

May 9, 2022

via portal for public input

Northeast States for Coordinated Air Use Management
89 South Street, Suite 602
Boston, MA 02111

Subject: Joint Comment Letter Regarding Draft Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan

To the Multi-State ZEV Task Force and Northeast States for Coordinated Air Use Management:

The undersigned organizations appreciate the opportunity to comment on the Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan, A Policy Framework to Eliminate Harmful Truck and Bus Emissions, Draft for Public Comment (March 10, 2022) (the “Draft”), developed by the participating jurisdictions working through the Multi-State ZEV Task Force with assistance from Northeast States for Coordinated Air Use Management (“NESCAUM”). We strongly support the strategies recommended to promote the rapid, equitable, and widespread deployment of medium- and heavy-duty (“MHD”) zero-emission vehicles (“ZEVs”). These vehicles disproportionately contribute to greenhouse gas emissions that exacerbate the climate crisis as well as toxic air pollution that is linked to lung and heart disease and premature deaths, which disproportionately impact communities of color, low-income households, and limited English proficient residents. If implemented by the participating jurisdictions, the strategies set forth in the Draft would meaningfully reduce both climate-altering greenhouse gas emissions as well as harmful air pollution and improve public health outcomes.

The Action Plan Must Be Bold to Spur Action Adequately Reducing Emissions from Medium- and Heavy-Duty Trucks

The harmful impacts of climate change are already here. In the Northeast, severe storms, tropical cyclones, droughts, and heatwaves have led to deaths, billions of dollars of property damage, flooding and displacement.¹ Temperatures in New England are rising starkly, while precipitation increases and sea levels rise in some states faster than the global average.² The Gulf of Maine is

¹ NOAA National Centers for Environmental Information, *U.S. Billion-Dollar Weather and Climate Disasters* (2022), <https://www.ncei.noaa.gov/access/monitoring/billions/>; see also Reed, K.A., Wehner, M.F. & Zarzycki, C.M., *Attribution of 2020 hurricane season extreme rainfall to human-induced climate change*. *Nat Commun* 13, 1905 (2022), <https://doi.org/10.1038/s41467-022-29379-1> (applying the hindcast attribution method to calculate the impact of climate change on storm rainfall).

² See, e.g., Runkle, J., K.E. Kunkel, S.M. Champion, L.-A. Dupigny-Giroux, and J. Spaccio, 2022: *Vermont State Climate Summary 2022*. NOAA Technical Report NESDIS 150-VT. NOAA/NESDIS, Silver Spring, MD, 4 pp; see also, e.g., Runkle, J., K.E. Kunkel, R. Frankson, D.R. Easterling, A.T. DeGaetano, B.C. Stewart, W. Sweet, and J. Spaccio, 2022: *Massachusetts State Climate Summary 2022*. NOAA Technical Report NESDIS 150-MA. NOAA/NESDIS, Silver Spring, MD, 5 pp.; see also, e.g., Resilient MA, *Climate Change Clearinghouse for the Commonwealth*, <https://www.resilientma.org/changes/rising-temperatures>.

warming faster than 99% of the world’s oceans, drastically altering ecosystems.³ To confront the climate crisis requires urgent action to reduce emissions from transportation, this country’s most polluting sector.⁴ And nationwide, diesel fuel in the transportation sector was responsible for about 26% of transportation sector CO₂ emissions and about 9% of total U.S. energy-related CO₂ emissions in 2020.⁵ Reducing emissions from MHD vehicles is critical to tackling the climate crisis.

