

WSR 21-13-153

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 20-04—Filed June 22, 2021, 2:14 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: Ecology is revising two rules:

- Chapter 173-423 WAC, Low emission vehicles. The rule implements the California Advanced Clean Cars Program that combines the control of smog-causing (criteria) pollutants and greenhouse gas (GHG) emissions into a coordinated package of regulations.
- Chapter 173-400 WAC, General regulations for air pollution sources, specifically WAC 173-400-025 Adoption of federal rules. This section adopts federal rules by reference mentioned in the chapter.

This rule making meets the criteria to file a rule proposal notice without first filing a rule-making notice (RCW 34.05.310 (4)(e)).

For more information on this rule making visit <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-400>.

Hearing Location(s): On July 27, at 1:30 p.m., webinar. Virtual presentation, question and answer session followed by the hearing. We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=eb0aec95dcf9d08a7d51e4c900b2dc180>. For audio call US Toll number 1-855-929-3239 and enter access code 133 161 6550. Or to receive a free call back, provide your phone number when you join the event; and on July 29, at 6:00 p.m., webinar. Virtual presentation, question and answer session followed by the hearing.

We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access. Join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=e5edde214b35d76efe04ae62b78c09c95>. For audio call US Toll number 1-855-929-3239 and enter access code 133 423 8126. Or to receive a free call back, provide your phone number when you join the event.

Date of Intended Adoption: November 29, 2021.

Submit Written Comments to: Elena Guilfoil, send US mail to Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600; or send parcel delivery services to Department of Ecology, Air Quality Program, 300 Desmond Drive S.E., Lacey, WA 98503, submit comments by mail, online, or at the hearing(s), online <https://aq.ecology.commentinput.com/?id=SdA6s>, by August 9, 2021.

Assistance for Persons with Disabilities: Contact ecology ADA coordinator, phone 360-407-6831, Washington relay service call 711, TTY call 877-833-6341, email ecyADAcordinator@ecy.wa.gov, visit <https://ecology.wa.gov/accessibility> for more information, by July 20, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Amending chapter 173-423 WAC, Low emission vehicles:** Washington is expanding our program by adopting California's more protective vehicle emission standards for new vehicles, starting with model year 2025 and later, sold in Washington. Motor vehicles are the largest source of air pollution in Washington. Trans-

portation contributes about twenty-two percent of total air pollution and forty-five percent of greenhouse gas emissions throughout the state.

Washington's current program includes requirements for low emission vehicles:

- Passenger cars: Vehicles designed to transport up to twelve people.
- Light-duty trucks: Vehicles weighing less than eight thousand five hundred pounds.
- Medium-duty passenger vehicles: Vehicles weighing less than ten thousand pounds designed to transport people.

This rule making expands vehicle emission standards to include:

- Zero emission vehicle (ZEV) requirements that apply to passenger cars, light-duty trucks, and medium-duty vehicles (vehicles with a gross vehicle weight rating between eight thousand five hundred one and fourteen thousand pounds).
- Zero-emission vehicle (ZEV) requirements that apply to vehicles greater than eight thousand five hundred pounds gross vehicle weight rating.
- Low emission vehicle requirements that apply to medium-duty vehicles.

Zero emission vehicles (ZEV) - passenger cars, light-duty trucks, and medium-duty vehicles: The rule proposes to adopt California's ZEV emission standards that apply to passenger cars, light-duty trucks, and medium-duty vehicles (vehicles with a gross vehicle weight rating between eight thousand five hundred one and fourteen thousand pounds such as trucks, SUVs, and vans). This program will expand ZEV options for consumers to buy in Washington. Right now consumer ZEV choices are limited in Washington.

Automakers must meet a sales requirement, through a credit system, starting with model year 2025. The sales requirement means that out of the total number of new vehicles an automaker sells in Washington, about eight percent of those must meet zero emission vehicle standards. Automakers that do not meet their sales requirement can:

- Buy or trade credits from another automaker.
- Pay a penalty.

The rule does not provide credits for vehicles before model year 2025 that are sold in Washington. Current and projected ZEV sales in Washington show that demand is expected to meet the sales requirement of eight percent.

Vehicle technologies that earn credits to help automakers meet the ZEV requirements include:

- Battery-powered electric vehicles.
- Plug-in hybrid electric vehicles.
- Fuel cell electric vehicles - which run on compressed liquid hydrogen.

