



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: November 29, 2021

TIME: 9:21 AM

WSR 21-24-059

Agency: Department of Ecology AO # 21-04

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain: Chapter 173-423 WAC: EPA must re-issue 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 rulemaking 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 FR 74890) that went into effect on December 24, 2020, are not adopted by reference.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: Chapter 173-423 WAC; Chapter 173-400 WAC
- Suspended:

Statutory authority for adoption:

Chapter 173-423 WAC: Chapter 70A.30 RCW, Motor Vehicle Emission Standards;
Chapter 173-400 WAC: Chapter 70A.15 RCW, Washington Clean Air Act

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

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

Describe any 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.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>1</u>	Amended	<u>5</u>	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>7</u>	Repealed	<u>1</u>

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>5</u>	Repealed	<u>1</u>
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 11/29/2021	Signature: 
Name: Laura Watson	
Title: Director	