Meanwhile, the health impacts of dirty trucks and buses are severe and disproportionately concentrated in environmental justice populations. In Massachusetts, for instance, people of color are exposed to 26 to 36% more vehicular pollution than white residents.⁶ Diesel-fueled vehicles are major sources of harmful pollutants, such as ground-level ozone and particulate matter.⁷ The science is clear: exposure to particulate matter can lead to detrimental health effects from reduced lung function, to asthma attacks, exacerbated lung and respiratory diseases, as well as heart disease, resulting in increased hospital admissions, emergency room visits, and premature deaths.⁸ The most vulnerable amongst us are also the most susceptible to the harms of air pollution—those already suffering from heart or lung disease, older adults, and children.⁹

The Multi-State Medium- and Heavy-Duty Zero Emission Vehicles Memorandum of Understanding (the “MOU”) was a lofty achievement and critical to inter-state cooperation addressing climate- and health-harming emissions from MHD vehicles. We applaud the participating jurisdictions for their collective action and for signaling their commitments to cleaning up this crucial transportation segment, signals which are critical for driving markets and demonstrating leadership. The final Action Plan will represent an enormous step toward implementation of the important commitments in the MOU, most notably, the target of 30% MHD sales being ZEV by no later than 2030.¹⁰ There is no time to lose in setting forth a bold array of strategies for achieving this goal—which pathway modeling already suggests is not sufficiently aggressive.¹¹ Recognizing the urgency of climate change and the need for cleaner air

³ Maine Climate Council: Scientific and Technical Subcommittee, *Climate Change in Maine*, <https://climatecouncil.maine.gov/maines-climate>.

⁴ U.S. Environmental Protection Agency, *Sources of Greenhouse Gas Emissions*, <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>.

⁵ U.S. Energy Information Administration, *Diesel fuel explained – Diesel and the environment*, <https://www.eia.gov/energyexplained/diesel-fuel/diesel-and-the-environment.php>.

⁶ Union of Concerned Scientists, *Inequitable Exposure to Air Pollution from Vehicles in Massachusetts*, <https://www.ucsusa.org/sites/default/files/attach/2019/06/Inequitable-Exposure-to-Vehicle-Pollution-MA.pdf>.

⁷ U.S. Energy Information Administration, *Diesel fuel explained – Diesel and the environment*, <https://www.eia.gov/energyexplained/diesel-fuel/diesel-and-the-environment.php>.

⁸ U.S. Environmental Protection Agency, *Health and Environmental Effects of Particulate Matter*, <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>.

⁹ *Id.*

¹⁰ MOU at 3-4.

¹¹ See, e.g., Maine Governor’s office on Policy, Innovation and the Future, *Maine Climate Council Webinar on Updated Greenhouse Gas Emissions Modeling* (Nov. 2, 2021), <https://www.maine.gov/tools/whatsnew/attach.php?id=3490187&an=1>, at 5-8; see also The Cadmus Group and Evolved Energy Research for the Commonwealth of Massachusetts, *Transportation Sector Report A Technical Report of the Massachusetts 2050 Decarbonization Roadmap Study* (Dec. 2020), section 6.2, <https://www.mass.gov/doc/transportation-sector-technical-report/download>.

to improve public health outcomes in all of our communities, we urge the following amendments to strengthen the recommendations in the Draft.

The Draft Should Make Recommendations for Going Further, Faster

In the MOU, the participating jurisdictions strive “to make sales of all new medium- and heavy-duty vehicles in [their] jurisdictions zero emission vehicles *by no later than 2050*,” and to make “at least 30 percent of all new medium- and heavy-duty vehicle sales in [their] jurisdictions zero emission vehicles *by no later than 2030*.”¹² Thus, 2050 and 2030 are the outer limits of the aspirational timeframe, the *final* dates by which the milestones are to be achieved. The Draft recognizes that accelerating the transition to MHD ZEV would also accelerate the myriad attendant benefits.¹³ As the Draft also rightly declares, “the time for bold action is now.”¹⁴ Accordingly, we suggest that the Action Plan go further, faster.

