

ATTORNEYS GENERAL OF NEW YORK, CONNECTICUT, and NEW JERSEY

November 23, 2021

Via Email

The Honorable Gina McCarthy, National Climate Advisor

White House Office of Climate Policy
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

The Honorable Michael S. Regan, Administrator

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Regulation of Nitrogen Oxides from Heavy-Duty Trucks and Engines

Dear National Climate Advisor McCarthy and Administrator Regan:

We are aware that the U.S. Environmental Protection Agency (EPA) is currently working to develop standards for emissions of nitrogen oxides (NOx) from new on-road heavy-duty trucks and engines for model year 2027 and beyond.¹ This action is long overdue since EPA last revised NOx standards for on-road heavy-duty trucks in 2001, and would be consistent with President Biden's August 5, 2021 Executive Order that directs EPA to promulgate more robust federal standards for vehicular emissions to improve public health, advance environmental justice, and address the climate crisis, among other goals.² We are writing to urge EPA to act quickly to propose strengthened standards to address this very significant source of air pollution in our states.

On-road heavy-duty vehicles are the largest mobile-source contributor of NOx in the nation and emit 20% of our region's total NOx pollution.³ NOx is a potent

¹ See U.S. Env'tl. Prot. Agency, Regulatory Update, EPA Announces the Clean Trucks Plan, EPA-420-F-21-057, at 2 (2021), <https://www.epa.gov/system/files/documents/2021-08/420f21057.pdf>.

² Executive Order 14037, Strengthening American Leadership in Clean Cars and Trucks, §§ 1, 3, 86 Fed. Reg. 45,583 (Aug. 10, 2021).

³ Ozone Transport Comm'n, Mobile Sources Committee: Annual Report at 3 (2020), [https://otcair.org/upload/Documents/Reports/OTC MSC Annual Report 2020.pdf](https://otcair.org/upload/Documents/Reports/OTC_MSC_Annual_Report_2020.pdf).

precursor to the formation of ground-level ozone pollution, which is a serious public health concern in New York, New Jersey, and Connecticut, and the New York City metropolitan area in particular. Without more stringent federal regulations, NOx emissions from heavy-duty trucks and engines will continue to threaten the well-being of the over 20 million people living in the tri-state metropolitan area of Connecticut, New Jersey, and New York. In particular, these emissions will exacerbate the disproportionate harms from air pollution that are suffered by environmental justice communities across our states.

EPA has long recognized the serious public health and environmental harms caused by NOx emissions, which are emitted at particularly high levels from heavy-duty diesel trucks.⁴ Once emitted, NOx combines in the atmosphere with volatile organic compounds in the presence of heat and sunlight to form ozone, which at the ground-level, is a major component of urban smog. Thus, as climate change engenders warmer temperatures, smog formation will only worsen. Smog disproportionately affects the most vulnerable members of our society, including children and the elderly, and causes increased susceptibility to cardiovascular disease and respiratory illnesses, such as asthma and COVID-19, and premature death.⁵ People who live, work, or go to school near high-traffic roadways—who tend to be low-income and/or people of color—experience higher rates of these adverse health effects.⁶

Recently, the California Air Resources Board approved adoption of new NOx emission standards and requirements for heavy-duty trucks that will establish NOx emission standards 90% lower than today's standards, beginning with model year 2027, demonstrating that such standards are both technologically-feasible and cost-effective.⁷ But even though our states can opt-in to the new California standards, equally strong NOx standards are still needed at the federal level due to the interstate nature of heavy-duty truck transit. As heavy-duty vehicles and their pollution travel across state lines, States are unable to tackle this problem alone.

⁴ See U.S. Env'tl. Prot. Agency, *supra* note 1, at 2.

⁵ *Id.*

⁶ *Id.*

⁷ See Cal. Air Resources Bd., Heavy-Duty Vehicle Engine and Vehicle Omnibus Regulation and Associated Amendments (2020), <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox>; see also Cal. Air Resources Bd., Staff Report, Initial Statement of Reasons for Heavy-Duty Omnibus Regulation, at ES-1 to ES-3 (2020), <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hdomnibuslownox/isor.pdf>; see also Mfrs. of Emission Controls Ass'n, Technology Feasibility for Heavy-Duty Diesel Trucks in Achieving 90% Lower NOx Standards in 2027 (2020), http://www.meca.org/resources/MECA_2027_Low_NOx_White_Paper_FINAL.pdf.

For example, trucks are one of the primary means of transporting goods from ports to an ultimate destination, and the Port of New York and New Jersey is the busiest container port on the East Coast. Accordingly, we must rely on federal standards to control NO_x emissions from out-of-state vehicles, including the emissions that occur in our states as well as those that occur outside our states but may blow into our states.

While our states have implemented some of the most stringent control programs for NO_x in the nation—such as requiring advanced emission control technologies for electric generating units and new and existing stationary sources; adopting California’s Advanced Clean Cars standards; and implementing anti-idling laws and an annual inspection and maintenance program for heavy-duty diesel vehicles—the New York City metropolitan area failed to meet the 2008 national ambient air quality standards (NAAQS) for ozone by the July 2021 deadline.⁸ As a result, EPA will soon reclassify the region from “serious” nonattainment with ozone NAAQS to “severe” nonattainment.⁹

Without forceful action from EPA to curb NO_x emissions from out-of-state heavy-duty vehicles that our states lack the authority to regulate, our states will continue to struggle to meet the ozone NAAQS, forcing us to expend resources on less-efficient emission controls for stationary sources, even though, as EPA acknowledges, there are opportunities for significant NO_x emission reductions through strengthened regulations for heavy-duty trucks.¹⁰ Indeed, the Ozone Transport Commission concluded in its 2020 Annual Report that, to address the persistent air quality issues in the tri-state area, reducing NO_x from heavy-duty diesel vehicles is of “utmost importance.”¹¹

We understand that EPA will soon release a Notice of Proposed Rulemaking for federal NO_x standards for heavy-duty vehicles for Model Year 2027, with a goal of finalizing the standards by December 2022. We urge you to act quickly to enact NO_x emission standards that are as stringent as California’s corresponding NO_x emission standards and requirements. A significant and rapid reduction in NO_x emissions from heavy-duty diesel vehicles is urgently needed to protect the public

⁸ See N.Y. Dep’t of Env’tl. Cons., Draft Proposed Revision: New York State Implementation Plan for the 2008 Ozone National Ambient Air Quality Standards, NY-NJ-CT Serious Nonattainment Area (June 2021), https://www.dec.ny.gov/docs/air_pdf/sipseriouso3nyma.pdf; see also Ozone Transport Comm’n, *supra* note 3, at A-2, A-9, A-10.

⁹ N.Y. Dep’t of Env’tl. Cons., *supra* note 8.

¹⁰ U.S. Env’tl. Prot. Agency, *supra* note 1, at 3.

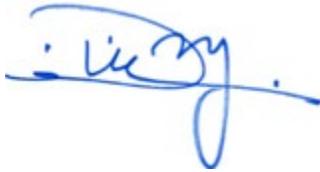
¹¹ Ozone Transport Comm’n, *supra* note 3, at 3.

health and well-being of all of our residents, but especially our environmental justice communities.

Respectfully submitted,



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