

August 9, 2021

Via Electronic Filing

Elena Guilfoil
Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: Joint comments on the draft rule for Chapter 173-423 WAC regarding the Clean Vehicles Program

Dear Ms. Guilfoil:

The transportation sector is responsible for nearly 45 percent of Washington's greenhouse gas emissions – more than any other sector. Within this sector, personal vehicles, due to the number on the road, are responsible for the majority of on-road greenhouse gas emissions while medium- and heavy-duty vehicles (MHDVs) individually have an outsized impact on emissions of both greenhouse gases and criteria pollutants that are hazardous for human health. With the impending climate crisis and poor air quality affecting residents' health, transportation pollution must be addressed directly – and urgently. The Evergreen State must take swift action to develop solid, lasting policies, rules, and programs to reduce transportation emissions and target MHDV pollution. Adopting the Zero Emission Vehicle (ZEV) program and Advanced Clean Trucks (ACT) rule is a strong first step. These policies will not only improve health outcomes and contribute to meeting our state's statutory climate goals, but will also help reduce pollution in areas historically overburdened by diesel exhaust and bring jobs into the state. For these reasons, **the undersigned groups strongly encourage the Washington Department of Ecology to adopt California's ZEV program and ACT rule and thank the agency for initiating this rulemaking.**

Benefits of the Zero Emission Vehicle Program

The Department of Ecology's proposal to adopt California's ZEV program by reference before the end of the year ensures Washington starts experiencing the full benefits of the standards in 2025. This approach will:

- Help Washington meet its greenhouse gas emissions reductions limits;¹
- Improve air quality by reducing harmful pollutants from passenger vehicles;
- Accelerate clean transportation job growth in Washington from the existing 3,400 jobs in the sector;² and,

¹ RCW 70A.45.020

² <https://e2.org/wp-content/uploads/2020/11/E2-Clean-Jobs-Washington-2020.pdf>

- Increase consumer choice by expanding zero-emission vehicle availability, increase used zero-emission vehicle availability, and increase access to fuel and maintenance cost savings.

In particular, we support the current exclusion of early action credits for the ZEV program, resulting in the full 22 percent credit requirement for model year 2025. The 22 percent credit requirement, which is equivalent to about 8 percent vehicle sales, is a reasonable requirement given Washington's current ZEV sales. We hope parallel stringency to California's rule will continue in future considerations of Washington's credit system and we look forward to the consideration and adoption of California's Advanced Clean Cars II rules in the future.

Benefits of the Advanced Clean Trucks Rule

Transportation is responsible for 22 percent of air pollution in Washington. MHDVs are responsible for 59 percent of nitrogen oxides (NOx) and 53 percent of particulate matter (PM) emitted by on-road vehicles. Both of these pollutants are hazardous for human health as they are associated with increased respiratory and cardiac illnesses. NOx and PM tend to have heightened impacts on communities of color and low-income communities that are more likely to be located near freight hubs and trucking corridors. Moving forward with the ACT rule would significantly improve air quality, especially in urban areas and along transportation corridors. Preliminary results from a forthcoming report by MJ Bradley and Associates found that, by 2050, the ACT rule alone would reduce MHDV NOx emissions by 47 percent and PM emissions by 43 percent in Washington. This will avoid 69,553 respiratory illnesses among Washingtonians and result in roughly \$1.3 billion in public health benefits by 2050.

The transportation sector is responsible for the most greenhouse gas pollution in the state of Washington. MHDVs in particular are responsible for 10.4 million metric tons of greenhouse gas emissions each year. If the state is to meet its 2030 limit of 45 percent reduction compared to 1990 levels, it will need to take action immediately. According to preliminary results from MJ Bradley and Associates' report, the ACT rule alone is estimated to reduce annual MHDV GHG emissions by 42 percent by 2050. That's a total reduction of 46.9 million tons of greenhouse gases (CO₂e). The study also found that the cost savings to Washington from avoiding negative effects of climate change associated with the rule are worth \$8.6 billion.

