



Submitted via: Department of Ecology Public [Comment Form](#) for [Chapter 173-423 WAC – Low Emission Vehicles](#) and [WAC 173-400-025 – Adoption of federal rules](#)

August 9, 2021

TO: Elena Guilfoil
Washington Department of Ecology

FROM: Kathryn VanNatta
Northwest Pulp & Paper Association

RE: [WAC 173-400-025, Adoption of federal rules](#) – adopting federal rules as written, in Chapter 173-400 WAC, General Regulations for Air Pollution Sources

Thank you for the opportunity for the Northwest Pulp & Paper Association (NWPPA) to provide formal public comment on – adopting federal rules as written, in Chapter 173-400 WAC, General Regulations for Air Pollution Sources for the Department of Ecology (Department).

Background

NWPPA is a 65-year-old regional trade association representing 10-member companies and 14 pulp and paper mills and various forest product manufacturing facilities in Washington, Oregon and Idaho. Our members hold various permits issued by the Department of Ecology including permits for Title V Air Operating Program, air permitting program and also report GHG emissions under the EPA and Department’s GHG Reporting programs.

NWPPA members are at the forefront of Washington air quality improvement efforts. Our members have embraced technically advanced and scientifically sound controls on air emissions over the past 20 plus years. We are proud of our dedication to efficient and environmentally sound processes and reduction of GHG emissions over time. We are committed to the hard work, expense and discipline it takes to be contribute to our communities.

NWPPA overarching comments

- 1) NWPPA notes that the WAC 173-400-025 rule proposal is not a rule, “adopting federal rules as written,” as described in the summary on the Department’s website (copied below on August 9, 2021 with **emphasis** added).

Ecology proposes to update two rules:

- [Chapter 173-423 WAC, Low Emission Vehicles](#) (proposing title change to Clean Vehicles Program) – adopting new California emission standards for zero emission vehicles
- [WAC 173-400-025, Adoption of federal rules](#) – **adopting federal rules as written**, in Chapter 173-400 WAC, General Regulations for Air Pollution Sources

Washington is expanding its 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. Transportation contributes about 22 percent of total air pollution and 45 percent of greenhouse gas emissions throughout the state.

Rulemaking usually starts at the rule announcement phase. However, Ecology is starting this rulemaking at the rule proposal phase because the Legislature directed us to adopt California’s rules as written ([RCW 70A.30.010](#)).¹

2) NWPPA strongly objects to the Department’s use of emergency rulemaking to adopt rules containing misleading and incorrect initial description on your website. NWPPA acknowledges the details are noted later in the announcement, but without any context or description.

3) NWPPA strongly objects to the use of emergency rulemaking to seemingly “adopt federal rules as written,” but in reality, the Department’s proposed changes to the current existing federal rules will have large and costly changes for regulated Washington businesses.

NWPPA Specific Comments

4) NWPPA strongly objects to the proposed changes in WAC 173-400-025(3) noted on pages 1 and 2 of the [AMENDATORY SECTION](#) of the rulemaking and suggest proposed Section 3 be removed (copied below on August 9, 2021 with **emphasis** added).

5) NWPPA strongly requests and supports the Department’s adoption of the federal rules as promulgated in 85 FR 74890 (November 24, 2020) in 40 C.F.R. 51.165, 51.166, and 52.21.

6) NWPPA believes adoption of the federal rules in 40 C.F.R. 51.165, 51.166, and 52.21 as of November 24, 2020 will place Washington’s air quality rules on an equal basis with other states and allow Washington industry to be fully competitive with business in other states.

¹ Downloaded August 9, 2021, from: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-423-400>

(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 emis-

sions 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 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) 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).²

Thank you for the opportunity to provide public comment on WAC 173-400-025. We would be happy to answer any questions.

² Downloaded August 9, 2021, from: <https://ecology.wa.gov/DOE/files/e4/e4c88c54-a283-4eec-92d6-af4aa46ea063.pdf>