To that end, we propose strengthening the recommendations for sales and fleet purchase requirements. We urge that the final Action Plan set forth a target for all new sales of MHD vehicles to be 100% ZEV by 2035. Moreover, for publicly owned, controlled, and contracted fleets, the recommendation should be amended to accelerate the deadline for a 100% purchase requirement from 2040 to 2027, with an interim target of 50% ZEV by 2024. Allowing public entities to continue to purchase new fossil fuel vehicles until 2040 will imperil the participating jurisdictions’ achievement of at least net zero emissions by 2050¹⁵ given the life expectancy of MHD vehicles. A faster timeline would also better anticipate state adoption of California’s Advanced Clean Fleets Regulation¹⁶ as the Draft also recommends, a recommendation which the signatories strongly support. We also call for regulatory adoption of *operation* targets, in addition to targets for purchases. Thus, we urge the Draft be amended to recommend that 100% of public fleet operations be zero-emitting by 2035, except that: for priority public fleets (i.e., those serving or operating in communities disproportionately affected by air pollution, such as communities of color, limited English proficient neighborhoods, and low-income communities) and school buses (further discussed below), 100% zero-emitting operation is achieved by 2030. Relatedly, we urge that the default presumption be reversed: rather than call for “better suited” applications to be electrified in advance of the target, set aggressive targets for all applications and allow an exception where not technically feasible.

We note that California’s Advanced Clean Fleets regulation is still in development and is premised on California’s goals of achieving a zero-emission truck and bus fleet by 2045 everywhere feasible, and earlier for certain market segments. Because it is too early for participating jurisdictions to adopt the regulation, we suggest the Action Plan recommend states consider their own statutory or regulatory fleet mandates, and/or that they lay the groundwork now for adoption when the rule is ready, for instance by enacting legislation that expressly requires a rulemaking to commence upon California’s finalization of the rule. And because the

¹² MOU at 3-4 (emphasis added).

¹³ Draft at 4.

¹⁴ *Id.* at 1.

¹⁵ See, e.g., R.I. G. L. § 42-6.2-9; Mass. G. L. ch. 21N, § 3; Maine P.L. 2022, ch. 517 § 1.

¹⁶ See, e.g., California Air Resources Board, *Proposed Advanced Clean Fleets (ACF) Regulation Workshop* (May 4, 2022), available at https://ww2.arb.ca.gov/sites/default/files/2022-05/220504acfpres_ADA.pdf.

ongoing rulemaking process in California affords participating jurisdictions an opportunity to influence the stringency of the rule, the Action Plan should recommend that signatory states provide information to the California Air Resources Board as to the ZEV fleet requirements necessary to achieve decarbonization targets in the section 177 states.

We emphasize the particular importance of fully electrifying fleets of school buses.¹⁷ The average useful life of a school bus is 14 years,¹⁸ meaning that new fossil fuel buses purchased in 2026 will still emit climate-damaging pollutants and expose children to harmful fumes in 2040. We strongly support the Draft's recognition that school districts in communities disproportionately affected by air pollution should be prioritized for assistance with this transition and further discuss this below.

The Action Plan Should More Strictly Define Zero-Emission Vehicles

The Action Plan undercuts its efficacy from the start by defining zero-emission vehicles to include plug-in hybrid electric vehicles ("PHEVs").¹⁹ These vehicles are powered by fossil-fueled internal combustion engines under certain modes of operation. As such, they have tailpipes that release emissions harmful to both human health and the climate. It is a fallacy to describe them as zero-emission vehicles, and continued purchase and operation of them over the coming years and decades will prevent us from achieving net zero greenhouse gas emissions by 2050. While PHEVs have been a useful transition tool, a forward-looking document like the Action Plan should move us toward phasing out these vehicles. The Draft should be amended to recommend that states do not incentivize or otherwise adopt policies encouraging uptake of PHEVs. For participating jurisdictions that find PHEVs are still a necessary transition tool, the Draft should suggest limitations to avoid undermining decarbonization targets. These might include, for instance, requirements that PHEVs have a minimum all-electric range, a cap on the percentage of PHEVs in any regulated fleets, and/or phasing out the treatment of PHEVs as ZEVs by a date certain, such as 2030. In short, it is a harmful misnomer to allow vehicles that burn fossil fuel to be referred to, and benefit from policies designed to advance and incentivize, ZEVs.

