



PROPOSED RULE MAKING

CR-102 (August 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 03, 2017

TIME: 11:18 AM

WSR 17-20-079

Agency: Department of Ecology AO # 16-10

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

- Preproposal Statement of Inquiry was filed as WSR 17-16-061 ; 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).**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The Department of Ecology is proposing a new rule: Chapter 173-323 WAC Grants and Loans. This rule will apply to grants and loans issued by Ecology that are funded under Chapter 70.105D RCW, Hazardous Waste Cleanup—Model Toxics Control Act (MTCA). If an Ecology grant or loan program has a rule specific to that program, this chapter will not apply.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Tuesday, November 7 2017	9:30 AM	Webinar and in-person at Department of Ecology - Headquarters 300 Desmond Drive SE Lacey, WA	<p>Webinar: Ecology is also offering this hearing via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access.</p> <p>To join the webinar click on the following link for more information and instructions: https://watech.webex.com/watech/j.php?MTID=m755694ef9ccc3e3438747f3fcb06f53a</p> <p>Comments: Ecology will accept comments at the Lacey location and through the webinar. To call in to the webinar, dial: 1-855-929-3239 or Toll - US/Canada:1-408-525-6800 Access # 809 014 731</p>

Date of intended adoption: December 4, 2017 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Bari Schreiner
Address: Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
Email: rulemaking@ecy.wa.gov
Fax: N/A
Other: Online: <http://wt.ecology.commentinput.com/?id=9FjS3>
By (date) November 14, 2017

Assistance for persons with disabilities:

Contact Hanna Waterstrat

Phone: 360-407-7668 (voice)
Fax: N/A
TTY: 877-833-6341
Email: hanna.waterstrat@ecy.wa.gov
Other: 711 relay service
By (date) November 1, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: We are proposing this chapter to establish Ecology’s guiding standards and expectations for grant and loan issuance and performance where public MTCA funds are involved, as required by RCW 70.105D.070 (8). We are also proposing this rule to be more clear and consistent in how we manage public funds. Ecology intends this rule to reflect current grant and loan practices.

Reasons supporting proposal: Please see the answer to “Purpose of the proposal...”

Statutory authority for adoption: RCW 70.105D.070 (8) Toxics Control Accounts

Statute being implemented: Chapter 70.105D RCW Model Toxics Control Act (MTCA)

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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Bari Schreiner	Ecology – Headquarters Lacey WA	360-407-6998
Implementation:	Erik Fairchild	Ecology – Headquarters Lacey WA	360-407-7005
Enforcement:	Erik Fairchild	Ecology – Headquarters Lacey WA	360-407-7005

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: Department of Ecology

Attn: Bari Schreiner

Address: PO Box 47600

Olympia, WA 98504-7600

Phone: 360-407-6998

Fax: N/A

TTY: 877-833-6341

Email: rulemaking@ecy.wa.gov

Other: N/A

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:

- 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. As a general rule, the grants and loans covered by the proposed rule may be granted only to governmental entities. Only the Air Quality Clean Diesel Grants and some one-time grants or loans can be awarded to businesses. The Air Quality Clean Diesel Grants are used for diesel retrofit – idle reduction. When filling out an application for one of these grants, businesses use information they have readily available for other purposes. Because the application process for these businesses is so simple, we estimate it takes less than one hour. We also assume that for more complicated applications, for these or one-time grants or loans, Ecology staff would provide additional support. For our analysis we used 60 minutes as a reasonable estimate of business time.

The actual cost of applying depends on the wage of the person inputting the application data. For the cost to exceed \$100, the wage would need to be greater than \$100 per hour on average. We are assuming that the staff completing these applications would have less than \$100 per hour salary. Therefore, the expected cost would be less than \$100 and would be less than a minor cost.

Based on research and analysis required by the Regulatory Fairness Act (RFA) – Chapter 19.85 RCW – Ecology has determined the proposed rule imposes minor costs on businesses. The expected cost is less than \$100. Because this is below the minor cost threshold, Ecology is not required to prepare a small business economic impact statement according to RCW 19.85.030(1)(a)(i).

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: Department of Ecology
Attn: Bari Schreiner

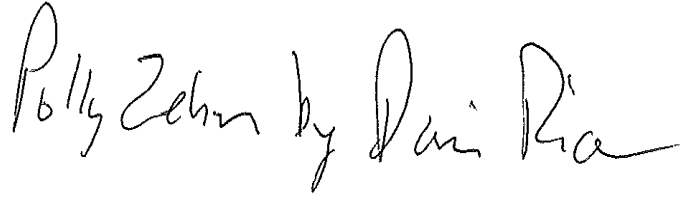
Address: PO Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6998
Fax: N/A
TTY: 877-833-6341
Email: rulemaking@ecy.wa.gov
Other: N/A

Date: October 3, 2017

Name: Polly Zehm by Darin Rice

Title: Deputy Director

Signature:

A handwritten signature in cursive script that reads "Polly Zehm by Darin Rice". The signature is written in black ink on a white background.