Zero-emission vehicles (ZEV) - vehicles greater than eight thousand five-hundred pounds gross vehicle weight rating: The rule proposes to adopt California's ZEV emission standards that apply to vehicles greater than eight thousand five hundred pounds gross vehicle weight rating. These are delivery vans, work trucks, long-haul trucks, drayage trucks, transit buses, garbage trucks, and other commercial work vehicles. California calls this the Advanced Clean Trucks Regula-

tion. This program expands ZEV options for these vehicles for consumers to buy in Washington. Right now these ZEV options are limited.

Manufacturers must meet a sales requirement for Class 2b-8 vehicles starting with model year 2025. The sales requirement means that a certain percentage of these vehicles sold in Washington must be zero emission. Their annual ZEV sales gradually increase each year until 2035.

Manufacturers that do not meet their annual sales requirement must:

- Buy or trade credits from another truck manufacturer.
- Pay a penalty.
- Remove deficits within one year or pay an additional penalty.

Vehicle technologies that earn credits to help automakers meet the ZEV requirements include:

- Battery-powered electric vehicles.
- Plug-in hybrid electric vehicles.
- Fuel cell electric vehicles - which run on compressed liquid hydrogen.

Low emission vehicles - medium-duty vehicles: The rule proposes to adopt California's vehicle emission standards that apply to medium-duty vehicles with a gross vehicle weight rating between eight thousand five hundred-one and fourteen thousand pounds, such as trucks, SUVs, and vans. The rule expands Washington's program so it now includes California's complete low emission vehicles program. Currently, California and federal emission standards are the same for medium-duty vehicles.

Other changes: This rule making makes other edits identified or necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the program.

The proposed rule:

- Changes the name of the rule, Clean vehicles program, to reflect the expanded scope of the program.
- Deletes sections where content is relocated to WAC 173-423-060 or information duplicates a California regulation adopted by reference:
 - WAC 173-423-050 Requirement to meet California vehicle emission standards.
 - WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) and NMOG Plus NOx exhaust emission requirements, reporting and compliance.
 - WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance.
 - WAC 173-423-100 Manufacturer delivery reporting requirements.
 - WAC 173-423-110 Warranty requirements.
 - WAC 173-423-120 Recalls.
- Revises WAC 173-423-030 Incorporation by reference:
 - Changes section title to Adoption by reference.
 - Relocates adoption of California Code of Regulations to this section.
 - Links the adoption date of California Code of Regulations to the date in WAC 173-400-235(1).
 - Clarifies the meaning of terms in California's rules.

- Revises WAC 173-423-040 Definitions by adding, removing, and editing definitions for clarity.
- Revises WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference:
 - Changes section title to low emission vehicles.
 - Relocates requirements for low emission vehicles located throughout the rule to this section and removes requirements that duplicate California's Code of Regulations.
 - Changes section number to WAC 173-423-060 because sections were deleted.
 - Edits requirements for clarity.
 - Deletes Table (1) and relocates adoption by reference of California Code of Regulations to WAC 173-423-030.

Amending WAC 173-400-025 Adoption of federal rules: The proposed rule:

- Updates the adoption date of federal rules in chapter 173-400 WAC from January 24, 2018, to June 22, 2021. Until we update this adoption date, we can only enforce the federal rules as they existed on January 24, 2018. We cannot enforce any federal rule changes made after that date.
- Excludes PSD and major new source review changes promulgated in 85 F.R. 74890 (November 24, 2020). EPA adopted less stringent emissions accounting requirements so the rule retains the pre-2020 requirements.
- Adopts by reference a new federal rule for existing municipal solid waste landfills in 40 C.F.R. Part 62, Subpart 000.
- Moves the adoption date to its own subsection to reduce rule maintenance in WAC 173-423-030.
- Changes the section title to "Adoption by reference" to align with the section title of WAC 173-423-030. Using the same section title in both rules reduces confusion.
- Edits requirements for clarity.
- Makes other edits identified or necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the program.

Reasons Supporting Proposal: See Purpose of the proposal.

