



# 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: November 20, 2018

TIME: 12:40 PM

WSR 18-23-097

Agency: Washington State Patrol

Original Notice

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

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

Preproposal Statement of Inquiry was filed as WSR 18-19-060 ; 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) Ignition Interlock Device

### Hearing location(s):

Date: Time: Location: (be specific) Comment:

December 27, 2018	10:00am	106 11 <sup>th</sup> Avenue SW; Rm G015B Olympia WA 98504	
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Date of intended adoption: 12/28/2018 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Kimberly Mathis, Agency Rules Coordinator

Address: 106 11<sup>th</sup> Avenue SW

Email: [wsprules@wsp.wa.gov](mailto:wsprules@wsp.wa.gov)

Fax:

Other:

By (date) December 26, 2018

### Assistance for persons with disabilities:

Contact Kimberly Mathis

Phone: 360-596-4017

Fax:

TTY:

Email: [wsprules@wsp.wa.gov](mailto:wsprules@wsp.wa.gov)

Other:

By (date) December 26, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Updates to the following chapter are necessary to clean up and provide clarification to the existing language to ensure the rules reference and comply with current laws in the state of Washington.

WAC 204-50-050

WAC 204-50-070

**Reasons supporting proposal:** Updates are to provide clarity and consistency in terms used throughout the chapter and clean up existing language.

**Statutory authority for adoption:** RCW 43.43.395, 43.37.005, and 46.04.215

**Statute being implemented:** RCW 43.43.395, 43.37.005, and 46.04.215

**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:**

**Name of proponent:** (person or organization) Washington State Patrol

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Kimberly Mathis	Olympia, WA	360-596-4017
Implementation:	WSP – Ignition Interlock Unit	Seattle, WA	206-720-3018
Enforcement:	WSP – Ignition Interlock Unit	Seattle, WA	206-720-3018

**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: This rule is exempt pursuant to RCW 34.05.328(5)(b)(v)

**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)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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 \_\_\_\_.

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:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

<b>Date:</b> 11/20/2018	<b>Signature:</b> 
<b>Name:</b> John R. Batiste	
<b>Title:</b> Chief	

**WAC 204-50-050 Modifications to a certified ignition interlock device.** (1) A manufacturer shall ~~((immediately))~~ notify the impaired driving section, ~~((in writing, of))~~ not less than thirty calendar days before implementing any material modification of a certified ignition interlock device. A material modification ~~((is any addition or reduction in features,))~~ includes any software version change((s, configuration profile changes or alteration in the components and/or the)) or any addition or reduction in features, components or design of the certified ignition interlock device. ~~((Written notification of a material modification may be submitted to the impaired driving section in an electronic format approved by the impaired driving section.~~

~~(2) A manufacturer must resubmit evidence))~~ (2) The notice must be provided in writing on a form provided by the impaired driving section, and must include verification of compliance with all applicable standards as required in WAC 204-50-040 ((to the impaired driving section within thirty days of notifying the impaired driving section of a material modification)) (2) (b) (ii).

(3) Material modification of a certified ignition interlock device may require device testing as determined by the impaired driving section. If the impaired driving section ((will determine if the)) determines that the modified device must be submitted for ((recertification)) testing, the impaired driving section will notify the manufacturer in writing within fifteen calendar days after receipt of the notice of material modification. If device testing is required, the modification shall not be implemented until the device has been tested and approved.

(4) It will be cause for suspension or revocation of the letter of certification if the manufacturer fails to notify the impaired driving section as required in this section or implements a modification while material modification approval is pending.

**WAC 204-50-070 Variable calibration of an ignition interlock device.** (1) To be certified, an ignition interlock device must be capable of being preset(, by only) by the manufacturer(, at any) to a predetermined fail level from .02 ((through .09 g/210L BrAC( )) to, plus or minus .005 ((g/210L BrAC). The actual setting) BrAC. Unless otherwise mandated by the originating court, the fail level of each ignition interlock device(, unless otherwise mandated by the originating court,) must be ((.025 g/210L)) set at .025 BrAC. The capability to change this setting must be made secure(, ) by the manufacturer.

(2) The manufacturer must notify the patrol in writing within seven calendar days of installing an ignition interlock device with a preset fail level other than .025 BrAC.

(3) As used this section, "fail level" means a BrAC of .025 or a level set by the originating court, if lower, at which the ignition interlock device will either prevent the operator from starting the vehicle, or once the vehicle is started, the level below which the operator must record a test to continue operating the vehicle, or both.