The ACT rule is economically feasible and will save fleet operators money in the long term. The upfront costs for electric trucks may be high today, but these costs are rapidly declining, as battery costs decline.³ Upfront vehicle costs are expected to drop concurrently, with most zero-emission trucks expected to reach cost parity with their internal combustion counterparts by 2030. And, electric trucks tend to out-compete diesel or gasoline vehicles on a total cost of ownership basis due to lower fueling and maintenance costs. Maintenance costs for zero-emission trucks are half that of their internal combustion counterparts. And money saved by fleet owners on maintenance will re-enter the local economy.

³ According to Bloomberg New Energy Finance, battery costs have decreased by 89% and continue to drop.

Fleet operators around the country clearly believe in the economic and technical feasibility of zero-emission trucks, as they've been putting in tens of thousands of preorders on new clean trucks. These fleets include the US Postal Service, Amazon, and PepsiCo. The increase in demand has birthed several brand new clean truck manufacturers such as Lordstown Motors, Lion Electric, Arrival, and Rivian, whose products are being sold before they've even been manufactured. The high demand for electric trucks and growth of a new part of the industry has led legacy manufacturers such as Volvo, Daimler, Peterbilt, and Ford to invest in programs for electric vehicles as well.

The ACT rule will also bring jobs to Washington. With more electric trucks being manufactured, there will be an increasing need for charging infrastructure buildout. This need will generate good-paying, local construction jobs in addition to electric drivetrain manufacturing jobs needed to build the vehicles themselves.

Complementary Policies to the Advanced Clean Trucks Rule

Washington's ZEV market is relatively well established with over 76,000 electric vehicles registered in Washington and there are several policies and programs in the development and implementation phase that will support compliance with the ACT rule.⁴ Policies and programs include, but are not limited to:

- The Clean Fuel Standard, E3SHB 1091 (2021), will take effect January 1, 2023 and will allow zero emission truck owners and operators to benefit from the additional value stream that clean fuel standard credits can provide.⁵ The Standard will also result in additional utility investments in transportation electrification infrastructure.
- The Climate Commitment Act, E2SSB 5126 (2021), is estimated to generate over \$8.4 billion from 2023 to 2040 with a significant focus on reinvesting in clean transportation.⁶
- Electric utilities, including Avista, Clark PUD, Pacific Power, Puget Sound Energy, Seattle City Light, Tacoma Power, and Snohomish PUD, are actively making investments to support transportation electrification and as essential service providers, Washington's electric utilities will continue making investments to support this growing customer base. As an example of the work Washington's electric utilities are doing to prepare for the transition to electric vehicles, several of the electric utilities serving the I-5 corridor are helping to lead the West Coast Clean Transit Corridor Initiative, aimed at electrifying I-5 to provide clean fuel to freight haulers and delivery trucks.⁷

⁴ <https://data.wa.gov/Transportation/Electric-Vehicle-Population-Data/f6w7-q2d2>

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<https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Clean-Fuel-Standard>

⁶

<https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Climate-Commitment-Act>

⁷ <https://westcoastcleantransit.com/>

- The Washington State Department of Commerce’s Clean Energy Fund Electrification of Transportation Systems Program funds projects to accelerate electrification and address barriers to infrastructure deployment.⁸

Comments on Proposed Rule Language

In order to realize the full benefits of the Clean Vehicles Program, we offer the following perspective and recommendations regarding the proposed rule language.

Zero Emission Vehicle Program Credits

The CR-102 states that “the rule does not provide credits for vehicles before model year 2025 that are sold in Washington,” but as written, the proposed rule language allows for new zero emission vehicles from earlier model years that are delivered for sale in Washington in model year 2025 to count towards meeting the annual credit percentage requirement. In order to align the rule language with the stated intent, we recommend the following change.

