



October 8, 2020

Via electronic mail

Catherine R. McCabe
Commissioner
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0420

***Re: California Heavy-Duty Engine and Vehicle Omnibus Regulation, NJ PACT
Stakeholder Meetings, September 10, 2020***

Dear Commissioner McCabe,

On September 10, the DEP hosted stakeholder meetings to discuss the California Heavy-Duty Engine and Vehicle Omnibus Regulation as part of the NJ Protecting Against Climate Threats (PACT) process. On behalf of its members, New Jersey Sierra Club hereby submits additional feedback on some of the questions raised at those meetings. The California Air Resources Board (CARB) formally adopted the regulation on August 27, 2020. We submit this letter together with a comment letter on the various Zero Emission Vehicle truck regulations recently finalized or proposed by CARB.

I. Background

Mobile sources are the largest cause of ozone precursors in New Jersey, and represent 71 percent of the state's nitrogen oxides (NOx) emissions, as well as particulate matter. NOx is a precursor to ground-level ozone. Ozone and particulate matter pollution cause respiratory and heart disease and even premature death. Heavy duty trucks are a significant contributor to this pollution, particularly in overburdened communities. The NJ DEP has indicated that there are about half a million heavy-duty vehicles registered in the state. Reducing NOx emissions from heavy-duty trucks is a critical component for New Jersey to meet the National Ambient Air

Quality Standards (NAAQS) for conventional air pollutants. Ultimately, New Jersey needs to transition to electric medium- and heavy-duty trucks to tackle climate change and significantly reduce conventional air pollution.

As part of its Mobile Source Strategy, CARB recently adopted low NOx engine emission standards that will result in a 90 percent reduction in NOx emissions when compared to the emissions of existing diesel engines. The new regulation tightens the heavy-truck NOx standard from 0.20 grams per brake horsepower hour to 0.050 g/bhp-hr from 2024 to 2026, and to 0.020 g/bhp-hr in 2027. It also strengthens the PM2.5 emission standard for heavy-duty engines of 0.01 g/bhp-hr to a standard of 0.005 for 2024 and subsequent model-year engines. CARB adopted this measure to help attain the ozone NAAQS in the South Coast and San Joaquin Valley air basins in 2031, and PM2.5 standards in the next decade.

The EPA NOx standard for heavy-duty trucks is 0.2 g/bhp-hr, and it was last updated in 2001. Last year the administration announced that it would propose a regulation to strengthen the standard, but no proposed rulemaking has been published to date. Sierra Club supports a standard of 0.020 g/bhp-hr in 2027, similar to California's recently enacted regulations.

II. Adopting CARB's low NOx regulation for heavy duty engines

Section 177 of the Clean Air Act authorizes any state that has an approved NAAQS implementation plan to adopt and enforce emission standards for new motor vehicle engines that are identical to California's standards for which EPA has granted a waiver. The state must adopt such standards at least two years before commencement of the relevant model year. 42 U.S.C. § 7507. The NJ DEP can incorporate California's emission standards by reference since 2006. The New Jersey Air Pollution Control Act provides that all applicable new California regulations are adopted into this subchapter by this automatic process. N.J. Admin. Code § 7:27-29.13(b).

CARB finalized the regulation at the end of August, but has yet to request a waiver of preemption from EPA. Because New Jersey would be required to give truck manufacturers two years' lead time under the Clean Air Act, we encourage the NJ DEP to begin a rulemaking process as soon as CARB undertakes its process to obtain a waiver of Clean Air Act preemption from EPA.

A. Lead time

The NJ DEP has asked for comment on how much additional lead time it would need to provide if it adopted this regulation. We reiterate our comment on lead time for the implementation of the Zero Emission Vehicle truck regulations that NJ DEP is currently considering. The agency should only provide for two years' lead time, as required under Section 177 of the Clean Air Act. These heavy-duty NOx engine standards complement the Zero Emission Vehicle regulations (in particular the Advanced Clean Trucks Regulation) by cleaning existing diesel trucks as we

transition to zero-emission trucks. No additional lead time is required to allow the development of technology so that engine manufacturers are able to comply with the rules.

B. Enforcement

The NJ DEP has also requested comment on enforcement of the regulation, as engine certification is under CARB's purview. The NJ DEP would not be able to certify these engines but should work with sister agencies to prevent the sale of non-certified engines in the state.

Engines certified in California are known as California-certified, and engines certified in other states, which comply with EPA engine standards, are known as 49-state certified engines. Engines certified to both California and EPA standards are known as 50-state certified. Engines cannot be sold in California unless they obtain a California or a 50-State certification for that model year. If the NJ DEP adopts the California low NOx standard, it should not permit the sale of 49-state certified engines in the state. CARB issues an executive order containing the emission standards when it certifies an engine family. The EO tells the emission standard and service class for that engine family. Each new year manufacturers must recertify their engines by engine family and service class, which leads to the publication of a new executive order. The list of certifications and executive orders is available in CARB's website www.arb.ca.gov/msprog/onroad/cert/cert.php.

Thank you for your consideration.

Sincerely,

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