



June 04, 2018

David Lanier, Secretary  
California Labor & Workforce Development Agency  
800 Capitol Mall, MIC-55  
Sacramento, CA 95814

Mary Nichols, Chair  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95814

**Re: Clean Vehicle Rebate Project – “Fair and Responsible” Certification**

Dear Secretary Lanier and Chair Nichols:

The above-listed organizations and our members are pleased to submit the following comments regarding provisions for certifying manufacturers of vehicles in the Clean Vehicle Rebate Project (CVRP) as being fair and responsible in the treatment of their workers. We support this objective and applaud the Labor and Workforce Development Agency and California Air Resources Board for taking this important step in building a sustainable clean energy economy.

In particular, we support the elements that will require disclosure of records pertaining to freedom of association and assembly; workplace safety and health; wage and hour matters; and protection from all forms of discrimination. We support the requirement that manufacturers obtain and submit this same information from their direct suppliers, which will extend these protections to hundreds of thousands of workers in the industry's supply chains. We support

the accountability measures in the proposal, including the requirement that companies affirm the authenticity of their application under penalty of perjury; the right of LWDA to audit company information and to access a company's physical plant; and the right of the public to raise concerns and of LWDA to investigate the veracity of those concerns.

At the same time, there are a number of considerations that we believe would strengthen the proposal. Companies should be required to disclose the extent to which they rely on temporary workers, which companies have increasingly employed to meet production demands but also to circumvent a number of legal requirements and to avoid paying benefits, such as health insurance and paid sick time. The CVRP should also require disclosure of policies pertaining to the protection of whistleblowers and to the use of mandatory arbitration clauses for employees.

More broadly, we also believe the objectives of the CVRP "fair and responsible" provision could be improved by including a focus on continuous improvement practices. While compliance with workplace laws and regulations is certainly relevant under the CVRP provision, it is a floor for business performance that may not motivate continuous improvement in labor practices and workplace safety and health protections by companies seeking access to the California market. Regulations typically lag behind industry best practice, and basic compliance with regulations is well-recognized within industry as the lowest rung of business performance.

Companies that perform "beyond compliance" by establishing management systems to continuously improve are not only more productive, but they are far more effective in protecting workers, communities and the environment. We believe the CVRP provisions can and should support these types of leading companies by requiring evidence of continuous improvement in labor practices and safety and health measures, rather than only requiring adherence to static regulatory requirements.

For example, the International Standard Organization (ISO) released a framework in March 2018 that sets performance standards, rather than prescriptive requirements, to continuously improve worker safety and health. These include, for example, provisions pertaining to:

- 1) Integrating worker safety and health into industrial design;
- 2) Providing for effective worker participation in decision-making;
- 3) Ensuring transparency and accountability in program implementation;
- 4) Measuring improvements over time;
- 5) Building a genuine safety culture.

Implementing a similar performance-based approach under the CVRP would reduce the social and economic costs of injuries and illnesses, wage theft, temporary work and other adverse impacts on workers and their families; dampen the competitive advantage of companies that disinvest in the safety, advancement, and economic security of their employees; and advance equity as a core element of California's clean energy economy while simultaneously building the foundation for sustainable growth in the clean vehicle sector.

We will be happy to discuss how these concepts could be applied in the “fair and responsible” provisions of the CVRP.

Sincerely and with great appreciation,

Jeanne Rizzo, R.N.  
President and CEO  
Breast Cancer Prevention Partners

Caroline Cox, Ph.D  
Senior Scientist  
Center for Environmental Health

Robert M. Gould, MD  
President  
Physicians for Social Responsibility,  
San Francisco Bay Area Chapter

Doug Parker  
Executive Director  
Worksafe

Bill Allayaud  
California Director of Government Affairs  
Environmental Working Group

Jody Pincus  
Executive Director  
Rising Sun

Kathryn Phillips  
Director  
Sierra Club California

Laura Muraida  
Research & Communications Director  
SCOPE

Andria Ventura  
Toxics Program Manager  
Clean Water Action

Allison Mannos  
Repower LA Campaign Director  
LAANE

Laura Stock  
Director  
Labor Occupational Health Program  
University of California, Berkeley