

Chapter 70A.25 RCW
MOTOR VEHICLE EMISSION CONTROL

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Environmental certification programs—Fees—Rules—Liability: RCW 43.21A.175.

RCW 70A.25.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.
- (3) "Fleet" means a group of fifteen or more motor vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.
- (4) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16A RCW.
- (5) "Motor vehicle dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.
- (6) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.
- (7) The terms "air contaminant," "air pollution," "air quality standard," "ambient air," "emission," and "emission standard" have the meanings given them in RCW 70A.15.1030. [2020 c 20 s 1360; 2011 c 171 s 108; 1991 c 199 s 201; 1979 ex.s. c 163 s 1. Formerly RCW 70.120.010.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Severability—1979 ex.s. c 163: "If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 163 s 19.]

RCW 70A.25.020 Programs. (1) The department shall conduct a public educational program regarding the health effects of air pollution emitted by motor vehicles; the purpose, operation, and effect of emission control devices and systems; and the effect that proper maintenance of motor vehicle engines has on fuel economy and air pollution emission and a public notification program identifying the geographic areas of the state that are designated as being noncompliance areas and emission contributing areas and describing the requirements imposed under this chapter for those areas.

(2) (a) The department shall grant certificates of instruction to persons who successfully complete a course of study, under general requirements established by the director, in the maintenance of motor vehicle engines, the use of engine and exhaust analysis equipment, and the repair and maintenance of emission control devices. The director may establish and implement procedures for granting certification to persons who successfully complete other training programs or who have received certification from public and private organizations which meet the requirements established in this subsection, including programs on clean fuel technology and maintenance.

(b) The department shall make available to the public a list of those persons who have received certificates of instruction under subsection (2) (a) of this section. [1991 c 199 s 202; 1989 c 240 s 5; 1979 ex.s. c 163 s 2. Formerly RCW 70.120.020.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

RCW 70A.25.030 Vehicle inspections—Failed—Certificate of acceptance. (1) Any person:

(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle; and

(b) Who, following such a test, expends more than one hundred dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70A.25.020(2) (a); and

(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.

Should any provision of (b) of this subsection be disapproved by the administrator of the United States environmental protection agency, all vehicles shall be required to expend at least four hundred fifty dollars to qualify for a certificate of acceptance.

(2) Persons who fail the initial tests shall be provided with:

(a) Information regarding the availability of federal warranties and certified emission specialists;

(b) Information on the availability and procedure for acquiring license trip-permits;

(c) Information on the availability and procedure for receiving a certificate of acceptance; and

(d) The local phone number of the department's local vehicle specialist. [2020 c 20 s 1361; 1998 c 342 s 2; 1991 c 199 s 203; 1989 c 240 s 6; 1980 c 176 s 4; 1979 ex.s. c 163 s 7. Formerly RCW 70.120.070.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

RCW 70A.25.040 Vehicle inspections—Fleets. The director may authorize an owner or lessee of a fleet of motor vehicles, or the owner's or lessee's agent, to inspect the vehicles in the fleet and issue certificates of compliance for the vehicles in the fleet if the director determines that: (1) The director's inspection procedures will be complied with; and (2) certificates will be issued only to vehicles in the fleet that meet emission and equipment standards adopted under RCW 70A.25.080 and only when appropriate.

In addition, the director may authorize an owner or lessee of one or more diesel motor vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds, or the owner's or lessee's agent, to inspect the vehicles and issue certificates of compliance for the vehicles. The inspections shall be conducted in compliance with inspection procedures adopted by the department and certificates of compliance shall only be issued to vehicles that meet emission and equipment standards adopted under RCW 70A.25.080.

The director shall establish by rule the fee for fleet or diesel inspections provided for in this section. The fee shall be set at an amount necessary to offset the department's cost to administer the fleet and diesel inspection program authorized by this section.

Owners, leaseholders, or their agents conducting inspections under this section shall pay only the fee established in this section and not be subject to fees under *RCW 70A.25.100(4). [2020 c 20 s 1362; 1991 c 199 s 205; 1979 ex.s. c 163 s 8. Formerly RCW 70.120.080.]

