist on September 7, 2022, or the adoption by reference date, whichever is later.

#### **Expected impact**

This change would allow Ecology to meet requirements in RCW 70A.30.010 and would not generate any costs or benefits as compared to the baseline.

#### **Relevant Exemptions**

RCW 19.85.025(3), RCW 34.05.310(4)(c)

### **Require fleet owners and operators to report**

#### **Baseline**

Currently, no entities are required to report to Ecology information about vehicles over 8,500 pounds.

#### **Proposed**

The following entities would be required to report fleet information to Ecology:

- Any person that owns or operates a business with gross annual revenues greater than \$50 million in the United States for the 2022 tax year, including revenues from all subsidiaries, subdivisions, or branches, and that operated a facility in Washington in 2022 that had one or more vehicles over 8,500 pounds as of gross vehicle weight rating (GVWR) operated in Washington in 2022.
- Any person that owns or operates a facility in Washington and, in the 2022 calendar year, owned or operated five or more vehicles with a GVWR greater than 8,500 pounds.
- Any person that operated a facility in Washington and in the 2022 calendar year, dispatched five or more vehicles with a GVWR greater than 8,500 pounds into or throughout Washington.
- Any Washington government agency, including state and local government, that operated five or more vehicles over 8,500 pounds GVWR in Washington in 2022.
- Any federal government agency that operated five or more vehicles over 8,500 pounds GVWR in Washington in 2022.

#### **Expected impact**

We expect fleet reporting to impose costs on fleet owners and operators associated with the time necessary to report information about vehicles over 8,500 pounds. We also expect benefits from the proposed requirement, as the inventory of the existing heavy-duty fleet and information on where these vehicles operate would provide information to help Ecology to

develop a statewide strategy to reduce their emissions and assist with outreach for environmental justice advocates. Ecology currently has very little data on medium- and heavy-duty vehicle fleets. This data collection effort will help Ecology identify preliminary opportunities for efficiently reducing emissions and at the same time not to over-impose requirements that would create excess or unreasonable costs, and cause unexpected side-effects. This would also accelerate ZEV adoption and site ZEV infrastructure such as heavy-duty chargers.

**Relevant Exemptions**

None.

**Organization and clarification without material impact**

**Baseline**

Over the course of implementation, Ecology determined that some parts of the rules were unclear or poorly organized.

**Proposed**

The proposed rule amendments clarify and organize language and requirements to improve clarity and facilitate compliance. Other changes are necessary to make rules consistent across amended sections.

**Expected impact**

No behavioral impact is expected, although the clarification of, and ease of compliance with, the proposed rule may reduce transitory costs (increased benefits) such as time spent determining whether or how to comply.

**Relevant Exemptions**

RCW 19.85.025(3), RCW 34.05.310(4)(d)

**COSTS OF COMPLIANCE: EQUIPMENT**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment.

**COSTS OF COMPLIANCE: SUPPLIES**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR**

We identified 2,226 entities that would be required to report under the proposed rule.

**Summary of the number of entities we assume the proposed requirement would impact**

Reporting category	Number of entities
Businesses with gross annual revenues greater than \$50 million and that operated a facility in Washington in 2022 that had one or more vehicles over 8,500 pounds GVWR operated in Washington in 2022.	35
Washington businesses in 2021 that owned and operated five or more vehicles with a GVWR greater than 8,500 pounds.	1,347
Out-of-state businesses in 2021 that operated five or more vehicles with a GVWR greater than 8,500 pounds in Washington.	108
Businesses in the 2022 calendar year that dispatched five or more vehicles with a GVWR greater than 8,500 pounds into or throughout Washington.	395
Government agencies, excluding state agencies, which operate five or more vehicles over 8,500 pounds GVWR in Washington in 2022.	320
Any federal government agency that operated five or more vehicles over 8,500 pounds GVWR in Washington in 2022.	19
State fleet data reporting agencies	2
<b>Total</b>	<b>2,226</b>

**Cost of reporting for one entity**

In 2019, CARB published the Standardized Regulatory Impact Assessment (SRIA) for the Advanced Clean Trucks Regulation. Under the Advanced Clean Trucks (ACT) Regulation, large fleet owners and large companies that contract out for transportation-related services are required to report the following information to CARB:

- A list of the vehicles they own.
- Location information for their companies in California.
- How they and their contractors move freight and perform other services.