The signatories also take issue with the definition of ZEV including—without limitation—fuel cell electric vehicles, those “powered by an electric motor fueled by hydrogen.”²⁰ Certainly, obstacles to electrification remain, and we acknowledge that there are transportation applications for which viable electrification is farther afield or even where hydrogen may prove better suited. Yet there are many more instances in which presenting ZEVs as technology neutral is detrimental to states' necessary investment in electrification and associated infrastructure. Electric MHD technology is here, it is cost-effective (or nearly so), it is demonstrably cleaner than fossil fueled vehicles, it offers the best public health outcomes, and it offers significant opportunities to benefit a modern grid. Whereas the Draft rightly points out two major

¹⁷ Draft at 27.

¹⁸ Federal Transit Administration, Default Useful Life Benchmark Cheat Sheet. Link: <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA%20TAM%20ULB%20Cheat%20Sheet%202016-10-26.pdf>

¹⁹ Draft at i.

²⁰ *Id.*

drawbacks associated with hydrogen-powered vehicles. First, total costs of ownership for fuel-cell vehicles and fueling stations remain “significantly higher than for battery electric MHD vehicles.”²¹ Moreover, both electric and fuel-celled vehicles are only as clean as their power sources.

While state renewable portfolio standards and other policies are demonstrably moving the electricity grid in the participating jurisdictions away from fossil fuels,²² green hydrogen potential at present and for the foreseeable future is exceedingly low. Less than 0.1% of hydrogen is green.²³ The Massachusetts 2050 *Energy Pathways Report* found that green hydrogen is unlikely to scale until there are sufficient surplus quantities of renewable electricity, which the report projected would occur in the 2040s at the earliest.²⁴ Fossil gas and coal currently account for almost 98% of all hydrogen production.²⁵ Even “blue” hydrogen, that derived from fossil fuel resources with CO₂ emissions reduced by the use of carbon capture, use, and storage,²⁶ and generally considered a cleaner source of hydrogen, in fact produces significant carbon emissions.²⁷ Given the limited potential for truly clean hydrogen in the short- to mid-term, any investment today in hydrogen technology or infrastructure is necessarily an investment in dirtier forms of hydrogen and fossil fuels.

The participating jurisdictions should not expend limited resources on development of hydrogen for contexts where a viable, cost effective decarbonization option—namely, electrification—already exists.

The Action Plan Should Provide More Guidance to States about How to Prioritize Electrification to Benefit Frontline and Overburdened Communities

The Draft rightly recognizes the significant health risks associated with ground level ozone, NO_x, and particulate matter, and identifies the outsized contributions of MHD vehicles to these harmful air pollutants.²⁸ The Draft also appropriately acknowledges that people in low-income communities and communities of color disproportionately suffer from exposure to these air pollutants and bear the associated deleterious health and economic consequences.²⁹ In discussing potential priority populations for prioritizing electrification, the Draft uses several terms

²¹ *Id.* at 24.

²² *See, e.g.*, 35-A M.R.S. § 3210; 30 V.S.A. §§ 8005; Mass. G. L. ch. 25A, § 11F; Conn. G. S. § 16-245a.

²³ International Energy Agency, *The Future of Hydrogen: Seizing Today's Opportunities* (2019) at 42.

²⁴ The Cadmus Group, Arup, VEIC, Energy Futures Group & Evolved Energy Research, *Buildings Sector Report: A Technical Report of the Massachusetts 2050 Decarbonization Roadmap Study* (Dec. 2020) at 5, <https://www.mass.gov/doc/building-sector-technical-report/download>.

²⁵ International Energy Agency, *The Future of Hydrogen: Seizing Today's Opportunities* (2019) at 38.

²⁶ *Id.* at 34.

²⁷ *See, e.g.*, R. Howarth & M. Jacobson, *How Green is Blue Hydrogen?* (Aug. 12, 2021), <https://onlinelibrary.wiley.com/doi/10.1002/ese3.956>. This peer-reviewed study of lifecycle greenhouse gas emissions of blue hydrogen accounts for “the sum of the emissions from the [steam methane reforming] SMR process after carbon capture, emissions from the energy used for heat and pressure to drive SMR, emissions from the energy used to power the carbon capture, and the indirect upstream emissions associated with producing and transporting natural gas” and determines that “the greenhouse gas footprint of blue hydrogen, even with capture of carbon dioxide from exhaust flue gasses, is as large as or larger than that of natural gas.”

²⁸ Draft at 9-10.

²⁹ *Id.* at 10.

including frontline and overburdened communities, underserved and overburdened communities, communities disproportionately burdened by diesel emissions, and low-income communities. We acknowledge that many states may have existing definitions that would be appropriate for prioritizing electrification. It is critical for each jurisdiction to follow the leadership of people of color, low-income residents, limited English proficient residents, and others living in communities that are overburdened by transportation-related pollution to define the priority populations for prioritized investments.

Moreover, many families in frontline and overburdened communities will be less likely to enjoy the benefits of personal EV ownership in the near term.³⁰ Therefore, prioritizing programs that support the electrification of MHD vehicles—and particularly public transit and school buses—in these communities is necessary to ensure that the benefits from transitioning to ZEVs are equitable and that such communities can access the health and environmental benefits from electrifying transportation.

We strongly support the Draft’s calls for prioritizing communities disproportionately affected by air pollution: for electrification of public fleet and public transit vehicles;³¹ for utility investments in make-ready infrastructure and incentive funding;³² and for the delivery of air quality and public health benefits associated with community air monitoring programs.³³ We note, in particular, our support for the call for state vehicle and infrastructure incentive programs to “deliver early benefits to communities historically exposed to higher levels of air pollution” by “reserve[ing] a percentage of funding for deployments that will benefit state-defined frontline and overburdened communities.”³⁴ The Draft should go even further to provide guidance to states about how to prioritize electrifying MHD in these communities and otherwise require actions that will improve air quality in air pollution hotspots and corridors. We suggest that the Draft recommend that states first identify the communities warranting prioritization by partnering with environmental justice advocates, community-based organizations working on air quality, and others who represent communities living near congested roadways. States should calculate the percentage of the state’s population residing within these communities, and then allocate more than that percentage of any funds destined for investment in MHD vehicle electrification toward those communities, but ensuring that such funds are at least 40 percent to align with the Biden-Harris Administration’s Justice40 Initiative targeting at least 40 percent of climate and infrastructure investments to such communities. This should apply to, but not be limited to, funding for charging programs, investments in capital rebates, and utility expenditures on make-ready infrastructure.

³⁰ See, e.g., Massachusetts Offers Rebates for Electric Vehicles (MOR-EV) Cost-Effectiveness Study: 2014-2020 Program Results Summary, at vi, 14, (Mar. 1, 2022), <https://www.mass.gov/doc/transportation-sector-technical-report/download>.

³¹ Draft at 27.

³² *Id.* at 33.

³³ *Id.* at 43.

³⁴ *Id.* at 30.

The Action Plan Should Place Greater Emphasis on the Importance of Electrifying School Buses

As previously indicated, we fervently support the Draft's recommendations with respect to purchase and reporting requirements for publicly owned and contracted school bus fleets, with the suggested amendment discussed earlier that school buses should be fully electrified by 2030. Electrifying school buses is a priority for an equitable transition. As such, the final Action Plan should go further in touting the benefits of school bus electrification. We suggest the inclusion of more data about the significant health benefits for children from avoiding exposure to diesel particulates, air toxics, and other pollutants that are emitted by and concentrated inside of school buses. It is worth explaining that diesel school buses contribute disproportionately to air pollution issues, particularly near schools and in residential neighborhoods. Moreover, that diesel emissions, including fine particulate matter and air toxics, collect inside the passenger cabins, reaching levels 10 times the outdoor ambient air levels. This puts the children in these buses at higher risk of serious disease.³⁵

Electrification of school buses is particularly important in rural states. Car-dependent, rural and low-income families may be hard-pressed to transition to a clean vehicle in the near-term, and access to transit may be out of the question. Public school bus electrification is an excellent way to ensure widespread enjoyment of the direct benefits of ZEVs. To enhance access to the many benefits associated with electric school buses, we suggest the Action Plan include a specific recommendation pertaining to a school bus and school bus charging infrastructure rebate program, with prioritization for frontline and/or overburdened communities as discussed above.