Chapter 173-423 WAC reflects 2005 statutory authority (section 2, chapter 295, Laws of 2005) directing ecology to:

- Adopt California's vehicle emission standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles.
- Exclude zero-emission vehicle requirements.

2020 Legislation (section 1005, chapter 143, Laws of 2020):

- Adopts the California vehicle emission standards.
- Directs ecology to adopt rules implementing California's vehicle emission standards in Title 13, including the ZEV program.
- Directs ecology to amend its rules to maintain consistency with California's rules and 42 U.S.C. Section 7507 (Section 177 of the Clean Air Act).

42 U.S.C. Section 7507 allows states to adopt and enforce California's vehicle emission standards if they are identical to the California standards. The Clean Air Act requires a state to provide manufacturers two-years' advance notice by vehicle model year. The rule proposes to start with model year 2025 vehicles which could be available starting January 1, 2024.

Statutory Authority for Adoption: Chapter 70A.30 RCW, Motor vehicle emission standards.

Statute Being Implemented: Chapter 70A.30 RCW, Motor vehicle emission standards.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: More information is available in the Determination of Nonsignificance and Environmental Checklist prepared to comply with the State Environmental Policy Act (SEPA). Refer to the rule-making web page for a link to these documents <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423>.

This rule making does not include California's Heavy-Duty Omnibus Regulation because the rule is not yet final. California's rule will update emission standards and other emission-related requirements for heavy-duty engines and vehicles (including long-haul trucks, drayage trucks, transit buses, garbage trucks, and other commercial work vehicles). Ecology intends to amend this rule again to maintain consistency with California's rules once California has adopted theirs.

Public information sessions: Ecology is holding two online public information sessions to explain the proposed rule. The agenda is a presentation, followed by a question-and-answer session. To protect everyone's health during the COVID-19 pandemic, we are only holding online meetings.

[Meeting on] Tuesday, July 13, 2021, at 1:30 - 3:00 p.m., webinar (online only), join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=eea3989f3fddc882ec4a5dbf5f058a37d>. To hear the webinar better or to call in only, use your phone (instead of the computer) to call 1-855-929-3239.

[Meeting on] Thursday, July 15, 2021, at 6:00 - 7:30 p.m., webinar (online only), join online and see instructions <https://watech.webex.com/watech/onstage/g.php?MTID=e7b6ed27617dabf165f4f835efe25af2a>. To hear the webinar better or to call in only, use your phone (instead of the computer) to call 1-855-929-3239.

To ask for ADA accommodation, email Margaret Plummer at margaret.plummer@ecy.wa.gov or call 360-407-7112, 711 relay service, or TTY 877-833-6341, by July 8, 2021.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Elena Guilfoil, Lacey, 360-972-5166; Implementation and Enforcement: Dustin Watson, Lacey, 360-764-6785.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules from a cost-benefit analysis when the content is explicitly and specifically dictated by statute. RCW 70A.30.010 directs ecology to adopt rules to implement the motor vehicle emission standards of the state of California, including the zero emission vehicle program. The law also directs ecology to amend its rules to maintain consistency with California's rules and 42 U.S.C. Section 7507 (Section 177 of the Clean Air Act). 42 U.S.C. Section 7507 allows a state to adopt and enforce vehicle emission standards if they are identical to California's standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

June 22, 2021
Heather R. Bartlett
Deputy Director

OTS-3078.3

AMENDATORY SECTION (Amending WSR 18-17-111, filed 8/16/18, effective 9/16/18)

WAC 173-400-025 Adoption (~~of federal rules~~) by reference. (1) Adoption by reference date: June 22, 2021.

(2) Federal rules mentioned in this rule are adopted as they exist on ((January 24, 2018)) the date in subsection (1) of this section. ((Adopted or adopted)) Adoption by reference means the federal rule applies as if it was copied into this rule.

(3) Exceptions to adopting 40 C.F.R. 51.165, 51.166, and 52.21 by reference. Ecology is not adopting the changes promulgated in 85 FR 74890 (November 24, 2020) so the following paragraphs replace the designated paragraphs.

(a) The following paragraphs replace the designated paragraphs of 40 C.F.R. 51.165 (a) (2) (ii) (F) and (G):

(i) 40 C.F.R. 51.165 (a) (2) (ii) (F): Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs IV.I.1(iii) through (iv) of this ruling as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph II.A.10 of this ruling).

(ii) 40 C.F.R. 51.165 (a) (2) (ii) (G) is not adopted by reference.

(b) The following paragraphs replace the designated paragraphs of 40 C.F.R. 51.166 (a) (7) (iv) (f) and (g):

(i) 40 C.F.R. 51.166 (a) (7) (iv) (f): Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs IV.I.1(iii) through (iv) of this ruling as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph II.A.10 of this ruling).

(ii) 40 C.F.R. 51.166 (a) (7) (iv) (f) is not adopted by reference.

(c) The following paragraphs replace the designated paragraph of Appendix S (Emission offset interpretive ruling) to 40 C.F.R. Part 51 in section IV.I.1.(v) and (iv):

(i) Section IV.I.1.(v): Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method speci-

fied in paragraphs IV.I.1(iii) through (iv) of this ruling as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph II.A.10 of this ruling).

(ii) Section IV.I.1.(iv) is not adopted by reference.

(d) The following paragraphs replace the designated paragraphs of 40 C.F.R. 52.21 (a) (2) (iv) (f) and (g):

(i) 40 C.F.R. 52.21 (a) (2) (iv) (f): Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a) (2) (iv) (c) through (d) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph (b) (23) of this section).

(ii) 40 C.F.R. 52.21 (a) (2) (iv) (g) is not adopted by reference.

(4) Adoption by reference. Municipal solid waste landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014, must comply with the requirements in 40 C.F.R. Part 62, Subpart 000 (in effect on the date in subsection (1) of this section).

[Statutory Authority: Chapter 70.94 RCW. WSR 18-17-111 (Order 15-07), § 173-400-025, filed 8/16/18, effective 9/16/18. Statutory Authority: RCW 70.94.152, 70.94.331, 70.94.860. WSR 16-12-099 (Order 16-01), § 173-400-025, filed 5/31/16, effective 7/1/16.]

OTS-3032.4

Chapter 173-423 WAC
((LOW EMISSION VEHICLES)) CLEAN VEHICLES PROGRAM

AMENDATORY SECTION (Amending WSR 12-24-033, filed 11/28/12, effective 12/29/12)

WAC 173-423-010 Purpose. The purpose of this chapter is to establish rules ((implementing the California motor vehicle emission standards adopted by the 2005 legislature and codified in chapters 70.120A and 46.16A RCW)) as authorized by RCW 70A.30.010.

[Statutory Authority: RCW 70.120A.010. WSR 12-24-033 (Order 11-01), § 173-423-010, filed 11/28/12, effective 12/29/12; WSR 05-24-044, § 173-423-010, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-020 Applicability. This chapter applies to all ~~((2009 and subsequent model year))~~ passenger cars, light-duty trucks ~~((and)),~~ medium-duty passenger vehicles, medium-duty vehicles, and heavy-duty vehicles registered, leased, rented or sold for use in ~~((the state of))~~ Washington, except as provided in WAC 173-423-060 ~~((7))~~ Exemptions.

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-020, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-025 Effective date. This chapter is effective on January 1, 2006, provided the ~~((state of Oregon has adopted the California motor vehicle emission standards as provided in RCW 70.120A.010))~~ U.S. Environmental Protection Agency has granted a waiver under 42 U.S.C. Sec. 7543 for the California motor vehicle emission standards adopted by reference in this chapter.

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-025, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-030 ((Incorporation)) Adoption by reference. (1) This chapter ~~((incorporates))~~ adopts by reference ~~((certain sections of the))~~ California Code of Regulations, Title 13, ~~((relating to implementing the California motor vehicle emission standards in the state of Washington. Table 070(1) found in WAC 173-423-070 lists the sections of the California Code of Regulations, Title 13 incorporated by reference and the California effective date for each section))~~ sections 1900, 1956.8 (g) and (h), 1960.1, 1961, 1961.1 to 1961.3, 1962.2, 1962.3, 1963, 1963.1 to 1963.5, 1965, 1968.2, 1968.5, 1976, 1978, 2035 to 2040, 2046, 2109, 2111 to 2120, 2122 to 2133, 2135, 2141 to 2149, 2235, and Appendix A to Article 2.1 in section 2112.

(2) Adoption or adoption by reference means the rule applies as if it was copied into this rule. California Code of Regulations mentioned in this rule are adopted as they exist on June 22, 2021, or the adoption date in WAC 173-400-025(1), whichever is later.

~~((2))~~ (3) Copies of the relevant sections of ~~((the))~~ California Code of Regulations ~~((, Title 13 incorporated))~~ adopted by reference in this chapter are available on ecology's website or by contacting:

Washington State Department of Ecology
Air Quality Program
300 Desmond Drive
Lacey, ~~((Washington))~~ WA 98503
360-407-6800

~~((3))~~ (4) For purposes of applying the ~~((incorporated))~~ adopted sections of ~~((the))~~ California Code of Regulations ~~((, Title 13))~~ in Washington, unless the context requires otherwise:

- (a) "California" means "Washington" ((unless otherwise specified in this chapter or clearly inappropriate.));
(b) "CARB," "ARB," or "air resources board" means "ecology"; and
(c) "Executive officer" means "ecology."

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-030, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 12-24-033, filed 11/28/12, effective 12/29/12)

WAC 173-423-040 Definitions and abbreviations. The following definitions apply to the administration of this chapter. Any term that is not defined in this section ~~((shall))~~ must be as defined or described in ~~((the))~~ California Code of Regulations, Title 13, section 1900 or 1963, as applicable. Definitions in ~~((the))~~ California Code of Regulations, Title 13, section 1900 or 1963 will prevail if any discrepancy arises ~~((between them and those set forth in this section)).~~

~~(1) ("Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c), 1961.1(b), 1961.2(c), and 1961.3(b), as appropriate.~~

~~(2) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c), 1961.1(b), 1961.2(c), and 1961.3(b), as appropriate.~~

~~(3) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1 and 1961.3, and incorporated herein by reference.~~

~~(4))~~ "Ecology" means the department of ecology.

(2) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

~~((5) "Independent low volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.~~

~~(6) "Intermediate volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.~~

~~(7) "Large volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.~~

~~(8))~~ (3) "Light-duty truck" ((is any 2000 and subsequent model motor vehicle certified to the standards in Title 13, CCR, section 1961 (a) (1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or

less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use)) is defined as provided in California Code of Regulations, Title 13, section 1900.

~~((9))~~ (4) "Medium-duty passenger vehicle" ((MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:

~~(a) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or~~

~~(b) Has a seating capacity of more than twelve persons; or~~

~~(c) Is designed for more than nine persons in seating rearward of the driver's seat; or~~

~~(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition)) is defined as provided in California Code of Regulations, Title 13, section 1900.~~

(5) "Medium-duty vehicle" is defined as provided in California Code of Regulations, Title 13, section 1900.

~~((10))~~ (6) "Model year" ((is)): Means the manufacturer's annual production period ((which)) that includes January 1st of a calendar year((-)), or if the manufacturer has no annual production period, ("model year" is) the calendar year. ((In the case of any)) The model year for a motor vehicle manufactured in two or more stages((, the time of manufacture shall be the date of completion of the chassis)) is the model year in which the chassis is completed, except for a vehicle subject to California Code of Regulations, Title 13, sections 1963 through 1963.5 (Advanced Clean Trucks): Is defined as provided in California Code of Regulations, Title 13, section 1963(c).

~~((11) "Nonmethane organic gas" or "NMOG" is the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "California Non-Methane Organic Gas Test Procedures," and incorporated herein by reference.~~

~~(12) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all nonmethane organic gases from passenger cars and light duty trucks in any model year delivered in Washington that are subject to this regulation.~~

~~((13))~~ (7) "Manufacturer" means an independent low volume manufacturer, intermediate volume manufacturer, large volume manufacturer, or a small volume manufacturer defined as provided in California Code of Regulations, Title 13, section 1900.

(8) "Passenger car" ((is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less)) is defined as provided in California Code of Regulations, Title 13, section 1900.

~~((14) "Small volume manufacturer" is defined as set forth in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.)~~

(9) "Zero-emission vehicle" or "ZEV" is defined as provided in California Code of Regulations, Title 13, section 1962.2(a).

[Statutory Authority: RCW 70.120A.010. WSR 12-24-033 (Order 11-01), § 173-423-040, filed 11/28/12, effective 12/29/12; WSR 05-24-044, § 173-423-040, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 12-24-033, filed 11/28/12, effective 12/29/12)

WAC 173-423-060 Exemptions. The following vehicles are not subject to this chapter:

- (1) Military tactical vehicles;
- (2) Vehicles sold for registration and use out-of-state;
- (3) Previously registered vehicles where the mileage at the time of sale exceeds seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sales is determined by the odometer statement at the time the vehicle dealer acquired the vehicle;
- (4) Vehicles (~~which~~) that are only available for rent to a final destination outside of Washington;
- (5) Vehicles purchased by a nonresident prior to establishing residency in (~~the state of~~) Washington, regardless of the mileage on the vehicle;
- (6) Vehicles transferred by inheritance or as a result of divorce, dissolution or legal separation; (~~and~~)
- (7) Motor vehicles purchased for use by a local police department, county sheriff, fire district, or the Washington state patrol; and
- (8) Motor vehicles acquired by a resident who is a member of the military stationed outside Washington pursuant to military orders.

[Statutory Authority: RCW 70.120A.010. WSR 12-24-033 (Order 11-01), § 173-423-060, filed 11/28/12, effective 12/29/12; WSR 05-24-044, § 173-423-060, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 19-02-056, filed 12/27/18, effective 1/27/19)

WAC 173-423-070 (~~Emission standards, warranty, recall and other California provisions adopted by reference.~~) Low emission vehicles.
(~~Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:~~

~~Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington starting
January 14, 2009~~

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	10/8/15
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures -- 1985 and Subsequent Model Heavy Duty Engines and Vehicles	10/16/17
Section 1960.1	Exhaust Emission Standards and Test Procedures -- 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	12/31/12
Section 1961	Exhaust Emission Standards and Test Procedures -- 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/31/12
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures -- 2009 through 2016 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures -- 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium- Duty Vehicles	12/12/18
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures -- 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium- Duty Vehicles	12/12/18
Section 1965	Emission Control, Smog Index, and Environmental Performance Labels -- 1979 and Subsequent Model-Year Motor Vehicles	10/8/15

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Section 1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	7/25/16
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	7/25/16
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	10/8/15
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	10/8/15
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	11/9/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycle and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles	12/5/14
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	12/5/14

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Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	2/15/79
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	12/30/83
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	12/8/10
Section 2112	Definitions	12/5/14
	Appendix A to Article 2.1	12/5/14
Section 2113	Initiation and Approval of Voluntary and Influenced Emission- Related Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
Section 2120	Other Requirements Not Waived	1/26/95
Article 2.2 Procedures for In-Use Vehicle Ordered Recalls		
Section 2122	General Provisions	12/8/10

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Section 2123	Initiation and Notification of Ordered Emission-Related Recalls	1/26/95
Section 2124	Availability of Public Hearing	1/26/95
Section 2125	Ordered Recall Plan	1/26/95
Section 2126	Approval and Implementation of Recall Plan	1/26/95
Section 2127	Notification of Owners	1/26/95
Section 2128	Repair Label	1/26/95
Section 2129	Proof of Correction Certificate	1/26/95
Section 2130	Capture Rates and Alternative Measures	11/27/99
Section 2131	Preliminary Tests	1/26/95
Section 2132	Communication with Repair Personnel	1/26/95
Section 2133	Recordkeeping and Reporting Requirements	1/26/95
Section 2135	Extension of Time	1/26/95
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	12/8/10
Section 2142	Alternative Procedures	2/23/90
Section 2143	Failure Levels Triggering Recall	11/27/99
Section 2144	Emission Warranty Information Report	11/27/99
Section 2145	Field Information Report	8/7/12
Section 2146	Emissions Information Report	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards	12/5/14
Section 2148	Evaluation of Need for Recall	11/27/99
Section 2149	Notification and Subsequent Action	2/23/90
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
Section 2235	Requirements	8/8/12))

(1) Requirement to meet California vehicle emission standards.

All vehicles subject to this chapter must be certified to the standards adopted by reference in WAC 173-423-030 to be registered, leased, rented, licensed, or sold for use in Washington:

(a) Starting with model year 2009: Passenger car, light-duty truck, or medium-duty passenger vehicle; and

(b) Starting with model year 2025: Medium-duty vehicle.

(2) Fleet average emissions - Nonmethane organic gas (NMOG) plus oxides of nitrogen exhaust.

(a) Effective model year 2009 through 2014, except as provided in this subsection, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars and light-duty trucks delivered for sale in Washington must not exceed the fleet average NMOG exhaust emission requirement in California Code of Regulations, Title 13, section 1961(b). For the 2014 model year only, a manufacturer may comply with the fleet average NMOG + NOx values in (b) of this subsection in lieu of complying with the NMOG fleet average emissions in this subsection. A manufacturer must either comply with the NMOG + NOx fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet or comply with the NMOG fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet. A manufacturer must calculate its fleet average NMOG + NOx values using the applicable full useful life standards.

(b) Starting with model year 2015, a motor vehicle manufacturer must comply with the fleet average nonmethane organic gas plus oxides of nitrogen emission values as provided in California Code of Regulations, Title 13, section 1961.2(b). Compliance must be based on the number of vehicles subject to this regulation delivered for sale in Washington.

(c) Emission credits and debits may be accrued and used as provided in California Code of Regulations, Title 13, section 1961.2(c).

(d) Each manufacturer must submit a report to ecology by March 1st of the calendar year containing the fleet average emissions for the model year that ended most recently. The report must follow California Code of Regulations, Title 13, section 1961.2 and must be in the same format used to report the information to the California air resources board.

(e) If a report submitted by the manufacturer under (c) of this subsection demonstrates that the manufacturer does not comply with the fleet average emission standard, the manufacturer must submit to ecology within sixty days a fleet average enforcement report. The fleet average enforcement report must:

(i) Describe how the manufacturer intends to equalize any accrued debits, as required in California Code of Regulations, Title 13, section 1961.2 (c) (3);

(ii) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state;

(iii) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(3) Fleet average emissions - Greenhouse gas exhaust.

(a) Starting with model year 2009, a motor vehicle manufacturer must comply with the emission standards, fleet average greenhouse gas exhaust emission requirements, and other requirements provided in California Code of Regulations, Title 13, sections 1961.1 and 1961.3.

(b) Emissions credits and debits may be accrued and used in accordance with California Code of Regulations, Title 13, sections 1961.1(b) and 1961.3(b).

(c) Greenhouse gas vehicle test groups that are certified under California Code of Regulations, Title 13, section 1961.1(a)(1)(B)2.a

in California may receive equivalent credit if delivered for sale and use in Washington. A manufacturer must submit to ecology the data in California Code of Regulations, Title 13, section 1961.1(a)(1)(B)2.a.i to receive this credit.

(d) Each manufacturer must submit a report to ecology by March 1st that includes end-of-model year data calculating the fleet average greenhouse gas emissions for the model year that has just ended. The report must include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to California Code of Regulations, Title 13, sections 1961.1 and 1961.3. The report must follow the procedures in California Code of Regulations, Title 13, sections 1961.1 and 1961.3 and must be in the same format used to report this information to the California air resources board.

(e) If the report submitted by the manufacturer under this subsection demonstrates that the manufacturer does not comply with the fleet average emission standards, the manufacturer must submit to ecology within sixty days a fleet average enforcement report. The fleet average enforcement report must:

(i) Describe how the manufacturer intends to equalize any accrued debits, as required in California Code of Regulations, Title 13, sections 1961.1(b) and 1961.3(b), as appropriate.

(ii) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(iii) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(4) Manufacturer delivery reporting requirements.

(a) The manufacturer must submit to ecology one copy of the California executive order and certificate of conformity for certification of new motor vehicles for each engine family to be sold in Washington within thirty days of ecology's request. If these reports are available electronically, the manufacturer must send the record in an electronic format acceptable to ecology.

(b) Commencing with the 2009 model year and prior to the beginning of each model year, upon request, each manufacturer must submit to ecology a list of all models of medium-duty vehicles and medium-duty passenger vehicles that will be delivered to Washington dealers.

(c) Upon request, each manufacturer must report to ecology the vehicle identification numbers (VIN) of each passenger car, light-duty truck, medium-duty passenger vehicle, and medium-duty vehicle delivered to each Washington dealer that is not certified to California emission standards.

