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VIA EMAIL TO: Adam.Saul@ecy.wa.gov

Re: Clean Vehicles Program Rulemaking (CR-102)

Dear Ecology staff:

The Duwamish River Community Coalition (DRCC), Earthjustice, and Natural Resources Defense Council (NRDC) submit these comments in support of Ecology's proposed rules adopting California's Heavy-Duty Engine and Vehicle Omnibus regulations, Advanced Clean Cars II rule, and one-time fleet reporting requirement as well as associated amendments. The proposed rules would significantly decrease greenhouse gases from the transportation sector in Washington and improve air quality. Many of these benefits would accrue directly to communities of color in the Duwamish Valley that have suffered systematic disinvestment for years. We urge you to take important steps towards a just transition in Washington State by adopting the proposed rules.

I. ABOUT US

DRCC is a 501(c)(3) nonprofit organization that seeks to amplify the will and lift the voices of the Duwamish Valley community members, specifically those most harmed by the combined impacts of climate change, health disparities, and environmental and economic inequities. DRCC's mission is to elevate the voices of those impacted by the Duwamish River pollution and other environmental injustices to advocate for a clean, healthy, and equitable environment for people and wildlife.

Earthjustice is a 501(c)(3) nonprofit environmental law organization that uses the power of law and the strength of partnership to protect people's health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change. Earthjustice partners with thousands of groups, supporters, and citizens to take on the critical environmental issues of our time and bring about positive change.

NRDC is a 501(c)(3) nonprofit organization that works to safeguard the earth—its people, its plants and animals, and the natural systems on which all life depends.

II. ADOPTING CALIFORNIA'S RULES IS VITAL TO REACHING WASHINGTON'S CLIMATE GOALS.

Reducing greenhouse gas emissions is critical to human survival on Earth. There is an overwhelming, global scientific consensus that greenhouse gas ("GHG") emissions must be radically reduced over the next few decades to avoid a climate catastrophe.[1] Washington State—much like the rest of the world—faces serious disruption from a changing climate including an increase in air pollution-related illness and death; declining water supply; an increase in tree die-off and forest mortality because of increasing wildfires, insect outbreaks, and tree diseases; the loss of coastal lands due to sea level rise; an increase in ocean temperature and acidity; increased death and disease in fish like salmon, steelhead, and trout because of warmer water temperatures and altered flow regimes; and damaged and failed field crops and fruit harvests because of higher temperatures and less water available for irrigation.[2]

While no one is safe from the devastating effects of climate change, environmental justice communities are often most likely to be harmed earlier and worse than wealthier and healthier areas. In Washington, the Duwamish Valley is particularly vulnerable to harm from sea level rise.[3]

To ensure Washington State does its part to address the climate crisis and protect its most vulnerable residents, the legislature committed the state to significantly reducing its GHG emissions, setting a target of reducing Washington's overall emissions of greenhouses gases in the state to 1990 levels by 2020, to 45% below 1990 levels by 2030, to 70% below 1990 levels by 2040, and to 95% below 1990 levels by 2050.[4]

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[1] *See* Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2022: Mitigation of Climate Change—Summary for Policymakers*, https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf.

[2] Wash. Dep't of Ecology, *Concise Explanatory Statement, Clean Air Rule* (Sept. 2016) at 3, https://fortress.wa.gov/ecy/publications/documents/1602014.pdf (listing "Reasons for Adopting the Rule").

[3] *See*, *e.g.*, City of Seattle, Request For Proposals: Sea Level Rise Adaptation Strategy for the Duwamish Valley (May 13, 2022), https://consultants.seattle.gov/2022/05/13/sea-level-rise-adaptation-strategy-for-the-duwamish-valley-rfp-ose-dvrd-4-slr%EF%BF%BC/ (RFP seeking a consultant to develop a strategy for sea level rise adaptation infrastructure for the Duwamish Valley).

[4] RCW 70A.45.020(1)(a).