We also suggest that the final Action Plan go further in describing the value of vehicle-to-grid integration and in making associated recommendations.³⁶ States engaging in planning for electrified MHD including buses and school buses would be remiss if not to simultaneously future proof by preparing to utilize these vehicles as grid assets. This transition presents an opportunity to maximize the grid reliability and cost-reduction benefits of these distributed energy resources. Vehicle to grid integration enables users to alter the time, charging level, or location at which grid-connected EVs can charge and allows for the discharge of power, providing untapped benefits to ratepayers, avoiding distribution infrastructure upgrades, integrating renewable energy resources, reducing the cost of electric supply, and offering other reliability and efficiency options. Vehicle batteries, particularly MHD, are a valuable asset to a modern grid and the participating jurisdictions should plan to utilize them.

³⁵ Beatty, Timothy, and Jay Shimshack, *School buses, diesel emissions, and respiratory health*, *Journal of Health Economics* 30:5 (Sept. 2011), <https://www.sciencedirect.com/science/article/abs/pii/S0167629611000701#:~:text=We%20find%20that%20school%20bus%20retrofits%20induced%20statistically%20significant%20and,for%20chronically%20ill%20adult%20outcomes>.

³⁶ See, e.g., Draft at 15-16.

The Action Plan Should Provide More Guidance Regarding Development of Sustainable Transportation Funding Sources

The Draft rightly recognizes the fundamental need for funding to support many of the proposed recommendations.³⁷ The needs are dire and significant: while state departments of transportation call attention to crumbling infrastructure, still more is needed to expand and enhance transit; to develop safe and convenient opportunities for active mobility; to spur shared mobility; to invest in community engagement; to monitor air quality; and, of course, to electrify. As the Draft recognizes with respect to purchase incentives, to provide the certainty necessary to drive investment and move the market, programs must be reliable and consistent.³⁸ Stable and sustainable funding is therefore critical.

Certainly, federal funding is one critical piece of the funding puzzle, and participating states should do what is necessary to take full advantage of funds available for cleaning and reforming transportation systems, particularly with investments in public transit.³⁹ But innovative solutions to transportation funding shortfalls are necessary, and demand continued interstate collaboration. The Draft should give more guidance as to potential state funding streams, both by providing additional examples but also by providing guiding principles. Because funding is such a lynchpin issue impacting all of the participating jurisdictions, we recommend fleshing out this section with specific examples from around the country, and exploring additional concepts in greater detail, such as a transportation tax for high earners, fees on transportation network companies where appropriate, or congestion pricing paired with investments in public transit improvements.

The Action Plan must also explain how the principles of a just and equitable transition are relevant to revenue generating mechanisms. The Draft has an appropriate focus on ensuring that investments in reducing emissions from MHD vehicles are progressive. It is a necessary complement that funding to support these policies must also be generated in a progressive way. Thus, states should be encouraged to explore the impacts of any funding sources on the very frontline and overburdened communities that the Action Plan seeks to elevate. States should be wary of taxes or fees, for instance, that are uniformly applied and therefore impose a greater burden on low-income earners than high-income earners. And as discussed above, funding streams should earmark appropriate allocations to these communities to the extent allowable under state law.

In addition to those generally applicable proposals, we suggest the following actions to strengthen the Draft.

Sales and Fleet Purchase Requirements

We strongly support the Draft's recommendation regarding state adoption of California's package of truck-related rules: the Advanced Clean Trucks regulation and fleet reporting requirement, the Advanced Clean Fleets regulation, as well as the Heavy-Duty Engine and

³⁷ See, e.g., *id.* at 36.

³⁸ *Id.* at 28.

³⁹ See, e.g., *id.* at 18.

