



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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DATE: October 08, 2019

TIME: 4:50 PM

WSR 19-21-040

Agency: Puget Sound Clean Air Agency

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) Proposed Regulation IV of the Puget Sound Clean Air Agency, Clean Fuel Standard (hereinafter "CFS".)

Webpage address: <http://www.pscleanair.org/CleanFuelStandard>

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 19, 2019	12:30 p.m.	Washington State Convention Center 705 Pike Street Seattle, WA 98101-2310	Public comment will be taken from 12:30 to 4:30 PM, and 5 to 8 PM

Date of intended adoption: The Agency estimates no sooner than February 27, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Kathy Strange

Address: 1904 3rd Ave, Suite 105, Seattle, WA 98101

Email: CleanFuels@psccleanair.org

Fax: (206) 343-7522

Other:

By (date) January 6, 2020

Assistance for persons with disabilities:

Contact Agency Receptionist

Phone: (206) 689-4010

Fax: (206) 343-7522

TTY: (800) 833-6388 or (800) 833-6385 (braille)

Email: christinab@psccleanair.org

Other:

By (date) December 9, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposed rule is to reduce and/or limit greenhouse gas (GHG) emissions to protect human health and the environment. The proposed rule would achieve the above through a reduction in the life cycle carbon intensity of transportation fuels that are sold, supplied, or offered for sale in the Agency's jurisdiction (King, Kitsap, Pierce and Snohomish Counties). The proposed rule would result in a life cycle carbon intensity reduction of up to 25% by 2030.

The proposed rule sets annual life cycle carbon intensity reduction benchmarks, starting with a reporting year only. Fuels whose carbon intensities are above the reduction benchmark generate deficits, and fuels whose carbon intensities are below

the reduction benchmark generate credits. One credit or deficit is equal to one metric ton of carbon dioxide equivalent (CO_{2e}). Each year, deficit producers are required to “retire” credits in equal proportion to their deficits in order to comply with the program – this can include a variety of mechanisms: purchasing credits from credit generators, co-processing biomass into renewable fuels, and/or generating credits through the refinery investment credit program.

Regulated entities required to participate include importers and producers of fuels such as gasoline, diesel, ethanol, biodiesel, and fossil compressed natural gas (CNG) and liquefied natural gas (LNG). Providers of fuels with a carbon intensity lower than the benchmark (credit generators) are eligible to ‘opt in’ to the CFS if they want to generate and sell credits. Opt-in fuels include electricity, bio-CNG, bio-LNG, hydrogen, renewable propane, and alternative jet fuel. The proposed rule includes exemptions for specific fuel applications, including inter-state locomotives, ocean-going vessels, aircraft, military tactical vehicles and tactical support equipment, and small volume fuel producers and fuels used in small volumes.

In addition to the above, the proposed rule includes provisions that detail:

- how carbon intensities are calculated for fuels; how all entities must submit their applications for carbon intensities, and the Agency’s approval process for carbon intensities;
- how credits and deficits are calculated;
- the process for all parties to register and submit quarterly and annual reports;
- how credit revenue is to be used by electric utilities and transit agencies;
- establishes an equity credit aggregator that is eligible to utilize electricity credits not claimed by others;
- establishes a credit clearance market, a mechanism used if deficit generators are unable to retire sufficient credits during the compliance period (January 1st through December 31st each year); and
- provisions for enforcement, confidentiality, severability, and definitions and acronyms.

The Agency estimates that the proposed rule, with corresponding carbon intensity (CI) reductions in transportation fuel of 15%, 20%, and 25%, would result in annual reductions of 1.8, 2.3, and 3 million metric tons GHG emissions by 2030, respectively. Using the Washington Utilities and Transportation Commission (UTC) recommended value for the social cost of carbon in 2030 (\$87/ton), the annual avoided costs would be approximately \$150 million, \$200 million, and \$260 million, respectively, per year in 2030. [see Washington Utilities and Transportation Commission. Social Cost of Carbon. <https://www.utc.wa.gov/regulatedIndustries/utilities/Pages/SocialCostofCarbon.aspx>]. The social cost of carbon includes property and infrastructure damage and mitigation, agricultural losses, energy costs, and health impacts, but it is not considered exhaustive. {EPA¹, WUTC², Washington State Department of Ecology³.}

The Agency estimates that the proposed rule will result in the reduction of harmful criteria pollutants and air toxics, particularly in communities located along major roadways. The Agency estimated the fine particle pollution emissions reductions associated with CI reductions of transportation fuel. Through the Agency’s consultant, ICF, the Agency estimated the corresponding monetary value of avoided deaths from reducing these emissions, using EPA’s Benefits Mapping and Analysis Program (BenMap) (see ICF for Puget Sound Clean Air Agency. Puget Sound Regional Transportation Fuels Analysis, Final Report. September 2019. <http://www.pscleanair.org/DocumentCenter/View/3809/Clean-Fuel-Standard-Technical-Analysis---Final-Report?bidId=>). The results showed an estimated annual value of \$10 to \$40 million reduced costs per year based on avoided deaths. These results do not include other health endpoint reductions for fine particle pollution including: asthma exacerbation, chronic obstructive pulmonary disease, work loss days, non-fatal heart attacks, etc.⁴ Qualitatively, the Agency also anticipates a reduction in mobile source air toxics from this rule, including known carcinogens such as benzene and diesel particulate matter.^{5,6} A reduction in these pollutants corresponds to a reduction in potential cancer risk, and the impact will be greatest for communities with greatest current exposure (those along major roadways).

