



Chapter 173-423 WAC

Small Business Economic Impact Statement for the Proposed Chapter 173-423 WAC

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BACKGROUND

The proposed rule adopts California motor vehicle emission standards for use in Washington which will result in lower emitting vehicles being produced for, and sold in, Washington. This Low Emissions Vehicle rule adopts emission standards more stringent than federal vehicle emission standards.

DESCRIPTION AND PURPOSE OF THE SBEIS

The objective of this SBEIS is to identify and evaluate the various requirements and costs that the rule might impose on business. In particular, the SBEIS examines whether the costs impose a disproportionate impact on the State's small businesses. The specific purpose/required contents of the SBEIS can be found in RCW 19.85.040.

IMPACT STATEMENT

This rule will affect franchise auto dealers (new cars) and independent auto dealers (used cars) in Washington. The rule also affects vehicle manufacturers. However, they have no facilities in Washington that must be analyzed under the small business impact provisions. There are 435 franchise auto dealers, operating at 651 locations, and 2,225 independent auto dealers. Franchise dealers are almost always larger than independent auto dealers because they are required to have repair facilities to do warranty work and must meet other manufacturer requirements. New vehicles never before titled and registered, which are over 90% of the vehicles affected by this rule, can be sold only by franchise auto dealers. Independent auto dealers only rarely have service and repair facilities. Under the rule, all 2009 and later model year vehicles with less than 7,500 miles sold for use in Washington have to be certified to California standards. The auto dealers estimate that roughly 95% of low mileage used vehicles with under 7,500 miles will be sold by franchise dealers, most of the rest will be sold by independent dealers, and a small number will be sold by individuals.

The normal day to day cost of selling vehicles and acquiring vehicles to sell is not affected by these rules. Regarding the acquisition of inventory after the rules are effective, dealers must only buy California certified vehicles for their inventory. Franchise dealers must order new California certified vehicles from manufacturers and all dealers will need to only buy used inventory from individuals, auctions, or other dealers that are also California certified. Ecology determines there is no substantial cost to this; it is simply one more specification they need to have. The cost of this inventory may be higher in that new

California certified vehicles are expected to cost on average about \$1,000 more per vehicle than federally certified vehicles. That increase is expected to increase the price of used vehicles in the future. Ecology believes this increased cost will be passed on to consumers and will not substantially affect dealer margins.

Regarding the sale of vehicles, the primary costs of advertising and selling the vehicles remains the same. Dealers are also required to register vehicles for their customers. No additional record-keeping or data handling affecting registration is required by these rules. Licensing agents will be required to use the information supplied in a slightly different way than without the rule. No new information or records are being required of dealers.

The rule does affect auto dealers in the following ways:

- Staff time needed to accommodate possible inspections by Ecology staff.
- Staff time needed to respond to possible information requests or possible fines if a dealer is violating the law.

These effects are responses to “possible” inspection or compliance actions by Ecology. Ecology does not expect compliance actions will be more heavily directed at smaller auto dealers. Ecology is planning to analyze reports from manufacturers and from Department of Licensing. The Department of Licensing database will help guide where inspections, information requests or other compliance actions will be targeted. Inspections and compliance actions will not be based on the size of the dealership. Because of this, small businesses would not be disproportionately impacted by Ecology’s choice of compliance activities. Dealers at the Ecology advisory committee estimated that an inspection might take two or three hours of staff time. That is consistent with Ecology’s expectation of the time we might spend in on-site inspections, especially after we have gained experience. There are approximately 2,600 dealers in Washington State. A relatively small number of dealership inspections will be completed each year. The small cost of an inspection, the relatively small number of dealers affected each year, and the fact that targeting of these inspections is independent of dealer size demonstrates there is no expectation that smaller dealers will be affected disproportionately from larger dealers.

Licensing subagents are also affected by these rules. In Washington vehicles can be licensed either by County Auditors or by private businesses called subagents. County auditors are “agents” for Department of Licensing and the private businesses are licensed by the auditors as “subagents.” The private subagents all have less than 50 employees and licensing counters are often are staffed by one person.

The main effect of the legislation and rule is that licensing agents will have to document that new vehicles and used vehicles with less than 7,500 miles are

California certified. For new vehicles the Manufacturer's Statement of Origin (MSO) provides readily available documentation of California certification. For used vehicles with less than 7,500 miles subagents will have to examine an extra form submitted by the dealers. If an individual is registering such a low mileage used vehicle, they will need to also supply extra documentation to prove that the vehicle is California certified. If the vehicle qualifies for an exemption, there will also be extra documentation required. Explaining the requirements to individuals registering vehicles with less than 7,500 miles or needing an exemption is expected to take the most time. DOL estimates that 11,000 vehicles, or about 4% of WA registrations are purchases from out of state and will be registered by the individual purchaser rather than a dealer. This is a small fraction of the overall registrations, but additional time may be needed to handle some of these transactions. The effect of handling these requirements is not expected to increase staffing needs or otherwise substantially increase the costs of the subagents, especially in the longer run. There will, however, be a "learning curve" regarding application of the new requirements.

It is likely to take some time for licensing agents' staff to learn the new requirements. There is an ongoing system operated by Department of Licensing for training licensing agents. DOL maintains a licensing subagent "mailbox" where emails that update procedures and provide solutions to problems are distributed. Training materials will be developed by the Department of Licensing and the Department of Ecology, so the subagent cost is primarily the time needed to learn the new requirements. With two years before these requirements go into effect, some of the training can be accomplished through existing training mechanisms. Subagents may need to spend extra time on training since there are a number of different requirements that will now apply to licensing and titling. Most of these requirements are directly from the legislation. The proposed rule did not include some exemptions provided for in other states, so costs associated with exemptions are minimized in this rule.

Licensing subagents meet the regulatory definition of a small businesses but there is no demonstrated disproportionate impact under the Regulatory Fairness Act. The costs for licensing agents to learn the new rules and to register and title vehicles should be minimal given the long lead time available.

Ecology could not determine any disproportional impacts from this rule on franchise dealers, independent dealers or licensing subagents.