Curbing on-road gasoline and diesel emissions is necessary to achieve Washington's climate goals. The transportation sector is the largest contributor of greenhouse gas emissions in Washington, and accounts for close to half of the state's greenhouse gas emissions.[5] Transportation-sector emissions are the principal factor causing an increase in total statewide GHG emissions.[6] On-road emissions from gasoline and diesel account for 30.8% of Washington's total GHG emissions, with diesel vehicles contributing 8.7% of the total state-wide GHG emissions.[7]

Adopting California's vehicle rules will allow Washington to reduce its greenhouse gas emissions aggressively, giving the communities most vulnerable to the effects of climate change their best shot at avoiding devastation.

III. ADOPTING CALIFORNIA'S RULES WILL ADVANCE ENVIRONMENTAL JUSTICE BY PROTECTING AIR QUALITY IN OVERBURDENED COMMUNITIES.

Adopting California's clean vehicles rules will also significantly improve air quality and public health in Washington, especially in communities near transportation corridors and ports that are disproportionately burdened by environmental harms. The proposed rules would lead directly to cumulative benefits for historically marginalized, near-port communities in the Duwamish Valley in Washington.

A. Air pollution from vehicle emissions is a major threat to public health.

It is well documented that the trucks that would be regulated by the proposed rules are a major source of both greenhouse gases and harmful air pollution. When diesel fuel is burned, it emits several pollutants known to have significant detrimental effects on human health and the environment, including carbon monoxide (CO), particulate matter (PM) including $PM_{2.5}$, nitrogen oxides (NOx), hydrocarbons (HC), and various hazardous air pollutants.[8] Air pollution emitted from diesel exhaust contributes to major health issues such as lung and heart disease, increased risk of cancer, asthma, more frequent hospital admissions, and even premature

[5] Washington State Greenhouse Gas Emissions Inventory: 1990–2018, Wash. Dep't Ecology (2021), https://apps.ecology.wa.gov/publications/documents/2002020.pdf.

[6] Washington State Greenhouse Gas Emissions Inventory: 1990–2018, Wash. Dep't Ecology (2021), https://apps.ecology.wa.gov/publications/documents/2002020.pdf.

[7] Washington State Greenhouse Gas Emissions Inventory: 1990–2018, Wash. Dep't Ecology (2021), https://apps.ecology.wa.gov/publications/documents/2002020.pdf.

[8] About Diesel Fuels, U.S. Envtl. Prot. Agency (March 1, 2021), https://www.epa.gov/dieselfuel-standards/about-diesel-fuels.

mortality.[9] Chronic exposure to diesel exhaust is even more deadly than short-term acute exposure.[10] The health conditions caused by diesel exhaust also increase vulnerability to respiratory illnesses like COVID-19.[11]

B. Near-port communities of color are disproportionately impacted by air pollution from vehicle emissions.

The communities that bear the brunt of this air pollution from vehicle emissions and the associated harms are the communities with the greatest proximity to truck exhaust: those near freight hubs, highways, warehouses, rail and intermodal yards, and ports.

Nationwide, near-port communities are often predominantly BIPOC and often have below-median household incomes.[12] Many near-port communities have been burdened with disproportionate, cumulative exposure to many environmental harms and have been subjected to systematic disinvestment and redlining.[13]

In Washington, too, air pollution from vehicle emissions disproportionately burden near-port communities like the Duwamish Valley.

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[9] *See* U.S. Envt'l Prot. Agency, *Research on Near Roadway and Other Near Source Air Pollution*, www.epa.gov/air-research/research-near-roadway-and-other-near-source-air-pollution; J. E. Johnson et al., *Impact of Excess NOx Emissions from Diesel Cars on Air Quality, PublicHealth and Eutrophication in Europe*, 12 Envtl. Res. Letters 1, 9 (2017), https://doi.org/10.1088/1748-9326/aa8850.

[10] Simon Wilson et al., *Effects of Diesel Exhaust on Cardiovascular Function and Oxidative Stress*, 28 Antioxidants & Redox Signaling 821 (2018), https://pubmed.ncbi.nlm.nih.gov/28540736/.