Through the Agency’s consultant, ICF, the Agency developed several compliance scenarios that could meet a regional clean

¹ US Environmental Protection Agency (EPA). EPA Fact Sheet – Social Cost of Carbon. December 2016. https://www.epa.gov/sites/production/files/2016-12/documents/social_cost_of_carbon_fact_sheet.pdf.

² Washington Utilities and Transportation Commission. Social Cost of Carbon. Revised August 29, 2019. <https://www.utc.wa.gov/regulatedIndustries/utilities/Pages/SocialCostofCarbon.aspx>.

³ Washington State Department of Ecology. Final Cost-Benefit and Least-Burdensome Alternative Analysis, Clean Air Rule. September 2016. <https://fortress.wa.gov/ecy/publications/documents/1602015.pdf>.

⁴ US Environmental Protection Agency (EPA). Integrated Science Assessment for Particulate Matter. December 2009. <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=216546>.

⁵ EPA. How Mobile Source Pollution Affects Your Health. <https://www.epa.gov/mobile-source-pollution/how-mobile-source-pollution-affects-your-health>.

⁶ Washington State Department of Ecology. Concerns About Adverse Health Effects of Diesel Engine Emissions. December 2008. <https://fortress.wa.gov/ecy/publications/documents/0802032.pdf>.

fuel standard (CFS) and developed corresponding cost of implementation estimates. ICF modeled the macroeconomic cost and benefits of those scenarios across the Agency's jurisdiction using the REMI model. The main costs to implement the rule stem from investments that fuel producers must make to comply with the rule, as well as the differential (increased) cost to purchase electric vehicles compared to conventional internal combustion engine vehicles. The CFS provides flexibility for fuel producers to reduce their costs of compliance, but the Agency conservatively modeled that they do little to reduce their cost of compliance, and pass most of it on to consumers. Additionally, the extra cost to purchase electric vehicles is forecast to decrease substantially over time. These combined costs are largely offset by savings from the CFS that comes in the form of reduced fueling costs, due to electric vehicles being much cheaper to fuel than internal combustion engines. For the life cycle carbon intensity reduction of up to 25% by 2030 (scenario D), overall, these costs and savings offset each other: across the four counties the impact on both employment growth and gross regional product growth was one tenth of one percent or less. See ICF for Puget Sound Clean Air Agency. Puget Sound Regional Transportation Fuels Analysis, Final Report. September 2019. <http://www.pscleanair.org/DocumentCenter/View/3809/Clean-Fuel-Standard-Technical-Analysis---Final-Report?bidId=>).

Reasons supporting proposal: In February 2017, the Agency's Board of Directors adopted science-based climate targets to reduce greenhouse gas (GHG) emissions by 50% in 2030 and 80% by 2050 (below 1990 levels). Since almost half of all GHG emissions in the Agency's jurisdiction are from the transportation and mobile sector, the Agency's Board of Directors directed staff to analyze potential strategies to reduce GHG emissions in this sector. An analysis of a range of potential strategies to reduce transportation GHG emissions indicated that a Clean Fuel Standard would result in substantial reductions in transportation-related GHG emissions (see Puget Sound Clean Air Agency. Candidate Actions to Reduce Transportation Greenhouse Gas Emissions - Evaluation Report. June 2018. http://www.pscleanair.org/DocumentCenter/View/3314/Evaluation-Report_Transportation-Actions_June2018?bidId=.)

A subsequent report indicated that a regional clean fuel standard is feasible to implement with forecasts of currently available fuels (see ICF for Puget Sound Clean Air Agency. Puget Sound Regional Transportation Fuels Analysis, Final Report. September 2019. <http://www.pscleanair.org/DocumentCenter/View/3809/Clean-Fuel-Standard-Technical-Analysis---Final-Report?bidId=>). As stated above, the ICF report showed a clean fuel standard provides public health co-benefits through reduction of fine particle air pollution, particularly in communities near major roadways. The report also included a macroeconomic impacts review and concluded that for the life cycle carbon intensity reduction of up to 25% by 2030 (scenario D), impact to the regional economy (as measured by changes to employment and gross regional product growth) was almost indiscernible: one tenth of one percent or less, positive or negative.

Statutory authority for adoption: Chapter 70.94 RCW

Statute being implemented: Chapter 70.94 RCW

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: Under RCW 79.94, the Agency may adopt rules in its jurisdiction establishing emission standards for types of emissions or types of sources of emissions, or a combination of these. The proposed CFS is intended to establish emission standards for greenhouse gas emissions from producers, importers, and distributors of transportation fuel that supply the Agency's four-county jurisdiction (King, Kitsap, Pierce and Snohomish Counties).

Name of proponent: (person or organization) Puget Sound Clean Air Agency Private Public Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kathy Strange	1904 3rd Ave, Suite 105, Seattle, WA 98101	(206) 689-4095
Implementation:	Kathy Strange	1904 3rd Ave, Suite 105, Seattle, WA 98101	(206) 689-4095
Enforcement:	Kathy Strange	1904 3rd Ave, Suite 105, Seattle, WA 98101	(206) 689-4095

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:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141(1). However, costs considerations are discussed above.

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.

Explanation of exemptions, if necessary: RCW 19.85 does not apply to local air agencies which is not a state agency (see RCW 70.94.141(1)). However, cost considerations are discussed above.

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: October 8, 2019

Name: Craig T. Kenworthy

Title: Executive Director

Signature:

