

WSR 21-24-059

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 21-04—Filed November 29, 2021, 9:21 a.m., effective December 30, 2021]

Effective Date of Rule: Thirty-one days after filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Chapter 173-423 WAC: The Environmental Protection Agency (EPA) must reissue a waiver to California for its unique motor vehicle emission standards before we can implement the program. In April 2021, EPA indicated they intend to reinstate the waiver. The rule text accommodates this requirement by noting that the rule will be effective provided EPA grants a waiver for the California motor vehicle emission standards incorporated by reference.

Purpose: This rule making updates two rules, chapters 173-423 and 173-400 WAC.

Chapter 173-423 WAC, Clean vehicles program: The rule implements the California Advanced Clean Cars Program that combines the control of smog-causing (criteria) pollutants and greenhouse gas emissions into a coordinated package of regulations. The rule adopts California's motor vehicle emission standards that apply to:

- Low emission vehicles - passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans).
- Zero emission vehicles - passenger cars, light-duty trucks, and medium-duty vehicles (trucks, SUVs, and vans).
- Zero emission trucks - vehicles greater than 8,500 pounds gross vehicle weight rating (delivery vans, work trucks, long-haul trucks, drayage trucks, transit buses, garbage trucks, and other commercial work vehicles). This is California's Advanced Clean Trucks rule.

Chapter 173-400 WAC, General regulations for air pollution sources: This chapter adopts many federal rules by reference because it is our primary rule regulating air quality under the state and federal Clean Air Acts. In Washington, we incorporate applicable federal rules by either copying the rule language into our state rules or adopting applicable federal rules by reference, as they exist at a specified adoption date. In amending WAC 173-400-025, we:

- Updated the "adoption by reference" date to December 23, 2020, from January 24, 2018, to include more recent versions of federal rules; and
- Kept the current requirements for "project emissions accounting" for the Prevention of Significant Deterioration (PSD) Program for Washington sources. This means that the rule changes from the November 24, 2020, Federal Register notice (85 F.R. 74890) that went into effect on December 24, 2020, are not adopted by reference.

Citation of Rules Affected by this Order: Amending chapters 173-423 and 173-400 WAC.

Statutory Authority for Adoption: Chapter 173-423 WAC: Chapter 70A.30 RCW, Motor vehicle emission standards; and chapter 173-400 WAC: Chapter 70A.15 RCW, Washington Clean Air Act.

Adopted under notice filed as WSR 21-13-153 on June 22, 2021.

Changes Other than Editing from Proposed to Adopted Version:

Section in Adopted Rule	Change	Reason
WAC 173-423-070 (2)(b)	Removes requirement to base compliance on vehicle delivery in Washington.	Removes restrictive provision to maintain consistency with California's rules. Low emission vehicle rules allow pooling with California and all Section 177 states for fleet reporting of nonmethane organic gas.
WAC 173-423-070 (3)(c)	Removes requirement to base compliance on vehicle delivery in Washington.	Removes restrictive provision to maintain consistency with California's rules. Low emission vehicle rules allow pooling between California and Section 177 states for fleet reporting of greenhouse gas emissions.
WAC 173-423-075 (1)(c)	Clarifies wording.	Clarifies confusing rule language that was too broad. New wording clarifies original intent to prohibit credit generation for zero emission vehicles before model year 2025 vehicles.
WAC 173-423-140	Deletes enforcement section.	Removes outdated enforcement penalties to maintain consistency with California's rules, specifically advanced clean trucks. Removal simplifies this requirement so the rule relies on penalty provisions in California's rules, which are incorporated by reference.
WAC 173-423-150	Changes "section" to "provision."	Clarifies that invalidation of a portion of a section will invalidate only that portion.
WAC 173-400-025(1)	Changes adoption date to December 23, 2020.	Change clarifies original intent to update adoption date to most recent version of most federal rules, but retain EPA's 2020 requirements for project emissions accounting for major sources.
WAC 173-400-025(3)	Deletes subsection with exemptions.	There are no exemptions to this adoption by reference.
WAC 173-400-025(4)	Deletes subsection with new requirements for existing municipal solid waste landfills.	The requirements were not in effect on the adoption by reference date of December 23, 2020. They were in effect on June 21, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 5, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 7, Repealed 1 [7].

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 1 [7].

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 29, 2021.

Laura J. Watson
Director

OTS-3078.4

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: December 23, 2020.

(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.

[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-3032.6

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((, r)) 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))~~ 7,500 miles, provided that for vehicle dealers, the mileage at the time of sales is deter-

mined 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)		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	10/16/17

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
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
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

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
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 Motorcycles 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
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

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
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
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

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
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).

(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 60 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) 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.

(d) 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 60 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 30 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 requirements 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. Statu-

tory 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. ZEV credits may only be earned by model year 2025 and subsequent vehicles.

(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 173-423-150 Severability. Each ((~~section~~)) portion of this regulation ((~~shall be deemed~~)) is intended to be severable, and in the event that any ((~~section~~)) portion 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.
WAC 173-423-140	Enforcement.