

# PROPOSED RULE MAKING



## CR-102 (July 2022) (Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Northwest 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 70A.15.2040(1).**

**Title of rule and other identifying information:** (describe subject) Regulation of the Northwest Clean Air Agency

**Hearing location(s):**

**Date:**

**Time:**

**Location:** (be specific)

**Comment:**

December 5, 2023

10 am

In-person: NWCAA Office, 1600  
S 2<sup>nd</sup> St, Mt Vernon, WA

Video & teleconference:

<https://us06web.zoom.us/j/85102305919>

Meeting ID: 851 0230 5919

Phone: (253) 215-8782

**Date of intended adoption:** December 14, 2023 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Mark Buford

Address: 1600 S 2nd St, Mount Vernon, WA 98273

Email: [info@nwcleanairwa.gov](mailto:info@nwcleanairwa.gov)

Fax: (360) 428-1620

Other:

By (date) December 5, 2023 at 11am

**Assistance for persons with disabilities:**

Contact Laurie Caskey-Schreiber

Phone: (360) 428-1617

Fax: (360) 428-1620

TTY:

Email: [info@nwcleanairwa.gov](mailto:info@nwcleanairwa.gov)

Other:

By (date) November 28, 2023

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

- Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state and federal rules; delete chapter 173-442 WAC since it has been repealed; and add 40 CFR 60 Subparts AAb, KKa, MMa, and TTTa and 40 CFR 62 Subpart OOO to the list. (NWCAA Section 104)
- Replace the detailed public records procedures in the regulation with a general policy statement in accordance with the Public Records Act in chapter 42.56 RCW. The specific details and procedures related to public records will be published in a policy on the NWCAA website. This will allow NWCAA to better keep the public records policy up-to-date with the frequent changes in the RCW and current case law. (NWCAA Section 106)
- Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state rules related to the State Environmental Policy Act (SEPA). (NWCAA Section 155)
- Revise the definition of "Volatile organic compound (VOC)" to point to the general definitions in WAC 173-400-030 to avoid having to update the NWCAA definition each time the WAC definition section is renumbered. (NWCAA Section 200)

**Reasons supporting proposal:** See list above

**Statutory authority for adoption:** Chapter 70A.15 RCW

**Statute being implemented:** RCW 70A.15.2040(1) and Chapter 42.56 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:**

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Northwest Clean Air Agency

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Mark Buford	1600 S 2nd St, Mount Vernon, WA	(360) 428-1617
Implementation:	Mark Buford	1600 S 2nd St, Mount Vernon, WA	(360) 428-1617
Enforcement:	Mark Buford	1600 S 2nd St, Mount Vernon, WA	(360) 428-1617

**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: Not applicable under RCW 70A.15.2040

**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 type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input 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 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 70A.15.2040](#).
- Explanation of how the above exemption(s) applies to the proposed rule: Not applicable under RCW 70A.15.2040

**(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](#)):
- 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:

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 18, 2023

**Name:** Mark Buford

**Title:** Executive Director

**Signature:**

