

October 19, 2022

Via Electronic Filing

Adam Saul
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: Joint Comments on the Proposed Clean Vehicles Program Rule

Dear Adam Saul,

On behalf of the undersigned organizations, we want to thank the Department of Ecology (Ecology) for their continued work to address transportation pollution. Throughout 2021 and 2022, Ecology has proposed and adopted a suite of clean vehicle standards that will be instrumental in helping Washington reach its greenhouse gas emission limits outlined in RCW 70A.45.020. The current proposed Clean Vehicles Program rule, filed on September 7, 2022, sets up Washington to adopt Advanced Clean Cars II, the Heavy-Duty Omnibus Rule, and the large entity reporting requirement (fleet reporting requirement). Our organizations strongly support adoption of these regulations and urge the state to adopt the regulations before the end of the year. We have provided additional input for Ecology's consideration, as detailed below.

Advanced Clean Cars II (ACCII)

According to the Washington 2021 State Energy Strategy, "for passenger cars to be fully zero-emissions by mid-century, nearly all new car sales will need to be EVs by 2035. The faster this transition occurs, the less costly it will be to meet the state's greenhouse gas emissions limits."¹ Adopting ACCII, requiring 100% of new passenger vehicles sold in Washington to be zero-emission vehicles by 2035, is essential to affordably decarbonize our economy. We strongly support its adoption.

We also encourage Washington to begin stakeholder processes to ensure automakers participate in ACCII's voluntary environmental justice program. ACCII includes a variety of flexibilities or "vehicle values" that automakers can utilize to meet the annual sales requirements. One of these flexibilities is to incentivize lower cost vehicles as well as placement of ZEVs in communities disproportionately impacted by pollution. The environmental justice (EJ) vehicle values allow automakers the option to fulfill a portion of their total annual zero-emission vehicle requirement with additional vehicle values earned by: (1) providing new zero-emission

1

<https://www.commerce.wa.gov/wp-content/uploads/2020/12/Washington-2021-State-Energy-Strategy-December-2020.pdf>

vehicles (ZEVs) and plug-in hybrid electric vehicles (PHEVs) at a discount for use in community-based clean mobility programs; (2) selling ZEVs or PHEVs, initially leased in Washington, at the end of lease to a Washington dealership participating in a financial assistance program; and, (3) selling new ZEVs and PHEVs below a specific MSRP threshold.

For this program to be successful, Ecology must address several questions. For example, how will Ecology ensure EJ vehicle values result in direct benefits to Washington residents and more specifically, vulnerable populations within overburdened communities? How will Ecology encourage automakers to participate in these programs in Washington? How will Ecology determine what qualifies as a community-based clean mobility program and a financial assistance program? How will Ecology define low-income consumers, low-income communities, and disadvantaged communities for the purpose of implementing ACCII? Given these outstanding questions, we recommend Ecology:

- Consult with stakeholders and environmental justice communities to determine what should qualify as a community-based clean mobility program and a financial assistance program in Washington.
- Ensure definitions for low-income consumers and low-income communities are informed by stakeholder input and when applied to ACCII, prioritize consumers and communities that would benefit from but face more barriers to reliable and convenient clean mobility. We encourage Ecology to review the Community Energy Project's recommendations for defining low-income.²
- Define disadvantaged communities as having the same meaning as overburdened communities as defined in RCW 70A.02.010. When identifying a geographic area, such as an overburdened community, also define the populations that experience a disproportionate cumulative risk from environmental burdens within a geographic area, such as vulnerable populations as defined in RCW 70A.02.010.
- Coordinate with Ecology's Climate Commitment Act Program and Clean Fuels Program to create consistent definitions and practices across the agency. For example, coordinate with the Improving Air Quality in Overburdened Communities Initiative.³
- Ensure the rules allow for the development of subsequent guidance to provide further clarification on these issues. Minor changes to terms included by reference within the proposed rule (i.e., low-income consumers, low-income communities, and disadvantaged communities) may be necessary to ensure all terminology works in Washington.

