

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R 2024-017
PROPOSED CLEAN CAR AND TRUCK	)	(Rulemaking – Air)
STANDARDS: PROPOSED 35 ILL. ADM.	)	
CODE 242	)	

NOTICE OF FILING

TO: Don Brown	Vanessa Horton
Clerk of the Board	Carlie Leoni
Illinois Pollution Control Board	Hearing Officers
60 E. Van Buren St., Suite 630	Illinois Pollution Control Board
Chicago, IL 60605	60 E. Van Buren St., Suite 630
	Chicago, Illinois 60605

(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **THE ALLIANCE FOR AUTOMOTIVE INNOVATION'S RESPONSES TO POST-HEARING COMMENTS**, copies of which are hereby served upon you.

Respectfully submitted,
Alliance for Automotive Innovation

By: /s/ Melissa S. Brown
One of Its Attorneys

Dated: May 16, 2025

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CERTIFICATE OF SERVICE

I, the undersigned, on the oath state the following: That I have served the attached **THE ALLIANCE FOR AUTOMOTIVE INNOVATION'S RESPONSES TO POST-HEARING COMMENTS**, via electronic mail upon:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 10.

That the email transmission took place before 4:30 p.m. on May 16, 2025.

Date: March 16, 2025

/s/ Melissa S. Brown
Melissa. S. Brown

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	)	R 2024-017
PROPOSED CLEAN CAR AND	)	
TRUCK STANDARDS: PROPOSED 35 ILL.	)	(Rulemaking – Air)
ADM. CODE 242	)	

**THE ALLIANCE FOR AUTOMOTIVE INNOVATION’S
RESPONSES TO POST-HEARING COMMENTS**

The Alliance for Automotive Innovation (“Auto Innovators”),¹ by and through counsel, submits the following Responses to Post-Hearing Comments pursuant to the Hearing Officer Order dated May 2, 2025.

1. State adoption of ACC II ZEV mandate trends

Earthjustice filed a written comment following the Second Hearing in this matter.² In its comment, Earthjustice noted that “[t]oday, California and the twelve other ‘Section 177 states’ comprise 40 percent of the United States’ automobile market.”³ However, Earthjustice fails to mention Section 177 states are beginning to recognize the substantial statewide problems associated a dramatic increase in ZEVs required under California’s zero emission vehicle (“ZEV”) mandate⁴. Ten of the original eighteen Section 177 states have either abandon the ACC II ZEV mandate altogether or provided enforcement discretion to prevent the imminent failure or

¹ Auto Innovators represents the full auto industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to maintain U.S. competitiveness in cutting-edge automotive technology. Representing approximately 5 percent of the country’s GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation’s largest manufacturing sector.

² Earthjustice’s Comments on Proposed Clean Car and Truck Standards, PCB R 24-17, PC. #521 (April 28, 2025).

³ *Id.* at 2.

⁴ California Air Resources Board. (2022). Advanced Clean Cars II regulations: Final regulation order [PDF], publicly available at <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/acciiifro1962.4.pdf>.

collapse of the new vehicle market. Specific state activity associated with ACC II ZEV mandate over the last year includes those listed below.

- **Vermont**: Just this week, Vermont Governor Scott issued Executive Order No. 04-25⁵ directing Vermont's environmental agency to "exercise compliance flexibility and discretion by declining to pursue penalties associated with any ZEV delivery shortfalls for the duration of the order." In doing so, the executive order notes:

WHEREAS, some manufacturers are shifting the burden of the ACC II and ACT rules to local auto dealers by requiring ZEV sales before allowing internal combustion engine car and truck sales (hereinafter referred to as "ZEV sales ratios"), which **reduces the number and type of internal combustion engine cars and trucks available to Vermont dealerships and customers**; and

... I have determined **compliance flexibility and enforcement discretion are needed to ensure Vermonters will continue to be able to acquire the full range of passenger cars and light duty trucks and on-road medium- and heavy-duty vehicles** in sufficient numbers to satisfy demand and avoid counterproductive impacts. (Emphasis added)

- **Delaware**: In early May, Governor Meyer announced plans to eliminate the ACC II ZEV mandate in Delaware, stating, "I'm not a strong believer in government mandates on consumers... I'm assuring Delawareans that the *electric vehicle mandate will not go into effect*."⁶ (Emphasis added).