[11] People with Certain Medical Conditions, Ctrs. Disease Control & Prevention (May 13, 2021) https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html.

[12] *See* U.S. Envt'l Prot. Agency, *Environmental Justice Primer for Ports: Impacts of Port Operations and Goods Movement*, https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods#distribution.

[13] *See* U.S. Envt'l Prot. Agency, *Environmental Justice Primer for Ports: Impacts of Port Operations and Goods Movement*, https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods#distribution.

The Duwamish Valley is a predominantly non-white "near port" and environmental justice community along the Duwamish River in Seattle.[14] The Duwamish Valley is disproportionately impacted by diesel pollution because it is a high traffic transportation corridor. Three freeways border the Duwamish Valley: Interstate 5, Highway 99, and the West Seattle Bridge. During the two years that the West Seattle Bridge was closed for repairs, an average of 100,000 vehicles per day were rerouted through the Duwamish Valley.[15] Numerous major trucking routes pass through Georgetown and South Park, carrying freight from the Port of Seattle, and nearby industry.

Like many near-port communities, the Duwamish Valley is comprised largely of immigrant and refugee families [16] and home to some of the lowest-income communities in Seattle.[17]

The census tracts in the Duwamish Valley are ranked highest in the state for diesel NOx pollution and disproportionate burden.[18] Huge swaths of the Duwamish Valley are in the top 5% of communities nationwide with the highest proximity to traffic and traffic volume, and highest exposure to diesel PM pollution.[19]

According to a 2013 study of the cumulative impacts of pollution in Seattle, Beacon Hill, Georgetown, and South Park in the Duwamish Valley (zip code 98108) had the highest ranking

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[14] U.S. Envt'l Prot. Agency, EJScreen 2.0, https://ejscreen.epa.gov/mapper/ ("People of Color" Socioeconomic Indicator).

[15] City of Seattle, *West Seattle Bridge Program*, https://www.seattle.gov/transportation/projects-and-programs/programs/bridges-stairs-and-other-structures/bridges/west-seattle-bridge-program.

[16] U.S. Envt'l Prot. Agency, EJScreen 2.0, https://ejscreen.epa.gov/mapper/ ("People of Color" Socioeconomic Indicator); U.S. Envt'l Prot. Agency, *Environmental Justice Primer for Ports: Impacts of Port Operations and Goods Movement*, https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods#distribution ("The disparities in environmental burdens and economic benefits disproportionately affect low-income communities and communities of color and can also be exacerbated by long-term disinvestment and challenging socioeconomic conditions.").

[17] Duwamish River Cleanup Coalition, Duwamish Valley Vision Map and Report (2009) at 6, https://www.seattle.gov/documents/Departments/Environment/EnvironmentalEquity/Duwamish-Valley-Vision-Report-2009.pdf.

[18] Wash. Dep't of Health, Env't Health Disparities Map, https://fortress.wa.gov/doh/wtnibl/WTNIBL/ ("Diesel Pollution and Disproportionate Impact").

[19] U.S. Envt'l Prot. Agency, EJScreen 2.0, https://ejscreen.epa.gov/mapper/ ("Traffic Proximity" and "2017 Diesel Particulate Matter" under "Pollution and Sources").

in the city for cumulative impacts.[20] The Duwamish River has long been plagued by industrial pollution, and five severely contaminated miles of the river in the Duwamish Valley were designated a toxic Superfund site in 2001.[21] A 2020 study of moss on trees along the streets of the Duwamish Valley showed high levels of heavy level air pollution, including lead, cobalt, arsenic, and chromium.[22] Measured levels of arsenic and chromium in Duwamish Valley moss were twice as high as the concerning levels of these heavy metals found in a similar moss study in Portland.[23]