Further, as there are only limited EJ provisions in the ACC II regulation, Washington—as part of its engagement with community members and environmental justice organizations—must continue to develop and fund complementary policies and programs that will ensure the benefits of a transition to zero-emission vehicles are realized by all Washingtonians, especially those who have been historically, overburdened with transportation pollution.

² <https://www.communityenergyproject.org/wp-content/uploads/2021/11/Self-Verification-and-Income-Levels.pdf>

³ <https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act/Overburdened-communities>

Heavy-Duty Omnibus Rule

We strongly support adoption of the Heavy-Duty Omnibus Rule, primarily included under WAC 173-423-081. This rule is an essential step to reduce harmful air pollution from new diesel trucks as Washington simultaneously works to transition to zero emission vehicles. A report found that together with the Advanced Clean Trucks rule— which Washington adopted in 2021—the Heavy-Duty Omnibus rule will result in up to 288 avoided premature death and 242 avoided hospitalizations statewide as well as provide total statewide health benefits of approximately \$3.4 billion.⁴

Ecology is proposing to adopt the Heavy-Duty Omnibus Rule but exempt transit vehicles. California developed a similar exemption because they are relying on the Innovative Clean Transit regulation to help transition transit fleets to cleaner and zero emission vehicles.⁴ Given this exemption, we recommend Ecology adopt the Innovative Clean Transit regulation in the next Clean Vehicles Program rulemaking.

Fleet Reporting Requirement

We appreciate Ecology's foresight in adopting a reasonable threshold for fleet reporting. Ecology is tasked with adopting air quality regulations that maximize benefits and minimize costs. A reporting threshold of five trucks will include both small and large fleets, allowing for detailed analyses of the diverse and varying emissions from different types of trucks and vehicle fleets as Ecology considers future rules to curb pollution.

During the informal comment period, several stakeholders supported the inclusion of the following fleet reporting requirements:

- Adding an annual update to the one-time reporting requirement (not included).
- Expanding the applicability to include all drayage truck dispatchers (not included).
- Including additional requirements to report on, including:
 - the model year of the engine (included);
 - fuel type (included);
 - annual and average daily vehicle miles traveled (included);
 - average number of trips per day (included);
 - frequency of trips through overburdened communities (not included);
 - original and destination of trips (included);
 - public parking locations (included); and
 - average cost of diesel fuel and vehicle maintenance (not included).

As noted above, several of these recommendations were integrated into the proposed rule and we appreciate Ecology's efforts to meaningfully incorporate stakeholder input. For these

⁴ https://www.mjbradley.com/sites/default/files/WA_Clean_Trucks_Report.pdf

reasons, we support the proposed fleet reporting requirements but offer additional recommendations.

1. Simplify the reporting process by developing comprehensive materials that guide reporting entities through the process and maximize the utility of the data collected by publishing and collating the data in a transparent and timely manner.
2. Require annual updates to the fleet reporting requirement in a future rulemaking.
3. Establish a drayage truck registration requirement, similar to California's, in which vehicles performing drayage operations must first be added to access certain goods movement facilities, such as seaports and railyards.⁵ Ecology should consider Washington specific provisions, as necessary, to meet the needs of Washington's drayage truck drivers.⁶ Such a registry will be necessary for the adoption of the Advanced Clean Fleets regulation.

Lastly, we encourage Ecology to consider adding information requirements to the proposed rule that indicate the primary use of the truck. We recommend this be done by requiring the submission of primary and secondary NAICS and/or SIC codes. This will allow staff to clearly identify fleet operations that have an outsized impact within the state. If Ecology is unable to add this to the proposed rule, we recommend consideration in a future rulemaking.

Conclusion

We appreciate Ecology's work to develop a comprehensive suite of vehicle emission standards through the expansion of the Clean Vehicles Program and look forward to engaging in future rulemakings.

Respectfully submitted,

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⁵ <https://ww2.arb.ca.gov/our-work/programs/air-resources-board-equipment-registration-arber-system>

⁶ California's zero-emission drayage requirements in the proposed Advanced Clean Fleets rule rely on an online registry system for enforcement. We encourage Washington to adopt this rule when possible, for which a registry will be necessary.

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