⁵ State of Vermont, Executive Department. (2025, May 13). *Executive Order No. 04-25 [Advanced Clean Trucks, Advanced Clean Cars II, and Heavy-Duty Engine and Vehicle Omnibus]*, publicly available at <https://governor.vermont.gov/document/executive-order-no-04-25>.

⁶ Barrish, C. (2025, May 2). Delaware Gov. John Carney's electric vehicle mandate officially ends under new Gov. Matt Meyer. WHY, publicly available at <https://why.org/articles/delaware-electric-vehicle-mandate-meyer/>.

- **Maryland**: Last month, Governor Moore issued Executive Order 01.01.2025.10⁷ directing the Maryland Department of Environment to maximize the use of enforcement discretion by declining to pursue penalties or enforcement provisions associated with ZEV delivery shortfalls for model years 2027 and 2028.
- **New York**: The Department of Environmental Conservation (the agency responsible for implementing ACC II) issued an Enforcement Discretion letter to all automakers,⁸ stating, “In consideration of the uncertainties caused by the current federal administration, DEC is issuing this enforcement discretion and assurance letter to OEMs in a good faith effort to relieve some of the compliance pressures under ACC II.”
- **Connecticut, Maine, Minnesota, Nevada, and Virginia**: These states had previously adopted the ACC I ZEV mandate but refused to adopt ACC II standards.
- **Pennsylvania**: Pennsylvania is a Section 177 state but never adopted the ZEV mandate and refused to adopt the ACC II ZEV mandate.

Out of the original 18 Section 177 states under ACC II, 6 did not adopt ACC II, leaving only 12 (as mentioned by Earthjustice). However, one of those announced plans to drop the ZEV mandate, and 3 others have already found it necessary to issue enforcement discretion letters acknowledging the compliance pressures and resulting market impact associated with the ACC II ZEV mandate. In the opinion of Auto Innovators, more Section 177 states are likely to follow.

⁷ Moore, W. (2025). *Ensuring Success with Advanced Clean Cars II and Advanced Clean Trucks in Maryland*. The State of Maryland, Executive Department, publicly available at https://governor.maryland.gov/Lists/ExecutiveOrders/Attachments/83/EO%2001.01.2025.10%20Ensuring%20Success%20with%20Advanced%20Clean%20Cars%20II%20and%20Advanced%20Clean%20Trucks%20in%20Maryland_Accessible.pdf.

⁸ New York State Department of Environmental Conservation. (2025). *Advanced Clean Cars II Letter of Assurance & Enforcement Discretion*, publicly available at: https://dec.ny.gov/sites/default/files/2025-02/ACC2%20Letter%20of%20Assurance%20Enforcement%20Discretion_NYSDEC_02142025.pdf.

2. Banning 90% of new vehicles Illinois consumers buy today is a decision best made by the Illinois General Assembly

The Illinois Environmental Protection Agency (“Illinois EPA”) filed a comment following the Second Hearing in this matter.⁹ Auto Innovators agrees with Illinois EPA’s position that the Illinois General Assembly is better situated to assess and address the many issues tied to adoption of California’s ZEV mandate for two reasons.

First, as explained by Illinois EPA, adoption of California’s ZEV mandate “would have significant and far-reaching impact on the State and its citizens, including economic impact, which would need to be evaluated along with implementation and feasibility concerns.”¹⁰ Auto Innovators agrees. Banning the sale of new gasoline vehicles will ultimately impact a vast swath of the Illinois economy including farmers, businesses, EV charging providers, home builders, dealers, suppliers, commercial builders, utilities, the oil industry, manufacturers, public and private fleets, and most importantly, Illinois customers. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 5-6 (January 21, 2025). The Illinois General Assembly, not the Pollution Control Board, is better suited to decide whether the state implements such a wide-ranging policy.

Second, adopting California’s ZEV mandate does not on its own create the conditions necessary to transform the light-duty market. As noted by the Illinois EPA, “[i]f adopted, the rule proposal would require action from and coordination among numerous entities, including the Illinois General Assembly, State agencies, and regional transmission organizations (‘RTOs’), most of which are not under the jurisdiction of the Board and have not been involved in the

⁹ Post-Hearing Comment of the Illinois Environmental Protection Agency, PCB R 24-17, P.C. #520 (April 28, 2025).

¹⁰ *Id.* at 9.