(d) For the purposes of determining compliance with this chapter, ecology may require a vehicle manufacturer to submit documentation ecology deems necessary to the effective administration and enforcement of this chapter, including all certification materials submitted to the California air resources board.

(5) Warranty requirements.

(a) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer must provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements in California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(b) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer must include the emission control system warranty statement that complies with the re-

quirements in California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer must provide a telephone number appropriate for Washington residents.

(c) All manufacturers must submit to ecology failure of emission-related components reports as defined in California Code of Regulations, Title 13, section 2144 for vehicles subject to this chapter. For purposes of compliance with this requirement, manufacturers may submit copies of the failure of emission-related components reports that are submitted to the California air resources board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if notified by ecology.

[Statutory Authority: RCW 70.120A.010. WSR 19-02-056 (Order 18-11), § 173-423-070, filed 12/27/18, effective 1/27/19; WSR 16-12-099 (Order 16-01), § 173-423-070, filed 5/31/16, effective 7/1/16; WSR 12-24-033 (Order 11-01), § 173-423-070, filed 11/28/12, effective 12/29/12. Statutory Authority: RCW 70.120A.010 and 70.120A.050. WSR 09-03-077 (Order 08-16), § 173-423-070, filed 1/15/09, effective 2/15/09. Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-070, filed 11/30/05, effective 12/31/05.]

NEW SECTION

WAC 173-423-075 Zero-emission vehicle standards. (1) Requirement to meet California vehicle emission standards - Passenger cars, light-duty trucks, and medium-duty vehicles.

(a) Applicability. Starting with model year 2025, a manufacturer's sales fleet of passenger cars, light-duty trucks, and medium-duty vehicles delivered for sale or lease in Washington must comply with California Code of Regulations, Title 13, sections 1962.2 and 1962.3, adopted by reference in WAC 173-423-030.

(b) Reporting requirements. Beginning with model year 2025, a manufacturer must submit a report to ecology for each on-road vehicle produced and delivered for sale in Washington for each model year as required by California Code of Regulations, Title 13, section 1962.3.

(c) ZEV credits. New vehicles delivered for sale in Washington before model year 2025 cannot earn ZEV credits.

(2) Requirement to meet California vehicle emission standards - On-road vehicles over 8,500 GVWR. (California advanced clean trucks regulation)

(a) Applicability. Starting with model year 2025, any manufacturer that certifies on-road vehicles over 8,500 pounds GVWR for sale or lease in Washington must comply with California Code of Regulations, Title 13, sections 1963 through 1963.5, adopted by reference in WAC 173-423-030.

(b) Reporting requirements. Beginning with model year 2025, a manufacturer must submit a report to ecology for each on-road vehicle produced and delivered for sale in Washington for each model year as required by California Code of Regulations, Title 13, section 1963.4.

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AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-130 Surveillance. (1) ~~((The department of))~~ Ecology may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this chapter. ~~((Department of))~~ Ecology inspections ~~((shall))~~ must occur during regular business hours and on any premises owned, operated or used by any dealer or rental car agency.

(2) For the purposes of determining compliance with this chapter, ~~((the department of))~~ ecology may require ~~((any))~~ a vehicle dealer or rental car agency to submit ~~((any))~~ documentation ~~((the department of))~~ ecology deems necessary to the effective administration and enforcement of this chapter. This provision does not require creation of new records.

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-130, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-140 Enforcement. Any person who violates any provision of this chapter ~~((shall be))~~ is liable for a civil penalty not to exceed five thousand dollars per vehicle. Penalties provided in this section ~~((shall))~~ are to be imposed pursuant to RCW 43.21B.300.

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-140, filed 11/30/05, effective 12/31/05.]

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-150 Severability. Each section of this regulation ~~((shall be deemed))~~ is intended to be severable, and in the event that any section of this regulation is held invalid, the remainder ~~((shall))~~ is intended to continue in full force and effect.

[Statutory Authority: RCW 70.120A.010. WSR 05-24-044, § 173-423-150, filed 11/30/05, effective 12/31/05.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-423-050 Requirement to meet California vehicle emission standards.

- WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) and NMOG Plus NO_x exhaust emission requirements, reporting and compliance.
- WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance.
- WAC 173-423-100 Manufacturer delivery reporting requirements.
- WAC 173-423-110 Warranty requirements.
- WAC 173-423-120 Recalls.