



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**Concise Explanatory Statement**  
**Chapter 173-423 WAC**  
**Low Emission Vehicles**

---

*Summary of rulemaking and response to comments*

December 2018  
Publication no. 18-02-041

## Publication and Contact Information

This report is available on the Department of Ecology's website at <https://fortress.wa.gov/ecy/publications/SummaryPages/1802041.html>.

For more information contact:

Air Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600  
Phone: 360-407-6800

Washington State Department of Ecology - [www.ecology.wa.gov](http://www.ecology.wa.gov)

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Union Gap 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

*To request ADA accommodation including materials in a format for the visually impaired, call Ecology at #360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.*

## **Concise Explanatory Statement**

---

### *Chapter 173-423 WAC Low Emission Vehicles*

Air Quality Program

Washington State Department of Ecology

Olympia, Washington

*This page purposely left blank.*

## **Table of Contents**

<b>Introduction.....</b>	<b>1</b>
<b>Reasons for Adopting the Rule .....</b>	<b>2</b>
<b>Differences Between the Proposed Rule and Adopted Rule .....</b>	<b>4</b>
<b>List of Commenters and Response to Comments .....</b>	<b>5</b>

*This page purposely left blank.*

# Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.
- This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: Low Emission Vehicles

WAC Chapter(s): 173-423

Adopted date: December 27, 2018

Effective date: January 27, 2019

To see more information related to this rulemaking or other Ecology rulemakings please visit our website: <https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>.

# Reasons for Adopting the Rule

The federal Clean Air Act allows California to adopt motor vehicle standards that are more stringent than federal requirements. California must get a waiver from EPA before it can enforce its standards. The federal Clean Air Act allows states that want to be more stringent than the federal standards for new vehicles to adopt the California clean car program and requires these states to maintain consistency with the California vehicle emission standards. Thirteen states<sup>1</sup> and the District of Columbia have adopted California's standards. These states make up more than 35 percent of the U.S. new car market.

The Washington Legislature requires automotive emissions standards to be consistent with California low emission vehicle standards in Title 13 of the California Code of Regulations. RCW 70.120A.010 directs Ecology to "amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards." This rulemaking incorporates by reference recent updates of Title 13 of the California Code of Regulations into Chapter 173-423 WAC.

## Background

In 2009, EPA granted a waiver to California for its state standards for the emission of greenhouse gases from motor vehicles that apply to model years 2009 to 2016.<sup>2</sup> California adopted its program for model years 2017 through 2025 in January 2012. In October 2012, California, the federal government (National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency), and automakers agreed to establish one national program for fleet-wide emission standards.<sup>3</sup> With that decision, California adopted rules declaring that cars meeting federal standards for model years 2017-2025 comply with California's greenhouse gas standards.

In August 2018, the National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency announced they were considering freezing the current federal fuel efficiency and greenhouse gas emissions standards at the 2020 levels.<sup>4</sup> The existing federal and California standards require automobile makers to increase efficiency and reduce emissions year over year through model year 2025.

On September 28, 2018, the California Air Resources Board endorsed rules to clarify that automobile makers who want to sell cars and light-duty trucks in California after the 2020 model year would need to meet the existing standards, rather than weaker standards that the National Highway Traffic Safety Administration and the U.S. Environmental Protection Agency may adopt.

---

<sup>1</sup> Colorado (joined Nov. 16, 2018), Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington

<sup>2</sup> [California State Motor Vehicle Pollution Control Standards; Notice of Decision Granting a Waiver of Clean Air Act Preemption for California's 2009 and Subsequent Model Year Greenhouse Gas Emission Standards for New Motor Vehicles](#), 74 FR 32744, July 8, 2009.

<sup>3</sup> [2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards](#), 77 FR 62624, October 15, 2012.

<sup>4</sup> [The Safer Affordable Fuel-Efficient \(SAFE\) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Truck](#), 83 FR 42986, Aug. 24, 2018.



## Summary of rule changes

We updated our rule to match revisions to California's motor vehicle emission standards for greenhouse gases approved by the California Air Resources Board on Sept. 28, 2018. The changes we are adopting:

- Clarify that automobile makers who want to sell cars and light-duty trucks in California (and by extension in Washington) for model years 2021 through 2025 would need to meet the existing standards agreed to by California, the federal government, and automakers in 2012; and
- Update requirements and test procedures for certifying compliance with the vehicle emission standards.

### Other changes

- Updated requirements in Washington's rule for on-board diagnostic systems to match California's 2015 rulemaking in Section 1968.2 and Section 1968.5.
- Updated the reference to California effective date for two sections to reflect the current date rather than the revision date for that citation:
  - Section 1956.8 (g) and (h): California revisions to Section 1956.8 did not change the content in (g) and (h); and
  - Appendix A to Article 2.1: Appendix A is part of Section 2112 so the effective date should be the effective date for Section 2112 not the date Appendix A was last revised.
- Corrected that ten sections adopted in Washington's rule are located in California's Article 2 rather than Article 1:
  - Section 1956.8 (g) and (h)
  - Section 1960.1
  - Section 1961
  - Section 1961.1
  - Section 1961.2
  - Section 1961.3
  - Section 1965
  - Section 1968.2
  - Section 1968.5
  - Section 1976
  - Section 1978

## Differences between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on Nov. 7, 2018 and the adopted rule filed on Dec. 28, 2018. Ecology made these changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes and Ecology’s reasons for making them.

We made the same change in two locations. We inserted the “12/12/18” (the effective date of California’s rule) in the “California Effective Date” column for Sections 1961.2 and 1961.3, and removed the sentence that stated our intent to update our adoption of these sections based on the effective date of the rule changes approved by the California Air Resources Board on Sept. 28, 2018.

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	<del>((10/8/15))</del> <u>12/12/18</u> <del>(The date will be the effective date of the rule making approved by the California Air Resources Board on September 28, 2018.)</del>
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	<del>((12/31/12))</del> <u>12/12/18</u> <del>(The date will be the effective date of the rule making approved by the California Air Resources Board on September 28, 2018.)</del>

## **List of Commenters and Response to Comments**

No one commented on the proposed rule.