

WSR 22-03-078  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF ECOLOGY

[Order 21-12—Filed January 18, 2022, 9:29 a.m.]

Subject of Possible Rule Making: Ecology is revising two rules: Chapter 173-423 WAC, Clean vehicles program; and chapter 173-400 WAC, General air quality regulations for air pollution sources.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.30 RCW, Motor vehicle emission standards; and chapter 70A.15 RCW, Washington Clean Air Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: **Chapter 173-423 WAC, Clean vehicles program.** RCW 70A.30.010 directs ecology to adopt rules implementing California's vehicle emission standards and to amend the rule to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Section 7507.

The rule making will:

- Adopt California's heavy-duty engine and vehicle omnibus regulation and associated amendments. These rules require cleaner, less polluting heavy-duty engines.
- Adopt California's advanced clean cars II. This rule that will increase the zero emission vehicle (ZEV) sales of passenger cars, light-duty trucks and medium-duty vehicles requirement to 100 percent starting in 2035.
- Update the adoption date of California's rules.

The rule making will also include the following:

- Advanced clean cars II: Evaluate and potentially adopt credit options to determine whether and how to distribute credits to manufacturers for compliance with the advanced clean cars II rule. The new rule is expected to rely in part on banked credits. The rule may explore and/or adopt other pathways or mechanisms to address the same issue.
- Credit for ZEV sales: Evaluate and potentially adopt provisions to provide a manufacturer with credits for a ZEV sale before our program starts in 2024. This could ensure Washingtonians have access to the widest variety of vehicle models in 2022 and 2023.
- Fleet reporting: Require large entities (fleet owners, businesses, government agencies, municipalities, brokers, transit agencies, etc.) to report information about vehicles over 8,500 pounds. This requirement is part of California's advanced clean trucks rule. The inventory of the existing heavy-duty fleet and information on where these vehicles operate would enable us to develop a statewide strategy to reduce their emissions.

Transportation accounts for 45 percent of greenhouse gas emissions and is the largest source of nitrogen oxide emissions in Washington. We cannot make meaningful progress to address climate change without significantly reducing vehicle emissions. Along with cutting greenhouse gases, reducing emissions from vehicles will improve air quality and protect public health, especially in communities living near a transportation corridor. Since more low-income people and people of color live in these communities, they are negatively impacted by vehicle emissions. The new heavy-duty truck engine standards reduce emissions of nitrogen oxide by 90 percent and fine particles by 50 percent. Exposure to these pollutants is linked to serious health

problems, including asthma, lung, and heart disease. The rule changes also add other requirements that reduce emissions and extend engine warranties.

**Chapter 173-400 WAC, General air quality regulations for air pollution sources.** The rule making will update the adoption date of federal rules. Ecology can only implement and enforce federal rules that the rule adopts by reference. This action will amend the following sections:

- WAC 173-400-025 Adoption by reference.
- WAC 173-400-050 Emission standards for combustion and incineration units.
- WAC 173-400-070 Emission standards for certain source categories.
- WAC 173-400-115 Standards of performance for new sources.
- WAC 173-400-720 Prevention of significant deterioration (PSD).

The rule will retain the current definition of "project emissions accounting."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: 42 U.S.C. Section 7507 (also known as Section 177 of the Clean Air Act) allows states to adopt and enforce California's vehicle emission standards instead of the federal ones if the state standards are identical to the California standards. We are coordinating with California on the adoption of these rules.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Elena Guilfoil, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-972-5166, for Washington relay service or TTY call 711 or 877-833-6341, email [elena.guilfoil@ecy.wa.gov](mailto:elena.guilfoil@ecy.wa.gov), website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423Jan18>.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

January 18, 2022  
Kathy Taylor  
Air Quality Program Manager