Board's rulemaking process.”¹¹ A successful ZEV mandate requires orchestrating actions across the state and local government agencies and the private sector. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 29 (January 21, 2025). Over the past 15 years, California developed supportive policies across 28 different state agencies, the legislature, and the governor's office providing about \$14 billion in funding and developing a broad range of supportive policies and regulations. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 37-40 (January 21, 2025). Nonetheless, even in California, ZEV sales have not reached even half of the 59 percent ZEV market share that Illinois will need in just three years. *Id.*

Like all the participants in this rulemaking, Auto Innovators and its members want to see electric vehicles (“EVs”) succeed, but that cannot be forced in the timeline required under California's ACC II ZEV mandate, and it certainly will not happen without coordination across the entire government. The Illinois General Assembly is best situated to address and implement such coordination.

3. EV market development efforts not sufficient for 59% ZEV mandate in 3 years

Commonwealth Edison Company (“ComEd”) submitted comments in this matter following the Second Hearing.¹² In its comment, ComEd discusses its Beneficial Electrification Plan and actions taken or to be taken to implement the Climate and Equitable Jobs Act.¹³ Auto Innovators appreciate the comments from ComEd and support the actions it is taking to develop the EV market by addressing infrastructure, grid stability, EV affordability, public education, etc. However, these actions, in addition to many others, have been taken by California utilities,

¹¹ *Id.*

¹² Comments submitted by Scott Vogt, Vice-President, Strategy & Energy Policy, Commonwealth Edison Company, PCB R 24-17, P.C. #528 (April 28, 2025).

¹³ *Id.*

California legislature, local California governments, and different California state agencies for a decade and a half, but California's EV infrastructure is still lacking, and its EV market share is still less than half of what will be required in Illinois. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 37-40 (January 21, 2025). Current EV buyers are still largely affluent single-family homeowners with much less need for public charging, but that need will drastically change as the EV mandate ramps up to 59, 68, and 76 percent ZEVs during Illinois first three years of implementation. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 34 (January 21, 2025). Thus, while infrastructure is already insufficient, the infrastructure gap will rapidly grow if drivers from all communities and economic backgrounds are forced to buy EVs under the ACC II ZEV Mandate.

ComEd's efforts are important and necessary, but they are not sufficient to support a 59 percent mandate in under 3 years, or 76 percent ZEV mandate just two years later.

4. Addressing climate change, support for EVs, and improved air quality

Like virtually every post-hearing commenter,¹⁴ Auto Innovators and our members understand the importance of addressing climate change and support increased adoption of EVs. The auto industry has invested \$100s of billions to develop, produce, and promote electric vehicles, batteries, supply chains, and networks to sale and service those vehicles. *See* Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 6-7 (January 21, 2025). However, we agree with the Illinois Automobile Dealers Association that "forcing mandates that outpace infrastructure, consumer affordability, and regional realities will do more harm than good."¹⁵ In fact,

¹⁴ *See, e.g.*, Comment submitted by Alec Messina on behalf of the Illinois Chamber of Commerce, PCB R 24-17, P.C. #519 at 1 and 3 (April 28, 2025).

¹⁵ Comments submitted by Jamie Auffenberg, Chairman, Illinois Automobile Dealers Association, PCB R 24-17, #526, at 4 (April 28, 2025).

California's ACC II ZEV mandate would make it illegal to sell the cleanest, most efficient, hybrid electric vehicles.

Adoption of California's ACC II ZEV mandate would likely limit vehicle availability and sales, result in higher prices for both new and used gasoline vehicles, and force all drivers (especially lower-income drivers) to keep older, higher-emitting vehicles longer, further worsening air quality in their neighborhoods. See Pre-Filed Testimony of Steven Douglas, PCB R 24-17 at 26 (January 21, 2025). This is the very definition of doing "more harm than good."

5. Conclusion

Auto Innovators sincerely appreciates the opportunity to participate in this rulemaking. We recommend the Illinois Pollution Control Board reject adoption of California's ACC II regulations. Illinois is simply not prepared to mandate the elimination of (or dramatic reduction in) gasoline vehicles. Infrastructure is not in place and customer demand has not developed to support EVs at the level required under the regulations. This is unlikely to change in the next 2-3 years before the ZEV mandate begins. Adoption of ACC II would significantly harm the Illinois economy and its residents and businesses.

Respectfully submitted,
Alliance for Automotive Innovation

By: /s/ Melissa S. Brown
One of Its Attorneys

Dated: May 16, 2025

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