Vehicle Omnibus regulations.⁴⁰ However, we would go further, and suggest strengthening the recommendation in a few important ways.

The final Action Plan should recommend that states adopt the Advanced Clean Trucks regulation and in so doing, adopt a more robust fleet reporting requirement. California's reporting requirement is triggered by fleets over 50 vehicles,⁴¹ a threshold far too high to capture fleet data in the participating jurisdictions. Accordingly, we recommend a fleet size threshold of 5 vehicles. This would allow smaller states, with smaller fleets, to capture data that will help scale the adoption of electric trucks and ensure that every state sees the full range of climate, public health, and grid benefits. The collected data will also help identify areas with high rates of freight traffic and, consequently, diesel pollution, allowing states to target clean transportation policies to the communities that need the most relief. Lastly, utilities can use this data to make informed investments to thoughtfully install charging infrastructure where needed to support pollution-free vehicles.

We also propose another critical modification to strengthen California's Advanced Clean Trucks rule. As written, manufacturers are allowed to earn early credits for selling electric trucks before the sales requirements take effect. The benefit of early credits is that it may get more ZEV trucks on the road sooner. However, if the credit pool is too large it will dilute the impact of the requirements when enforcement begins by reducing incentives to sell additional electric trucks, and ultimately weaken the rule. Therefore, the Action Plan should recommend that if states choose to offer early credits, they should be limited to only one year.⁴²

Vehicle and Infrastructure Purchase Incentives

We are generally supportive of the recommendations to provide incentives to reduce or eliminate the purchase price differential for MHD ZEVs, as well as to bring down the costs of charging infrastructure. We agree that these incentives ought to be designed as point-of-sales programs. Consistent with discussion above, we also agree that these programs should "reserve a percentage of funding for deployments that will benefit state-defined frontline and overburdened communities,"⁴³ and urge that the percentage exceed the percentage that those communities represent of the general population in each jurisdiction. Further, to best deliver early benefits to these communities, we recommend that the design of these programs include input from the impacted communities.

⁴⁰ *Id.* at 26.

⁴¹ See, e.g., California Air Resources Board, *Advanced Clean Trucks Fact Sheet*, <https://ww2.arb.ca.gov/resources/fact-sheets/advanced-clean-trucks-fact-sheet>.

⁴² The Clean Air Act requires that states' adoption of California's *emission standards* must be identical for each model year. Nothing in the Clean Air Act prevents other states from adjusting the years when manufacturers can begin to earn their credits and modifying the fleet reporting requirement, since these components of the ACT rule do not meet the definitions of having to be identical to California. This aligns with a Section 177 state's enforcement discretion. Further, the identicality provision's purpose is to prevent the creation of a "third vehicle." See 42 U.S.C. § 7507. Therefore, the focus should be on whether a provision permits a third vehicle rather than whether it is word-for-word identical.

⁴³ Draft at 30.

We note, additionally, that the Action Plan should recommend that participating jurisdictions consider non-economic incentives for ZEV MHD vehicles as well (e.g. access to high-occupancy lanes; access to restricted driving zones; access to limited parking, etc.).

Electric Utility and Utility Regulator Actions

Principally, we suggest that each of the recommendations aimed at utility regulators contain legislative recommendations instead or in addition. In some of the participating jurisdictions, utility regulators may lack authority, statutory mission, or political ambition to tackle emissions from MHD vehicles without express direction from the legislature. Therefore, we propose that each of the recommendations directed to these agencies provide a supportive legislative pathway. For instance, item 1 would become: “Utility regulators should, or where necessary, legislatures should require utility regulators to: . . .”⁴⁴

As relevant to this section, we again renew our call for allocations to frontline and overburdened communities to exceed the percentage that those communities represent of the general population in each jurisdiction.

We support the recommendation that utility regulators adopt “utility targets for deployment of ‘make-ready’ and other charging infrastructure for MHD ZEVs that align with state air quality, climate, and transportation electrification goals” and “require utilities to develop plans to achieve those targets.”⁴⁵ This section should add that these targets and plans should also align with relevant mobility, equity, environmental justice and/or access goals to highlight the importance of investment in public transit.