***Reviser's note:** RCW 70A.25.100 expired January 1, 2020.

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

RCW 70A.25.050 Vehicle inspections—Complaints. The department shall investigate complaints received regarding the operation of emission testing stations and shall require corrections or modifications in those operations when deemed necessary.

The department shall also review complaints received regarding the maintenance or repairs secured by owners of motor vehicles for the purpose of complying with the requirements of this chapter. When possible, the department shall assist such owners in determining the merits of the complaints.

The department shall keep a copy of all complaints received, and on request, make copies available to the public. This is not intended to require disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2005 c 274 s 340; 1998 c 342 s 3; 1979 ex.s. c 163 s 10. Formerly RCW 70.120.100.]

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

RCW 70A.25.060 Rules. The director shall adopt rules implementing and enforcing this chapter in accordance with chapter 34.05 RCW. The department shall take into account when considering proposed modifications of emission contributing boundaries, as provided for in RCW 70A.25.080(6), alternative transportation control and motor vehicle emission reduction measures that are required by local municipal corporations for the purpose of satisfying federal emission guidelines. [2020 c 20 s 1363; 1991 c 199 s 206; 1989 c 240 s 8; 1979 ex.s. c 163 s 13. Formerly RCW 70.120.120.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

RCW 70A.25.070 Authority. The authority granted by this chapter to the director and the department for controlling vehicle emissions is supplementary to the department's authority to control air pollution pursuant to chapter 70A.15 RCW. [2020 c 20 s 1364; 1979 ex.s. c 163 s 14. Formerly RCW 70.120.130.]

Severability—1979 ex.s. c 163: See note following RCW 70A.25.010.

**RCW 70A.25.080 Vehicle emission and equipment standards—
Designation of noncompliance areas and emission contributing areas.**
The director:

(1) Shall adopt motor vehicle emission and equipment standards to: Ensure that no less than seventy percent of the vehicles tested

comply with the standards on the first inspection conducted, meet federal clean air act requirements, and protect human health and the environment.

(2) Shall adopt rules implementing the smoke opacity testing requirement for diesel vehicles that ensure that such test is objective and repeatable and that properly maintained engines that otherwise would meet the applicable federal emission standards, as measured by the new engine certification test, would not fail the smoke opacity test.

(3) Shall designate a geographic area as being a "noncompliance area" for motor vehicle emissions if (a) the department's analysis of emission and ambient air quality data, covering a period of no less than one year, indicates that the standard has or will probably be exceeded, and (b) the department determines that the primary source of the air contaminant is motor vehicle emissions.

(4) Shall reevaluate noncompliance areas if the United States environmental protection agency modifies the relevant air quality standards, and shall discontinue the program if compliance is indicated and if the department determines that the area would continue to be in compliance after the program is discontinued. The director shall notify persons residing in noncompliance areas of the reevaluation.

(5) Shall analyze information regarding the motor vehicle traffic in a noncompliance area to determine the smallest land area within whose boundaries are present registered motor vehicles that contribute significantly to the violation of motor vehicle-related air quality standards in the noncompliance area. The director shall declare the area to be an "emission contributing area." An emission contributing area established for a carbon monoxide or oxides of nitrogen noncompliance area must contain the noncompliance area within its boundaries. An emission contributing area established for an ozone noncompliance area located in this state need not contain the ozone noncompliance area within its boundaries if it can be proven that vehicles registered in the area contribute significantly to violations of the ozone air quality standard in the noncompliance area. An emission contributing area may be established in this state for violations of federal air quality standards for ozone in an adjacent state if (a) the United States environmental protection agency designates an area to be a "nonattainment area for ozone" under the provisions of the federal Clean Air Act (42 U.S.C. 7401 et seq.), and (b) it can be proven that vehicles registered in this state contribute significantly to the violation of the federal air quality standards for ozone in the adjacent state's nonattainment area.

(6) Shall, after consultation with the appropriate local government entities, designate areas as being noncompliance areas or emission contributing areas, and shall establish the boundaries of such areas by rule. The director may also modify boundaries. In establishing the external boundaries of an emission contributing area, the director shall use the boundaries established for ZIP code service areas by the United States postal service.

