



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 19, 2022

TIME: 8:34 AM

WSR 23-01-102

Agency: Department of Ecology AO # 21-12

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:

Purpose: Ecology is adopting amendments to:

- Chapter 173-423 WAC, Clean Vehicles Program
- Chapter 173-400 WAC, General Air Quality Regulations for Air Pollution Sources

Chapter 173-423 WAC, Clean Vehicles Program

RCW 70A.30.010 directs Ecology to adopt rules implementing California’s vehicle emission standards, including the zero-emission vehicle (ZEV) program, and to amend 173-423 WAC to maintain consistency with California’s standards and Section 177 of the federal Clean Air Act.

This rulemaking amends 173-423 WAC to adopt the following rules from California’s Code of Regulations:

- **Heavy-Duty Engine and Vehicle Omnibus Regulation and associated amendments.** Starting in model year (MY) 2026, these rules require that new internal combustion engines for heavy-duty vehicles emit much lower quantities of nitrogen oxides (NOx), particulate matter (PM), and greenhouse gases.
- **Advanced Clean Cars II (ACC II).** This rule will increase the percentage of passenger cars, light-duty trucks, and medium-duty vehicles sold in Washington State that are zero-emission vehicles (ZEVs). The sales mandate will take effect in MY 2026 and begin by requiring 35% of new passenger vehicle sales to be ZEVs, with that percentage increasing between 6-9% per year until ZEVs make up 100% of new sales starting in MY 2035. It will also require light and medium-duty vehicles to meet stronger emissions standards.

The rulemaking also includes the following provisions that support Ecology’s implementation of California’s emission standards:

- **Early action ZEV credits:** This rule will provide automakers with optional ZEV sales credits for MYs 2023 and 2024. This will increase Washingtonians’ access to a wide variety of ZEV vehicle models before regulatory requirements take effect in MY 2025, and allow participating automakers to bank credits for meeting future compliance requirements under ACC I and II.
- **One-time fleet reporting requirement:** This requires owners and operators (such as businesses, government agencies, municipalities, brokers, freight dispatchers, transit agencies, etc.) to report information about medium- and heavy-duty vehicles (defined as vehicles over 8,500 pounds) in their fleets by September 30, 2023. This requirement mirrors a similar requirement in California’s Advanced Clean Trucks rule. Ecology currently has very little data on fleets. The inventory of existing heavy-duty fleets and information on where the vehicles operate will help Ecology develop and implement strategies to reduce their emissions.

Chapter 173-400 WAC, General Air Quality Regulations for Air Pollution Sources

The rulemaking updates the adoption date of federal rules. Ecology can only implement and enforce federal rules that the rule adopts by reference. This action amends 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 Ecology’s current definition of “project emissions accounting.”

Citation of rules affected by this order:

New:
 Repealed:
 Amended: 173-423 WAC and 173-400 WAC
 Suspended:

Statutory authority for adoption: RCW 70A.30.010: Department of Ecology to adopt rules to implement California motor vehicle emission standards

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-18-103 on September 7, 2022 (date).

- Describe any changes other than editing from proposed to adopted version: WAC 173-423-083 (Fleet reporting requirement): The term “person” has been edited throughout this section to instead refer to “entity” or “broker”. This change is intended to reduce confusion and clarify who is required to report information about their fleet vehicles to Ecology under this rule.
- WAC 173-423-070 (Low emission vehicles): This section has been revised to update references to sections of the California Code of Regulations that have been reordered or added since Ecology’s last rulemaking.
- WAC 173-423-30 (Adoption by reference): This section has been revised for clarity.

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

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 Web site: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-423-400Jan18>
 Other: N/A

**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	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>1</u>	Amended	6	Repealed	___

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>5</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

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: 12/19/2022	Signature: 
Name: Laura Watson	
Title: Director	