Companies that do not own trucks need to report summary information about the:

- Types of product they move.
- Types of services they hire.



Most large companies that own trucks or buses have fleet software or other data management systems to pull information about their fleet and business quickly.

The proposed rule would require all covered parties to report fleet information.

The proposed rule also requires businesses to keep their reporting records for five years after the reporting deadline.

Affected entities would need time to prepare and submit their report. CARB estimated it takes on average:

- Two hours to retrieve, review, and, report company-specific information.
- Two hours to retrieve, review, and report vehicle information.

This means businesses will need four hours to prepare and submit their report to Ecology. This may be higher or lower from company to company. These averages assume that some large entities will not have information to report other than to respond that they do not contract directly for any transportation services. We assumed the hourly cost is \$50 per hour for staffing and lost revenue from the employee assigned to do the reporting.

The cost of reporting in the California rule is about \$200. Because California’s reporting requirements and the mean hourly wage for transportation industry are similar to Washington, we conclude the cost of reporting, under the proposed rule, is also close to \$200. To be conservative, we also include high-end estimate of eight hours (\$400) that an entity may need to report. This is a one-time requirement that will provide information to help Ecology and other organizations develop a strategy for reducing emissions from medium- and heavy-duty vehicles.

We estimated the total cost range for all entities affected by the proposed change is between \$445,200 and \$890,400.

#### **COSTS OF COMPLIANCE: PROFESSIONAL SERVICES**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of professional services.

#### **COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS**

Where applicable, Ecology estimates administrative costs (“overhead”) as part of the cost of labor and professional services, above.

#### **COSTS OF COMPLIANCE: OTHER**

N/A

#### **COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES**

We calculated the estimated per-business costs to comply with the proposed rule, based on the costs estimated in the Preliminary Regulatory Analyses for this rulemaking. In this section, we estimate compliance costs per employee.

The average affected small business likely to be covered by the proposed rule employs approximately six people. The largest ten percent of affected businesses employ an average of 5,925 people. Based on cost estimates, we estimated the following compliance costs per employee.

Type of cost (or total cost)	Low	High
Average small business employment	6	6
Average employment at largest ten percent of businesses	5,925	5,925
Small business cost per employee	\$33	\$66
Largest business cost per employee	\$0.03	\$0.07

We conclude that the proposed rule may have disproportionate impacts on small businesses, and therefore Ecology must include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

Note that for California’s rule the \$200 estimate is based on large fleets (50 vehicles or more), as the rule only affects those entities. As the proposed reporting requirements would affect entities with fleet of five and more vehicles, we expect the base cost for small businesses to be lower, because they generally have smaller fleets to report.

#### **CONSIDERATION OF LOST SALES OR REVENUE**

Businesses that would incur costs could experience reduced sales or revenues if the proposed rule significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to:

- Each businesses production and pricing model (whether additional lump-sum costs would significantly affect marginal costs).
- Specific attributes of the markets in which they sell goods, including the degree of influence each firm has on market prices.
- The relative responsiveness of market demand to price changes.

We used the REMI E3+ model for Washington State to estimate the impact of the proposed rule on directly affected markets, accounting for dynamic adjustments throughout the economy. The model accounts for:

- Inter-industry impacts.
- Price, wage, and population changes.
- Dynamic adjustment of all economic variables over time.

Using the REMI E3+ model, we applied potential costs (averaging them to \$670,000 and dividing them equally between years 2022 and 2023) to the following industries:

- Truck transportation
- Couriers and messengers
- Transit and ground passenger transportation
- Scenic and sightseeing transportation and support activities for transportation
- Warehousing and storage

Modeling results did not indicate significant impacts to industries. However, output would decrease by \$251,213 in year 2022 and \$318,310 in 2023 over all industries in the state. Although, the results for affected industries did show some effect on output, and therefore, revenue of the industries, the relative indicators of industries demonstrate very little impact.

