

February 7, 2025

Department of Ecology  
State of Washington  
300 Desmond Drive SE  
Lacey, WA 98503

**RE: Chapter 173-423 WAC, Clean Vehicles Program Rulemaking Informal Comment Period**

On behalf of the American Trucking Associations (ATA),<sup>1</sup> please accept the following comments regarding the Department of Ecology’s proposal to consider amendments to Chapter 173-423 WAC, the Clean Vehicles Program rule. Ecology proposes to track amendments to California’s Advanced Clean Trucks (ACT) and Heavy-Duty Low-NOx Omnibus regulations currently adopted and/or under consideration by the California Air Resources Board (CARB). These proposed amendments cannot take effect *until* the California Office of Administrative Law has given final approval to the amendments *and* the U.S. EPA has authorized these amendments. Neither of these actions have occurred and there are no assurances they will. For these reasons, ATA, joined by the Washington Trucking Association, opposes further action on the proposed amendments until the necessary California and federal actions occur and request Ecology to cease or delay implementation of the regulations.

The impact the ACT and Low-Nox Omnibus regulations are having on Washington truck dealers and fleets cannot go unnoticed. The impacts in California, which are now being felt in Washington, have been acknowledged by CARB’s Executive Officer stating the ACT is “requiring a ratio of roughly 1 ZEV to 10 to 15 ICE vehicles, which essentially pushes the ACT regulation’s requirement onto the dealership or fleet” and under the Omnibus regulation “setting ratios of 1 ZEV to 1 to 3 ICE vehicles in order to achieve compliance.”<sup>2</sup>

According to Ecology’s data, 58 Class 7 & 8 tractors were sold from 2021-2023 in Washington. If ACT were in place during that time, dealerships would have been limited to selling 828 Class 7 & 8 ICE tractors to meet the initial 7 percent ZEV requirement. During this period, 5,200 Class 7 & 8 tractors were sold. This difference of 4,372 tractors represents what confronts the state’s dealership and trucking fleets today. These significant truck sales restrictions are resulting in lost income and profits for dealerships, employee layoffs, and equipment unavailability, causing older equipment being on the road longer.

Washington is not required to implement ACT in 2025. The text of Section 177 of the Clean Air

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<sup>1</sup> ATA is a 90-year-old federation and the largest national trade organization representing the trucking industry. ATA membership includes motor carriers, industry suppliers, and state trucking associations, including the Washington Trucking Association.

<sup>2</sup> ACT Memo to the CARB regarding California Truck Availability Analysis from Steven S. Cliff, Ph.D., Executive Officer (September 25, 2024).

Act allows states with nonattainment plans to “adopt and enforce *for any model year* standards relating to control of emissions from new motor vehicles or new motor vehicle engines ... if such standards are identical to the California standards ... *for such model year*.”<sup>3</sup> (emphases added.) The plain language of the identicality requirement permits eligible states to choose specific model years for which to adopt California emission standards, provided only that any adopted model-year standard is identical to the corresponding California standard.

Washington’s rule must be identical to the model-year standards which were approved by CARB on December 21, 2021, and granted a waiver of Clean Air Act preemption by the U.S. EPA.<sup>4</sup> Washington cannot deviate from these EPA-authorized standards.<sup>5</sup> CARB has also adopted additional amendments in October 2024; however, these changes have not been finalized by the state’s Office of Administrative Law or submitted to EPA for further waiver authorization. As a result, Washington’s 2025 ACT rule must remain identical to the EPA-approved rule which was granted a preemption waiver in 2021. This will likely lead to noncompliance occurring as early as this year.

Finally, the state needs to focus on the availability and cost of charging infrastructure. The California Public Utilities Commission (CPUC) has indicated that “energization delays have emerged as a significant barrier to California’s transportation electrification goals.”<sup>6</sup> Current energization timelines for the California’s investor-owned utilities (IOUs) range from 2.5+ years for circuits, 4+ years for substation upgrades, and nearly 9 years for new substations.<sup>7</sup>

The CPUC is also reassessing ratepayer support for their Transportation Electrification Rebate Program.<sup>8</sup> The IOUs have invested more than \$400 million from previously approved *ratepayer-funded* behind-the-meter programs and may continue to add up to \$1.1 billion in charges to the electricity bills of their customers for the IOUs’ existing transportation electrification programs. Washington’s ability to meet the ACT standards is dependent on addressing these types of challenges associated with the development of charging infrastructure.

ATA is urging Ecology to cease or delay implementation of ACT and Omnibus to allow the technology to mature, the infrastructure to develop and the costs to be better understood. We continue to work towards achievable, national standards that put our industry on a sustainable and successful path, including continuing the deployment of zero-emissions vehicles. Along with our state partner, the Washington Trucking Association, we request your reconsideration of the proposed amendments in addition to the ACT and Low-NOx Omnibus regulations themselves.

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<sup>3</sup> 42 U.S.C. § 7507

<sup>4</sup> Federal Register, Vol. 88, No. 66, *California State Motor Vehicle and Engine Pollution Control Standards; Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions; Advanced Clean Trucks; Zero Emission Airport Shuttle; Zero-Emission Power Train Certification; Waiver of Preemption; Notice of Decision* (April 6, 2023).

<sup>5</sup> *Motor Vehicle Manufacturers Association of The United States, Inc v. New York State Department of Environmental Conservation*, 17 F.3d 521, United States Court of Appeals, Second Circuit (Decided Feb. 9, 1994).

<sup>6</sup> California Public Utilities Commission, *Order Instituting Rulemaking Regarding Transportation Electrification Policy and Infrastructure*, Rulemaking 23-12-008 (4/12/2024).

<sup>7</sup> California Public Utilities Commission, *Order Instituting Rulemaking to Establish Energization Timelines*, Rulemaking 24-01-018, Proposed Decision (9/12/2024).

<sup>8</sup> California Public Utilities Commission, *Order Instituting Rulemaking Regarding Transportation Electrification Policy and Infrastructure*, Rulemaking 23-12-008 (4/12/2024).

Sincerely,



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American Trucking Associations

Cc:

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