

June 09, 2022

Via Electronic Filing

Jason Alberich
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: Joint comments on the draft rule language for the large entity reporting requirement, WAC 173-423-083

Dear Jason Alberich,

The undersigned organizations appreciate the opportunity to provide comments on the draft rule language regarding the large entity reporting requirement (fleet reporting requirement) in advance of the Department of Ecology (Ecology or Department) filing the CR-102. We are encouraged by Ecology's efforts to adopt a fleet reporting requirement and the following comments provide additional context and recommendations to maximize the value of the fleet reporting requirement in Washington.

Fleet Reporting Requirement

Ecology's efforts to gain information about the medium- and heavy-duty ("MHD") vehicle fleets, commonly referred to as "truck fleets", will be invaluable in designing policies to accelerate the transition to a fully zero-emission fleet. The fleet reporting requirement can gather Washington-specific data to help inform future actions by understanding the current use of medium and heavy-duty vehicles. This information is likely already tracked under normal business operations and the amount of time and effort needed to report will average about four hours and come with a small compliance cost.¹

Signees of this letter strongly support this endeavor, as: (1) fully electrifying truck fleets in Washington will be aided by impactful deployment and investment of charging infrastructure; (2) the fleet reporting requirement rule can identify where freight traffic, and therefore diesel pollution, is happening at higher rates, and where relief can be targeted for communities most harmed; and, (3) a regular fleet reporting requirement

¹ Notice of Proposed Rulemaking, Medium- and Heavy-Duty Zero Emission and NOx Standards and Low Emission Vehicle Standard Updates "Clean Trucks Rule 2021," Oregon Department of Environmental Quality (Aug. 31, 2021), available at <https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/ctr2021pnp.pdf>

can help identify and lead to more equitable outcomes for truck drivers where misclassification of workers as independent contractors has led to unfair labor practices. In turn, this could help turn a historically polluting industry into a job field with high quality green jobs through innovations in manufacturing, truck and charging infrastructure installation.

Ecology's proposal to require reporting for a fleet-size over 5 vehicles is essential as information about fleets of 50 vehicles and larger would misrepresent Washington's perception of charging needs away from the majority of medium and heavy duty vehicle fleets, and skew towards servicing only larger ones. Similarly, Ecology has the opportunity to ensure the fleet reporting requirement can be used to track annual changes in Washington's truck fleets. Between now and 2035, the nature, use, makeup, and charging needs for the state's medium- and heavy-duty vehicles fleet will change significantly. Washington needs to ensure that the data is collected periodically and longitudinally so that it remains current and useful as the state's fleet transforms. We expand on the value of the fleet reporting requirement and opportunities to strengthen the current proposal in our below recommendations.

Recommendations for the Fleet Reporting Requirement (WAC 173-423-083)

Ecology has the opportunity to collect baseline data on Washington's truck fleets, establishing the foundation to support a just transition to clean transportation in Washington. Comments submitted by Earthjustice, Duwamish River Community Coalition, and Natural Resources Defense Council on April 8, 2022 provide a comprehensive assessment of the potential value of the fleet reporting requirement and thorough recommendations on how to maximize the value of the fleet reporting requirement for equitable outcomes.² We believe these comments provide strong justification for adding Washington specific fleet reporting requirements that comprehensively document health impacts and enable a just transition. We support the full extent of the Earthjustice, Duwamish River Community Coalition, and Natural Resources Defense Council comments and have expanded on these recommendations below.

1. Applicability (WAC 173-423-083(1))

We support Ecology's proposal that requires fleets with five or more trucks to report and **we recommend Ecology also require all drayage truck**

² Comments submitted by Earthjustice, Duwamish River Community Coalition, and Natural Resources Defense Council (April 8, 2022), available at https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did1008/pid_202698/assets/merged/njOri3i_document.pdf?v=PZVJSB2K9

dispatchers to report. Drayage trucks can be among the dirtiest on the road and drivers, who often take home little pay, lack the resources to upgrade their vehicles. A just transition to an electrified freight sector relies on a more inclusive dataset. Ensuring drayage truck operations, reported by the truck dispatchers, are included in the fleet reporting requirement will support the development of impactful incentives, help Ecology realize the purpose of the HEAL Act, and achieve economic and environmental justice.

