



ROB BONTA
ATTORNEY GENERAL

THE STATE OF CALIFORNIA OFFICE OF THE ATTORNEY GENERAL

October 26, 2021

Via e-mail

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

RE: Regulation of Heavy-Duty Truck Nitrogen Oxides Pollution and Environmental Justice Communities

Dear National Climate Advisor McCarthy and Administrator Regan:

We are writing to urge the EPA to act swiftly to propose robust new regulations to control oxides of nitrogen (NO_x) emissions from on-road heavy-duty trucks. We support President Biden's August 5, 2021 "Clean Trucks Plan" Executive Order encouraging stronger federal standards for these emissions,¹ which affect the health and wellbeing of millions of our residents. Strong heavy-duty NO_x standards are both technologically feasible and cost-effective, as California's [Heavy-Duty Omnibus Regulation](#) demonstrates, and necessary to protect historically disadvantaged communities that for far too long have suffered the concentrated impacts of heavy-duty truck pollution.

As EPA acknowledges, on-road heavy-duty vehicles are the largest mobile-source contributor of NO_x emissions.² These NO_x emissions react in the atmosphere to form ozone and

¹ Executive Order 14037, Strengthening American Leadership in Clean Cars and Trucks, § 3, 86 Fed. Reg. 43,583 (Aug. 10, 2021) (directing EPA to consider new NO_x standards for heavy-duty engines and vehicles beginning with model year 2027 up through at least model year 2030).

² U.S. EPA, Regulatory Update, "EPA Announces the Clean Trucks Plan," EPA-420-F-21-057, at p. 2 (Aug. 2021), available at: <https://www.epa.gov/system/files/documents/2021-08/420f21057.pdf>.

particulate matter, which adversely affect air quality and public health, especially near high-traffic areas.³ Thus, those who live, work, or attend school near railyards, ports, warehouses, and major roadways—who are more likely to be low-income and/or people of color—are especially harmed by heavy-duty truck traffic, with trucks often idling and driving slowly with frequent stops at these locations.⁴ The serious health and environmental impacts of concentrated NOx emissions are well known.⁵ These NOx emissions likewise impede States’ attainment of federal air quality standards for ozone and particulate matter.⁶ Yet today’s heavy-duty trucks do not effectively control NOx emissions, especially during low-load operating conditions.⁷

Stringent and robust heavy-duty vehicle NOx standards are both technologically feasible and cost-effective. In August 2020, the California Air Resources Board adopted the California Heavy-Duty Omnibus Regulation (Omnibus Regulation), which establishes exhaust emission standards for NOx that are nearly twice as stringent as the currently applicable California and federal heavy-duty NOx emission standards. The Omnibus Regulation also strengthens several elements of California’s certification and in-use programs to ensure that NOx emissions are significantly reduced throughout the entire useful life of the vehicle or engine. These revisions include tighter emission standards, revamped in-use testing requirements, a new low-load certification test cycle, more robust durability procedures, and longer emission warranties to ensure defective parts are rapidly repaired. As California’s experience demonstrates, the emissions standards contained in the Omnibus Regulation can be achieved by existing compliance technologies at reasonable costs amounting to only a small fraction of the purchase prices of new engines and vehicles.⁸

NOx standards for heavy-duty vehicles are necessary measures to assist the States in meeting their State Implementation Plan (SIP) commitments under the National Ambient Air Quality Standards. California’s Omnibus Regulation constitutes the single largest NOx control measure in its current SIP strategy to attain national ambient air quality standards, and is

³ *Id.*

⁴ *Id.*

⁵ *See, e.g.*, U.S. EPA., Integrated Science Assessment (ISA) for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter Ecological Criteria, at pp. ES-7 to ES-22 (Final Report, Sept. 2020), EPA/600/R-20/278; U.S. EPA, Integrated Science Assessment (ISA) for Oxides of Nitrogen – Health Criteria, at pp. 1-15 to 1-30 (Final Report, Jan. 2016), EPA/600/R-15/068.

⁶ CARB, Staff Report, Initial Statement of Reasons for Heavy-Duty Omnibus Regulation, at pp. ES-2 to ES-3, ES-17 (June 2020), available at <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hdomnibuslownox/isor.pdf> (Omnibus ISOR).

⁷ “EPA Announces the Clean Trucks Plan,” *supra* note 2, at pp. 3-4.

⁸ *See, e.g.*, Omnibus ISOR, *supra* note 6, at p. ES-15.

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expected to provide statewide NOx emission benefits of approximately 23 tons per day (tpd) in 2031. These NOx reductions, equivalent to taking 16 million light-duty cars off the road, will result in roughly 3,900 avoided premature deaths and 3,100 avoided hospitalizations statewide over the life of the rule.⁹

Equally strong federal standards are urgently needed nationwide to protect our air and especially our environmental justice communities. As heavy-duty vehicles and their pollution travel across state lines, States cannot tackle this problem alone. For instance, heavy-duty trucks are responsible for 20 percent of the NOx pollution in northeastern and mid-Atlantic states. Even with its Omnibus Regulation, California is relying on new federal 2027 NOx heavy-duty vehicle standards to achieve significant further NOx reductions (28 tpd statewide in 2031); indeed, federally certified heavy-duty vehicles account for over half of the total miles traveled by heavy-duty vehicles in California. And whether or not they adopt California's standards, other States are likewise counting on strong nationwide regulation from EPA to protect public health, ensure environmental justice, and assist the States in achieving federal and state pollution standards. Like the Omnibus Regulation, EPA's 2027 standards must significantly reduce truck emissions, including during low-load conditions, and hence protect human health and benefit the communities disproportionately impacted by truck emissions.

We understand that EPA will soon release its Notice of Proposed Rulemaking for 2027 NOx standards as part of its Clean Trucks Plan, with a goal of finalizing standards by December 2022. We urge EPA not to delay this important rulemaking for any reason, but to act swiftly to put into place strong, comprehensive standards as stringent as California's Omnibus Regulation and as protective of our most vulnerable residents.

Respectfully yours,

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⁹ *Id.* at pp. ES-12 to ES-13.

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