



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Washington State Department of Ecology AO # 15-03

Subject of possible rule making: Ecology is starting a rulemaking to propose amendments to Chapter 173-900 WAC – *Electronic Products Recycling Program*, to incorporate a new approach to calculating manufacturer responsibility in the program. This follows the passage of Chapter 305, 2013 Laws (ESB 5699) in 2013 that amended chapter 70.95N RCW. Portions of Part IX of the rule (Sampling, Return Share, and Equivalent Share) need to be repealed or amended, and several sections throughout the chapter need to be revised to reflect changes in the law. Also, we will be making changes to the requirements for the annual report filed by the authority or authorized party for the manufacturers of electronic products. This follows the passage of Chapter 292, 2013 Laws (SHB 1498) that amended chapter 70.95N RCW. In addition, we will make other changes needed for clarification and basic editing.

Statutes authorizing the agency to adopt rules on this subject: RCW 70.95N.230(1) and RCW 70.95N.230(4).

Reasons why rules on this subject may be needed and what they might accomplish: This rulemaking is required following the passage of legislation in 2013. The Electronic Products Recycling Program is supported by fees paid to a stewardship organization by producers of consumer electronics subject to the rule. Most notably, the Legislature has directed us to implement a market-share based system to determine manufacturer responsibility from which fees will be calculated by the stewardship organization. Under the current system, Ecology performs sampling of returned consumer electronics to assign manufacturer responsibility. In conjunction with available market-share information the stewardship organization uses that assigned responsibility to determine a fee for each participating manufacturer to support the stewardship program. Under the legislation adopted in 2013, Manufacturers' responsibility for recycling electronics will be based entirely on current sales (market share), rather than on the amount of products that were sold in the past and are just now being turned in for recycling.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
There are none.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Standard agency process adopting some changes as directed in statute and working with stakeholders on other recommendations. Ecology will hold at least one public hearing on the rule proposal.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

- Contact Miles Kuntz at 360-407-7157 or send e-mail to miles.kuntz@ecy.wa.gov
- Contact Christine Haun at 360-407-6107 or send e-mail to christine.haun@ecy.wa.gov
- Rulemaking information for this program will be posted at <http://www.ecy.wa.gov/programs/swfa/rules/ruleDev.html>
- Sign up for program-related notifications about this rulemaking, from the Washington Recycles Electronic Products ListServ at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=WA-RECYCLES-ELECTRONICS>
- Visit the E-Cycle Washington web pages at <http://www.ecy.wa.gov/programs/swfa/eproductrecycle/>

DATE

April 28, 2015

NAME (TYPE OR PRINT)

Laurie G. Davies

SIGNATURE

TITLE

Waste 2 Resources Program Manager

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 29, 2015

TIME: 9:08 AM

WSR 15-10-039