2. Frequency of Reporting (WAC 173-423-083(2))

The fleet reporting requirement is currently designed as a one-time reporting requirement. This can help establish baseline data but does not set up a process to assess year over year change. We support Ecology's proposal to establish an initial baseline reporting requirement and **we strongly recommend incorporating a requirement to provide annual updates.** Annual updates will help Washington track trends in truck fleet operations and improve programs to support the transition to clean transportation. Annual reporting can be streamlined so if fleet information has not changed, operators and dispatchers need not provide new information.

We understand this could require additional data management but we encourage Ecology to see this as a reasonable expense for the value this data would provide. Such a dataset would also be a helpful foundation for future fleet regulations and registries. In order to address any questions regarding this recommendation to establish an annual update, we urge Ecology to discuss this recommendation with stakeholders.

3. Data Recommendations (WAC 173-423-083(3))

We strongly agree with Earthjustice, Duwamish River Community Coalition, and Natural Resources Defense Council that data collected through the fleet reporting requirement should document the cumulative health burden of trucking operations while establishing a dataset that can be utilized to help low-income drivers transition to cleaner technologies. For these reasons, **we recommend Ecology include the following information requirements under WAC 173-423-083(3):**

- Fuel type;
- Model year of the vehicle;
- Annual vehicle miles traveled (VMT);
- Average daily VMT;

- Average number of trips per day;
- Which over-burdened communities the truck travels through, and how frequently it travels through these communities on a weekly basis;
- Truck's daily origin and destination points; public locations where trucks park for more than 2 hours per day; and,
- Average yearly cost of diesel and vehicle maintenance.

The comments submitted by Earthjustice, Duwamish River Community Coalition, and Natural Resources Defense Council provide thorough information detailing the reasons for and value of collecting this data. Additionally, this data can be leveraged by utilities to support distribution system planning and load management, zero emission vehicle charging and refueling providers to site charging, refueling, and parking infrastructure, and local and state governments to improve programs and services.

Maximizing Benefits of the Fleet Reporting Requirement

In order to collect high-quality data in a timely manner, we urge Ecology to do everything possible to streamline and simplify the reporting process for the fleet reporting requirement. Properly investing in the outreach and education necessary to ensure that reporting entities know what is being asked of them will support this process. The goal should be to minimize the impact of the fleet reporting requirement, while still collecting the relevant information. Some recommendations in this regard include:

- Develop comprehensive materials that guide reporting entities through the process, and feature them prominently on Ecology's website (preferably in multiple places). For examples of similar materials developed in California, see here: [Large Entity Reporting | California Air Resources Board](#)
- Publish clear guidelines on who exactly is responsible for filing reports. Ecology should proactively work to ensure that the fleet owners, operators, and dispatchers are the ones tasked with collecting and filing the required information, so that contract drivers and independent owner-operators (drivers who own their own vehicles or lease their trucks from a larger company) are not burdened by the reporting requirement. The companies and businesses for whom this work is being performed should be responsible for meeting the reporting requirement and are best positioned to collate and submit the required information.
- Dedicate staff time to assist reporting entities with the reporting process if they have questions, and to follow up with entities that have not met the reporting requirement by the anticipated initial Fall 2023 deadline.

We also urge the Department to maximize the benefits and utility of the data collected under the fleet reporting requirement by publishing and collating the data in a transparent and timely manner. It should be published in a format that can be downloaded by stakeholders, and should be easily found on the Department's website. We encourage the Department to issue a timeline of when to expect the data that is collected in Fall 2023 to be published and available to the public. If, as we recommend, the fleet reporting requirement is made annual, we would similarly urge the timely and regular publication of new data each year.

Conclusion

We encourage Ecology to incorporate our recommendations into WAC 173-423-083 as well as discuss the fleet reporting requirement and stakeholder recommendations at the June 14th meeting. We appreciate Ecology's work to establish a fleet reporting requirement and develop a comprehensive suite of vehicle emission standards through the expansion of the Clean Vehicles Program.

Thank you for your consideration of our comments.

Respectfully submitted,

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