The goods movement and distribution sector has grown dramatically during the COVID-19 pandemic, compounding these inequities. With more people doing more of their shopping online, e-commerce soared, creating record-breaking demand for warehouses to be used for fulfillment and distribution centers for goods movement.[24] As the goods movement industry expands, so does diesel truck traffic near ports and warehouses, exacerbating air pollution in nearby communities. In addition to disproportionately suffering the burdens of diesel pollution, near-port communities typically do not reap the benefits of the ports and goods movement industries, such as jobs and economic growth.[25] For all of these reasons, EPA made goods movement one of its national environmental justice priorities in 2020.[26]

Accordingly, remediating pollution from goods movement is of paramount importance to communities living in the Duwamish Valley. As Washington transitions to a zero-carbon

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[20] Linn Gould & B.J. Cummings, *Duwamish Valley Cumulative Health Impacts Analysis,* Just Health Action, DRCC (Mar. 2013) at 2, *h*ttps://www.seattle.gov/Documents/Departments/Environment/EnvironmentalEquity/CHIA_low_res.pdf.

[21] U.S. Envt'l Prot. Agency, Superfund Site: Lower Duwamish Waterway, https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=1002020#bkground.

[22] F. Villalobos, L. Gutierrez, C. Martinez, P. Lopez, T. Abel, *Duwamish Valley Youth Corps Moss and Metals Study*, DRCC & W. Wash. Univ., https://www.drcc.org/s/Moss-study-Press-release-FINAL.pdf.

[23] F. Villalobos, L. Gutierrez, C. Martinez, P. Lopez, T. Abel, *Duwamish Valley Youth Corps Moss and Metals Study*, DRCC & W. Wash. Univ., https://www.drcc.org/s/Moss-study-Press-release-FINAL.pdf.

[24] *E.g.*, Ana Monteiro, *Covid E-Commerce Boom Sees U.S. Retailers Hunt for Warehouses*, Bloomberg, Jan. 11, 2022, https://www.bloomberg.com/news/newsletters/2022-01-11/supply-chain-latest-covid-e-commerce-boom-sees-warehouse-demand-soar.

[25] U.S. Envt'l Prot. Agency, *Environmental Justice Primer for Ports: Impacts of Port Operations and Goods Movement*, https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods#distribution.

[26] *See* U.S. Envt'l Prot. Agency, EJ 2020: National EJ Challenges, https://www.epa.gov/environmentaljustice/ej-2020-national-ej-challenges.

emitting economy, it must not leave behind communities such as the Duwamish Valley, which have borne the brunt of industrial pollution for so long.

C. The proposed rules will significantly improve air quality in environmental justice communities.

In mandating that Washington adopt rules implementing California's vehicle emission standards,[27] the Washington legislature relied in part on its findings that "[m]otor vehicles are the largest source of air pollution in the state of Washington, and motor vehicles contribute approximately fifty-seven percent of criteria air pollutant emissions, eighty percent of air toxics emissions, and fifty-five percent of greenhouse gas emissions" and that opting into the California standards rather than implementing federal standards "will provide significant and necessary air quality benefits to residents of the state of Washington." 2005 c 295 § 1 (2005 legislative findings (1) and (5) in support of RCW 70A.30.010).

By cutting emissions of NOx by 90% and PM by 50%, the proposed rules would reduce the life-threatening pollution from tailpipe emissions that disproportionately harm people in near-port communities. These reductions in air pollution are likely to translate to fewer asthma attacks, hospital admissions related to respiratory illness and traffic conflicts, and lost workdays.

Adopting the proposed rules and securing these benefits for near-port communities will allow Washington to begin to address decades of inequity that have led to communities in the Duwamish Valley being disproportionately burdened by environmental harms.

IV. THE FLEET REPORTING REQUIREMENT IS AN IMPORTANT FOUNDATION FOR A JUST TRANSITION TO CLEAN ENERGY.

Pollution from goods movement, and in particular from the trucking sector, is a serious threat to the health and welfare of people in the neighborhoods in the Duwamish Valley and a significant community concern.