WAC 173-423-075 (1)(c) ZEV credits. *ZEV credits may only be earned by model year 2025 and subsequent vehicles*~~New vehicles delivered for sale in Washington before model year 2025 cannot earn ZEV credits.~~

Severability Clause

The ZEV and ACT regulations are combined into one new section (WAC 173-423-075 Zero-emission vehicle standards), which suggests the entire section is severable if part is held invalid. To ensure all valid portions are retained in such an instance, we suggest revisiting the structure.

Aligning ZEV Program and ACT Rule Penalties

Given the large differences in vehicle size and emission levels (both GHG and criteria pollutants), the ZEV program and ACT rule have different penalty structures. The proposal correctly identifies a penalty ceiling of \$5,000/vehicle for the ZEV Program. However, missing from the proposal is the penalty schedule for various MHDV classes in the ACT rule. The correct ACT rule penalties are included on page 14 of the SEPA Determination of Nonsignificance and Environmental Checklist in Appendix B:

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<https://www.commerce.wa.gov/growing-the-economy/energy/clean-energy-fund/electrification-of-transportation/>

Vehicle	Penalty per Vehicle
Class 2b-3	\$15,000
Class 4-5	\$18,750
Class 6-7	\$28,125
Class 8	\$37,500
Class 7-8 Tractor	\$46,875

The correct penalty structure that accommodates the larger vehicles regulated by the ACT rule should be included and/or clarified in the final rule.

ACT Rule Early Action Credits

We understand that the Department of Ecology is adopting the California Code of Regulations Section 1963.2 by reference and that this allows for early action credits to be generated starting with model year 2021. This raises concerns that allowing for four years of early credit generation may reduce the stringency and as a result the benefits of the rule. In comparison, other states adopting the ACT rule this year, such as New Jersey, have proposed beginning early crediting one year before the rule is enforced. We encourage the Department of Ecology to consider the value of modifying early action credit components within relevant rulemakings in the future to maximize benefits to Washington residents.

Fleet Reporting Requirement

The fleet reporting requirement is an essential piece of the ACT rule: it will support targeted climate action and air pollution reductions as well as help support workers. Currently, truck driver misclassification is a rampant issue. Truck drivers are often misclassified as independent contractors, and therefore don't receive the benefits that they should be entitled to. Establishing a reporting requirement would shed light on this problem and could improve the quality of life for thousands of drivers. In addition, the fleet reporting requirement would provide the state with granular data about where trucks operate and park. This data can be used:

- To plan for public charging infrastructure buildout and, importantly, it can help inform a complementary policy to the ACT: a purchase requirement called the Advanced Clean Fleets rule. The rule is in the process of being finalized in California and would be an important next step for Washington.
- To enhance utility distribution system planning efforts. This planning is vital in the transition to clean vehicles as a well-designed grid can lower bills for all customers by avoiding expensive system upgrades that provide fewer benefits.
- To target incentives that support a just transition to pollution free vehicles.

We ask that the Department of Ecology initiate a rulemaking to adopt a fleet reporting requirement concurrent with the current rulemaking as this would complement the current rulemaking and support future rules.

Heavy Duty Omnibus Rule

It is critical that we transition fully to zero emission vehicles; however, fossil-fuel powered vehicles will still be on the market for the coming decade. Any new fossil-fuel powered MHDVs must be as clean as possible. Therefore, we want to note that we strongly support the Department of Ecology in initiating a rulemaking to adopt California's Heavy Duty Omnibus rule as soon as it is completed.

Conclusion

Thank you for receiving our joint comments. We strongly support the adoption of the ZEV program and the ACT rule. These rules will help Washington achieve its statutory climate goals while reducing health-harming air pollution, providing Washingtonians with clean vehicle choices, and growing our local economy through good, green jobs. In order to ensure these rules are as strong as possible, we hope you consider our recommendations above, which do not change the intent of the rule language but add clarity and thus should be considered insignificant changes. We also look forward to supporting future rulemakings, including adoption of California's Advanced Clean Cars II rule at a parallel level of stringency with associated credit parameters, the Heavy Duty Omnibus rule, and a fleet reporting requirement. All together, these rules represent significant progress toward a clean energy economy.

Sincerely,

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