**Effects of the reporting requirement costs on output, USD, 2022-2023**

Industry	2022 Output	Percent	2023 Output	Percent
Truck transportation	-45,170	-0.001	-54,989	-0.001
Couriers and messengers	-14,936	-0.001	-17,958	-0.001
Transit and ground passenger transportation	-5,997	0	-8,056	-0.001
Scenic and sightseeing transportation and support activities for transportation	-34,379	-0.001	-42,360	-0.001
Warehousing and storage	-11,714	-0.001	-13,983	-0.001
Transportation and warehousing total	-113,712	0	-139,258	-0.001
State economy total	-251,213	0	-318,310	0

**MITIGATION OF DISPROPORTIONATE IMPACT**

The RFA (19.85.030(2) RCW) states that:

“Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- Reducing, modifying, or eliminating substantive regulatory requirements;
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- Reducing the frequency of inspections;
- Delaying compliance timetables;
- Reducing or modifying fine schedules for noncompliance; or
- Any other mitigation techniques including those suggested by small businesses or small business advocates.”

We considered all of the above options, the goals and objectives of the authorizing statutes (see Preliminary Regulatory Analyses), and the scope of this rulemaking. We limited compliance cost-reduction methods to those that:

- Are legal and feasible.
- Meet the goals and objectives of the authorizing statute.
- Are within the scope of this rulemaking.

The scope of this rulemaking was limited to adopting California’s ACC II program and establishing fleet reporting requirements, so we could not legally include options (a) and (c – f).

Finally, we included the following elements in the proposed rule amendments to reduce costs to small businesses.

We simplified, reduced and eliminated reporting requirements, such as we rejected proposing the following requirements:

- The fleet reporting requirement should be annual instead of one-time.
- The fleet reporting requirement should be annual instead of one-time.

See Preliminary Regulatory Analyses for the details.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION**

We involved small businesses and local governments in its development of the proposed rule amendments, using:

- Ecology held three webinars for stakeholders concerning the proposed rule amendments on February 28, April 19 and June 14, 2022.

- The following stakeholders attended the webinars: Snohomish PUD, City of Seattle, Puget Sound Clean Air Agency, Cowlitz PUD, and NW Seaport Alliance.
- Stakeholder meeting notices, materials, and project updates sent to groups above and posted to rulemaking website.

**NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE**

The proposed rule amendments likely impacts the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/naics/?58967?yearbck=2022>

- Long-haul freight transport companies, 484121
- Local freight transport companies, 484110
- Shipping and delivery companies, 492110
- Drayage truck dispatchers, 488510
- Logging companies, 113000
- Hazardous materials transport companies, 562112
- Fuel distributors, 424720
- Specialized freight haulers, 484220
- Construction and mining companies with HD fleets, 53241
- Transport logistics operators, 488510
- HVAC and plumbing contractors, 238220
- Distribution fleets for retail companies, 425120
- Distribution fleets for retail products, 424490
- Restaurant food distribution fleets, 423850
- Motor vehicle transport companies, 488490
- Truck rental companies, 532120
- Motor coach operators, 485113
- Electrical utility repair fleets, 237130
- Other utility repair fleets, 561990
- Federal agencies with HD fleets in WA, 999000
- US Postal Service, 491
- State agencies with HD fleets, 999200
- School districts and pupil transporters, 485410
- Local agencies with HD fleets, 999300

**IMPACT ON JOBS**

We used the REMI E3+ model for Washington State to estimate the impact of the proposed rule amendments on jobs in the state, accounting for dynamic adjustments throughout the economy.

The proposed rule amendments would result in transfers of money within and between industries, as compared to the baseline. The modeled impacts on employment are the result of multiple small increases and decreases in employment, prices, and other economic variables across all industries in the state.

Industry	Initial Jobs Impact	Jobs Impact in 20 years
Whole state	-1.8	-0.015
Truck transportation	-0.274	0.001
Couriers and messengers	-0.324	0
Transit and ground passenger transportation	-0.187	0
Scenic and sightseeing transportation and support activities for transportation	-0.171	0
Warehousing and storage	-0.129	0
Transportation and warehousing total	-1.089	0

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

Name: Adam Saul

Address: Department of Ecology  
Air Quality Program  
PO Box 47600  
Olympia, WA 98504-7600

Phone: 360-742-7998

Fax: N/A

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

Email: adam.saul@ecy.wa.gov

Other: N/A

**Date:** September 7, 2022

**Name:** Heather Bartlett

**Title:** Deputy Director

**Signature:**

