



# 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: December 04, 2018

TIME: 11:35 AM

WSR 18-24-098

Agency: Department of Ecology AO 18-08

Original Notice

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

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

Preproposal Statement of Inquiry was filed as WSR 18-13-112 ; 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)

Agricultural Burning – Chapter 173-430 WAC. This rule implements the agricultural burning program in Washington State.

For more information on this rulemaking visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-430>

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 8, 2019	3:30 PM	Webinar and in-person at: 300 Desmond Drive SE Lacey, WA 98503	Presentation, question and answer session followed by the hearing. We are also holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.  Join online and see instructions: <a href="https://watech.webex.com/watech/onstage/g.php?MTID=e8fdd02a524383118ac3fae25dc9b54f0">https://watech.webex.com/watech/onstage/g.php?MTID=e8fdd02a524383118ac3fae25dc9b54f0</a> 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.

Date of intended adoption: March 1, 2019 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Jacob Berkey

Address: Department of Ecology  
Air Quality Program  
P.O. 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=H37VT>

By (date) January 15, 2019

### Assistance for persons with disabilities:

Contact Sultana Shah

Phone: 360-407-6831

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.shah@ecy.wa.gov](mailto:sultana.shah@ecy.wa.gov)

Other: N/A

By (date) January 3, 2019

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

We propose amendments to WAC 173-430-041 and 173-430-080 to:

- Address inadequacies raised in the Washington State Auditor's Office Management Letter dated October 24, 2016.
- Incorporate the most current agriculture burning fee schedule and permit fee distribution to avoid confusion.
- Identify and, where appropriate, make needed edits in Chapter 173-430 WAC to make updates, technical clarifications, correct errors, and improve readability.

**Reasons supporting proposal:** The Washington State Auditor's Office performed an accountability audit of Ecology from July 1, 2014 to June 30, 2015 and issued a Management Letter dated October 24, 2016 with their recommendations. We are amending Chapter 173-430 WAC based on these recommendations.

Ecology and the Agricultural Burning Task Force adjusted the agricultural burning fees and agricultural burning fee distribution in 2012-2013, following the process specified in WAC 173-430-042. We are revising the fees and fee distribution tables in WAC 173-430-041 with the current fee schedules to avoid confusion.

We are changing the fund transfer schedule in WAC 173-430-080 to a schedule that works better for the Conservation Districts and regulated community. We are also changing rule language in WAC 173-430-080 to comply with the Auditor's findings about database trainings and records maintenance.

The rest of the changes are to make updates, make technical clarifications, correct errors and improve readability.

**Statutory authority for adoption:** Chapter 70.94 RCW, RCW 70.94.6524, RCW 70.94.6528.

**Statute being implemented:** Chapter 70.94.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:

**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:	Jacob Berkey	Department of Ecology Air Quality Program 300 Desmond Dr. SE Lacey WA 98503	360-407-7086
Implementation:	Kary Peterson	Department of Ecology Air Quality Program 4601 N Monroe Spokane WA 99205-1295	509-329-3523
Enforcement:	Kary Peterson	Department of Ecology Air Quality Program 4601 N Monroe	509-329-3523

**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: N/A

Address: N/A

Phone: N/A

Fax: N/A

TTY: N/A

Email: N/A

Other: N/A

No: Please explain: A cost-benefit analysis is not required because portions of this rule proposal meet the following exemption in RCW 34.05.328(5) (iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; RCW 34.05.328(5) (iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; RCW 34.05.328(5) (vi) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

**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)(e)  
(Dictated by statute)

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

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

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

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 19.85.025(4)\_\_\_\_\_.

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

<b>Date:</b> 12/4/18	<b>Signature:</b> 
<b>Name:</b> Polly Zehm	
<b>Title:</b> Deputy Director	