A fleet reporting requirement that takes a census of trucks that move through Washington will provide an important foundation for planning a just transition to an electrified freight sector with less climate and air pollution. The intersectional impacts of fleet operations cannot be understated. Understanding how many trucks travel Washington's roads, where they go, and what kind of emissions they produce will provide a clear picture of the resources and infrastructure necessary to replace outdated vehicles with ZEVs or lower-emitting vehicles. And gathering information about which communities are most exposed to the pollution from Washington's trucks will allow Ecology to better understand the impact of goods movement and transportation on public health and welfare.

[27] RCW 70A.30.010(1).

Collecting this information is also critical to achieving Ecology's obligations under the Heal Act.

The Heal Act requires Ecology to prepare an assessment of the impacts to over-burdened communities from a significant agency action.[28] The purpose of this assessment is to document the disproportionate harms of an agency's action to over-burdened communities, reduce environmental health impacts on overburdened communities, and prioritize equitable distribution of benefits to overburdened communities.[29]

Gathering information through the proposed fleet reporting requirement will enable Ecology to accomplish these objectives. This information will help Washington develop programs and infrastructure to support electrification of the state's transportation systems and to ensure that the most impacted communities benefit from this transition and are prioritized for investment. It will provide important baseline information necessary for Washington to plan for a just transition to a zero-emission future, while helping to document the existing cumulative health harms experienced by environmental justice communities. This in turn will result in improved health outcomes for overburdened communities living in close proximity to freight.

V. ECOLOGY SHOULD CONSULT WITH DRAYAGE TRUCK DRIVERS TO ADOPT ADDITIONAL PROGRAMS TO MAKE SURE THESE DRIVERS ARE NOT LEFT BEHIND IN THE TRANSITION TO CLEAN ENERGY.

In addition to adopting the proposed rules, Ecology should develop additional programs to ensure that vulnerable drayage truck drivers aren't forced to sacrifice their livelihood as part of the transition to clean energy.

Short-haul drayage truck drivers have played an essential role in the rapidly-growing e-commerce and goods movement industry, but have been frequently exploited and underpaid.[30] In Seattle and Tacoma, many drayage truck owners and operators are African, Latino, South Asian, Russian, or Ukrainian immigrants.[31] For low-income drayage truck owners, financing new trucks and engine retrofits is the biggest barrier to complying with air quality regulations and meeting

[28] RCW § 70A.02.060(2)(A).

[29] RCW § 70A.02.060(6).

[30] *E.g.*, Tushar Khurana, *A Duwamish Valley Truck Electrification Program Looks to Reduce Air Pollution* (South Seattle Emerald Feb. 21, 2022), https://southseattleemerald.com/2022/02/21/a-duwamish-valley-truck-electrification-program-looks-to-reduce-air-pollution/.

[31] Tushar Khurana, *A Duwamish Valley Truck Electrification Program Looks to Reduce Air Pollution* (South Seattle Emerald Feb. 21, 2022), https://southseattleemerald.com/2022/02/21/a-duwamish-valley-truck-electrification-program-looks-to-reduce-air-pollution/.

climate goals.[32] Ecology should build on the one-time fleet reporting requirement by gathering additional data to better understand the needs of drayage truck drivers.

Critically, Ecology must be sure that any proposed rules that impact drayage truck drivers are developed in partnership with the affected drivers. Because this population can be hard to reach, doing this outreach will likely require Ecology to develop new engagement strategies. We encourage Ecology to expend the resources necessary to ensure that these essential stakeholders are empowered to participate meaningfully in the development of any new drayage truck-related rules and programs.

VI. CONCLUSION

For all of these reasons, we urge you to adopt the proposed rules. We thank you for the opportunity to engage in this rulemaking, and look forward to continuing to work together to secure a just transition to clean energy for Washington.

Sincerely,

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[32] J. Davidow, "Port's Deal Leaves Truck Drivers Worried," *Crosscut*, Feb. 7, 2018, https://crosscut.com/2018/02/ports-seattle-tacoma-deal-leaves-truck-drivers-worried-emissions.