The transition to electric MHD fleets coincides with many significant grid changes. Some of these are underway, and some are anticipated or called for by decarbonization mandates, climate action plans, and statutory procurements and renewable portfolio standards. In short, while MHD vehicles electrify, so too, do light-duty vehicles and buildings, at the same time that electricity generation from renewable sources grows and electricity storage takes on a more prominent role. States, utilities and fleets must prepare for electrification of MHD in consideration of this broader context. Therefore, while we fully support the recommendation that utilities be directed to conduct assessments of system capacity and proactively prepare for grid upgrades, we would amend the Draft to explicitly call-out the need for planning exercises to account for the myriad grid and electricity demand changes underway.

We agree with the recommendations regarding rate design, particularly the emphasis on lowering charging costs, mitigating demand charges, and providing clear price signals through time varying rates. We suggest the Action Plan include a paragraph in the introductory portion of this section describing the integral role of thoughtful rate design.

⁴⁴ *Id.* at 31.

⁴⁵ *Id.* at 31.

Outreach and Education

We agree that the states should develop educational materials using plain language and translate those materials into multiple languages to educate fleet owners and operators. Further, the Draft should include a strategy to create social media, video, and other types of educational materials that can be promoted through multiple media.

Economic Equity for Workers

We agree that workers in the electrified transportation sector need high-quality, family-sustaining jobs that provide living wages, good benefits, and worker health and safety protections. The Draft should include workforce development strategies that target training and job opportunities for people historically left out of the clean energy workforce such as women and non-binary people, people with disabilities, people of color, veterans, and formerly incarcerated people. For participating states to commit to a just transition that fosters pathways out of poverty and entry into the green economy for historically marginalized residents, states must be deliberate in their coordination around workforce development and implementation to meaningfully prioritize job training, state contracting policies, and hiring practices that will enable greater diversity and representation in the clean energy sector.

Community Air Monitoring

We support the recommendations in the Draft to develop a more granular picture of air quality and provide communities with funding and capacity to develop and implement air pollution regulatory activities. States cannot track the impact of air pollution on frontline and overburdened populations and other historically marginalized communities without increasing the number of air monitoring stations and increasing the number of monitoring stations measuring non-criteria pollutants like black carbon, ultrafine particulate matter, and volatile organic compounds. In addition to air monitoring, the Draft should recommend that states identify and implement actions that guarantee air quality improvement in air pollution hotspots and corridors near ports, railyards, truck distribution hubs, fleet depots, and highways.

Conclusion

We thank you for the opportunity to submit these comments and urge you to strengthen the final Action Plan in line with the recommendations herein. Please direct any questions about this letter to Emily K. Green, Conservation Law Foundation, egreen@clf.org.

Signature page follows

Sincerely,

350 Mass, John MacDougall, Co-Chair of Transportation Working Group
Acadia Center, Hank Webster, Senior Policy Advocate & Rhode Island Director
Alternatives for Community & Environment (ACE), Sofia Owen, Staff Attorney
Connecticut League of Conservation Voters, Lori Brown, Executive Director
Connecticut Roundtable on Climate and Jobs, Aziz Dehkan, Executive Director
Conservation Law Foundation, Emily K. Green, Senior Attorney
Electric Vehicle Club of CT, Barry Kresch, President
Green Energy Consumers Alliance, Anna Vanderspek, Electric Vehicle Program Director
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Groundwork Lawrence, Heather McMann, Executive Director
LivableStreets Alliance, Jason Desrosier, Deputy Director
Natural Resources Council of Maine, Jack Shapiro, Climate & Clean Energy Director
New Haven Leon Sister City Project, Chris Schweitzer, Director
Sierra Club Connecticut, Samantha Dynowski, State Director
Sierra Club Massachusetts, Veena Dharmaraj, Director of Transportation
Sierra Club Vermont, Robb Kidd, Conservation Program Manager
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