

MEMORANDUM

To: Kristin Clouser, Secretary, Agency of Administration

From: Julia S. Moore, Secretary, Agency of Natural Resources

Date: May 13, 2022

Re: Section 5(a)(1) of Act 153(2020) or the Vermont Global Warming Solutions Act (GWSA)

Pursuant to Section 5(a)(1) of Act 153(2020) or the Vermont Global Warming Solutions Act (GWSA), the Agency of Natural Resources is providing the Vermont Climate Council with a draft of the proposed rules listed below, as well as a draft of the detailed record required to accompany the proposed rules pursuant to 10 V.S.A. §593.

The draft proposed rules, which were included in the Initial Vermont Climate Action Plan adopted by the Council on December 1, 2021, are:

1. Amendments to Vermont's Low Emission and Zero Emission Vehicle Rules for 2026 and subsequent Passenger Cars and Light Duty Trucks, also known as **Advanced Clean Cars II**;
2. New Zero Emission Vehicle Rules for 2026 and subsequent model year medium- and heavy-duty trucks, also known as **Advanced Clean Trucks**;
3. New Exhaust Emissions Standards and Test Procedures for 2026 and Subsequent Model Year Heavy-Duty Engines and Vehicles, Heavy-Duty On-Board Diagnostic System Requirements, Heavy-Duty In-Use Testing Program, Emissions Warranty Period and Useful Life Requirements, Emissions Warranty Information and Reporting Requirements, and Corrective Action Procedures, In-Use Emissions Data Reporting Requirements, and Phase 2 Heavy-Duty Greenhouse Gas Regulations, and Powertrain Test Procedures, also known as the **Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments**; and





4. New Greenhouse Gas Emissions Standards for Medium- and Heavy Duty Engines, Vehicles and Tractor-Trailers GHG Regulation, also known as **Phase 2**.

The draft detailed record includes:

1. A draft regulation summary document, including a discussion of the federal and state authority that enables ANR to adopt and amend these rules, and a description of the rules and what they require; and
2. A draft technical support document, including a discussion of the costs and benefits associated with adoption and amendment of the rules, the environmental impacts of the rules, and information used to support the rule record.

While the Clean Air Act (CAA) preempts states from setting their own motor vehicle emission standards, Section 177 of the CAA allows states to adopt stricter standards if they are identical to the State of California. California's Air Resources Board sets motor vehicle emission standards for most classes of vehicles and engines, and Vermont has been an adopter of these programs since the 1990s. Therefore, the amendments and adoption of the rules listed above are building upon decades of effective and innovative regulation of motor vehicle emissions in Vermont. Given the "identity" requirement of Section 177 of the CAA, it is important to note that ANR has no authority to amend the substance, stringency, or effect of the above rules. Therefore, we ask that the Council focus its review on the information contained in the draft detailed record documents. Of course, we welcome any clarifying questions on the substance, stringency, or effect of the rules themselves.

Given our reliance on California for the development and adoption of these regulatory programs, which in some cases is happening parallel to our own regulatory process, we are still awaiting a complete review of the costs and benefits of Advanced Clean Cars II. Once we have received that analysis and incorporated it into the record, we will send the Council updated documents that reflect the additional information. Where we do not yet have complete information to include in the drafts, you will see placeholders for content that will be delivered to the Council at a later date. As other information that informs our analysis is updated we may amend the analysis or discussion of the impacts of the rule.

ANR is planning for robust public engagement on the rule draft and the supporting record pursuant to the Vermont Administrative Procedure Act and the GWSA. We plan to hold multiple rulemaking hearings across the state in the late Summer and early Fall of this year, and we will continue to coordinate with the Transportation Task Group of the Cross Sector Mitigation Subcommittee to determine how to maximize engagement on the rule itself and other pieces of the transportation emissions planning process that is on-going this year.





We appreciate your review of the materials we have provided to date and look forward to the discussion of the enclosed draft documents during the May 16th Council meeting.

Sincerely,

A handwritten signature in blue ink that reads "Julia S. Moore".

Julia S. Moore
Secretary, Agency of Natural Resources
Vermont Climate Council Member

