



Building Industry Association of Washington
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July 2, 2025
via form submission to:
Nikki Harris

Nikki Harris
Washington Department of Ecology
Climate Pollution Reduction Program
P.O. Box 47600
Olympia, WA
98504-7600

Re: Chapter 173-423 WAC – Clean Vehicles Program Rulemaking Comment

Dear Nikki Harris,

I am the Vice President, General Counsel of the Building Industry Association of Washington (“BIAW”) representing more than 8,300 members statewide. I am writing regarding Chapter 173-423 WAC – Clean Vehicles Program Rulemaking and to express significant concerns with the Department of Ecology’s rulemaking to incorporate changes to the Advanced Clean Trucks and Heavy-Duty Low-NOx Omnibus regulations adopted by the California Air Resources Board (“CARB”).

As you are likely aware, on June 12, 2025, a series of Congressional resolutions under the Congressional Review Act (“CRA”) were signed by President Trump rescinding several California regulations under California’s Clean Air Act (“CAA”) including the Heavy-Duty Low-NOx Omnibus Rule to be incorporated here. The rescinding of these preemption waivers nullifies California’s ability to set emission standards that are stricter than national standards set by the U.S. Environmental Protection Agency. California Governor Gavin Newsom has vowed to challenge these resolutions. It would be imprudent for Washington to implement the Heavy-Duty Low-NOx Omnibus while the federal legal landscape regarding the permissibility of these rules is uncertain.

We urge the Department to halt all rulemaking on Chapter 173-423 WAC immediately. Federal preemption for the California standards precludes Washington from adopting the same standards. Washington citizens will not be prejudiced by allowing the legal challenges to play out in federal court without involving the State of Washington. Washington interests are best served by preserving the status quo during the pendency of these actions. Continuing to allow consumer choice, maintain lower transportation costs, and provide less disruptions to the national supply chain is in the best interest of Washingtonians.

Additionally, beyond the federal preemption issue there are significant ethical concerns to maintaining EV mandates which deepens this nation's reliance on foreign sources of critical minerals used in battery production. This shift increases global emissions and effectively outsources Washington's environmental footprint to countries with weaker labor and environmental protections. For example, Zambia's [Kafue River](#)—vital to 5 million people—was recently polluted by a copper mine. In 2023, the U.S. [Department of Labor](#) issued a report exposing the appalling labor conditions, including forced labor, at cobalt mines in Congo.

For legal, economic, and ethical reasons, BIAW respectfully requests that the Department of Ecology cease rulemaking for Chapter 173-423 WAC and the Heavy-Duty Low NOx Omnibus.

Please contact me if you have any questions regarding BIAW's position.

Sincerely,



Ashli Penner
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