(7) May make grants to units of government in support of planning efforts to reduce motor vehicle emissions. [1991 c 199 s 207; 1989 c 240 s 2. Formerly RCW 70.120.150.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

RCW 70A.25.090 Noncompliance areas—Annual review. (1) The director shall review annually the air quality and forecasted air quality of each area in the state designated as a noncompliance area for motor vehicle emissions.

(2) An area shall no longer be designated as a noncompliance area if the director determines that:

(a) Air quality standards for contaminants derived from motor vehicle emissions are no longer being violated in the noncompliance area; and

(b) The standards would not be violated if the emission inspection system in the emission contributing area was discontinued and the requirements of RCW 46.16A.060 no longer applied. [2011 c 171 s 109; 1989 c 240 s 3. Formerly RCW 70.120.160.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

RCW 70A.25.110 Used vehicles. (1) Motor vehicle dealers selling a used vehicle not under a new vehicle warranty shall include a notice in each vehicle purchase order form that reads as follows: "The owner of a vehicle may be required to spend up to (a dollar amount established under RCW 70A.25.030) for repairs if the vehicle does not meet the vehicle emission standards under this chapter. Unless expressly warranted by the motor vehicle dealer, the dealer is not warranting that this vehicle will pass any emission tests required by federal or state law."

(2) The signature of the purchaser on the notice required under subsection (1) of this section shall constitute a valid disclaimer of any implied warranty by the dealer as to a vehicle's compliance with any emission standards.

(3) The disclosure requirement of subsection (1) of this section applies to all motor vehicle dealers located in counties where state emission inspections are required. [2020 c 20 s 1365; 1991 c 199 s 210. Formerly RCW 70.120.190.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

RCW 70A.25.120 Clean-fuel performance and clean-fuel vehicle emissions specifications. By July 1, 1992, the department shall develop, in cooperation with the departments of *general administration and transportation, and Washington State University, aggressive clean-fuel performance and clean-fuel vehicle emissions specifications including clean-fuel vehicle conversion equipment. To the extent possible, such specifications shall be equivalent for all fuel types. In developing such specifications the department shall consider the requirements of the clean air act and the findings of the environmental protection agency, other states, the American petroleum institute, the gas research institute, and the motor vehicles

manufacturers association. [1996 c 186 s 518; 1991 c 199 s 212. Formerly RCW 70.120.210.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 s 107.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1991 c 199: See note following RCW 70A.15.1005.

Effective dates—1991 c 199: See RCW 70A.15.9003.

Clean-fuel grants: RCW 70A.15.6400.

RCW 70A.25.130 Scientific advisory board—Composition of board—Duties. The department shall establish a scientific advisory board to review plans to establish or expand the geographic area where an inspection and maintenance system for motor vehicle emissions is required. The board shall consist of three to five members. All members shall have at least a master's degree in physics, chemistry, or engineering, or a closely related field. No member may be a current employee of a local air pollution control authority, the department, the United States environmental protection agency, or a company that may benefit from a review by the board.

The board shall review an inspection and maintenance plan at the request of a local air pollution control authority, the department, or by a petition of at least fifty people living within the proposed boundaries of a vehicle emission inspection and maintenance system. The entity or entities requesting a scientific review may include specific issues for the board to consider in its review. The board shall limit its review to matters of science and shall not provide advice on penalties or issues that are strictly legal in nature.

The board shall provide a complete written review to the department. If the board members are not in agreement as to the scientific merit of any issue under review, the board may include a dissenting opinion in its report to the department. The department shall immediately make copies available to the local air pollution control authority and to the public.

The department shall conduct a public hearing, within the area affected by the proposed rule, if any significant aspect of the rule is in conflict with a majority opinion of the board. The department shall include in its responsiveness summary the rationale for including a rule that is not consistent with the review of the board, including a response to the issues raised at the public hearing.

Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1998 c 342 s 5. Formerly RCW 70.120.230.]

RCW 70A.25.900 Effective date—1989 c 240. This act shall take effect January 1, 1990. [1989 c 240 s 14. Formerly RCW 70.120.902.]