



October 24, 2022

Michael S. Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: *California's Waiver Requests for the Advanced Clean Trucks, Zero-Emission Airport Shuttle, and Zero-Emission Power Train Certification regulations, Docket No. EPA-HQ-OAR-2022-0331, Omnibus Low-NOx regulation, Docket No. EPA-HQ-OAR-2022-0332, and Heavy-Duty Vehicle and Engine Emissions Warranty and Maintenance regulations, Docket No. EPA-HQ-OAR-2022-0330*

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Connecticut  
Delaware  
District of Columbia  
Maine  
Maryland  
Massachusetts  
New Hampshire  
New Jersey  
New York  
Pennsylvania  
Rhode Island  
Vermont  
Virginia

Dear Administrator Regan:

The Ozone Transport Commission (OTC)<sup>1</sup> urges the U.S. Environmental Protection Agency (EPA) to promptly grant waivers for California's heavy-duty (HD) truck regulations in the above-referenced dockets. Further delay could undermine state actions to achieve deep pollution cuts from diesel trucks and to transition to zero-emission vehicles, which are needed to attain air quality standards, protect communities from localized air pollution, and meet climate goals.<sup>2,3</sup>

The federal Clean Air Act gives California the unique authority to set its own more stringent emission standards for new motor vehicles and allows other states to adopt standards identical to California's, rather than those set by the federal government. The effect of these provisions is that the nation has two separate standards for motor vehicle emissions – federal standards and California standards. However, California's standards are not enforceable unless EPA grants a waiver of preemption.

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Paul J. Miller  
Executive Director

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<sup>1</sup> The OTC is a multi-state organization created under the Clean Air Act to advise the EPA on ozone transport issues and to address ground-level ozone problems in the Northeast and Mid-Atlantic region. OTC members include Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia.

<sup>2</sup> See, Statement of the Ozone Transport Commission Regarding the Need to Accelerate Electrification of Medium- and Heavy-Duty Vehicles (adopted by the Commission on June 2, 2020),

[https://otcair.org/upload/Documents/Formal%20Actions/OTC%20Statement%20on%20MHD%20ZEVs\\_20200602.pdf](https://otcair.org/upload/Documents/Formal%20Actions/OTC%20Statement%20on%20MHD%20ZEVs_20200602.pdf).

<sup>3</sup> See also, OTC's previous comments in support of EPA granting the California waivers submitted to the all three dockets and available at

<https://otcair.org/upload/Documents/Correspondence/Final%20OTC%20MSC%20comments%20on%20CA%20waiver%20requests%2020220802.pdf> (August 2, 2022).

The statutory criteria for granting a waiver of federal preemption are straightforward, and the waiver submittals by the California Air Resources Board (CARB) clearly and unequivocally demonstrate that its HD truck regulations meet the criteria to obtain a waiver under Section 209(b) of the Clean Air Act. Rather than reiterate the points already made by CARB, the purpose of this letter is to emphasize the benefits of expeditiously granting the waivers.

California's HD truck regulations are designed to significantly reduce emissions of criteria pollutants and greenhouse gas (GHG) emissions. For example, in California, the Omnibus and Advanced Clean Trucks regulations are expected to reduce oxides of nitrogen (NO<sub>x</sub>) emissions by about 400,000 tons from 2024 through 2050, which translates to approximately 5,500 avoided premature deaths and 4,500 avoided hospitalizations. These regulations are critical to protecting public health and welfare and meeting legal obligations, such as attaining that National Ambient Air Quality Standards (NAAQS) for ozone. Delaying implementation by even a year would hinder California's ability to stay on track to meet air quality and climate commitments, cause regulatory uncertainty, and impede other states in addressing their own air pollution challenges.

Within the Ozone Transport Region, on-road HD trucks are a major contributor to NO<sub>x</sub>, the key ozone precursor on a regional scale during the summer, and over 35 million people reside in areas that violate the ozone NAAQS. The OTC members have worked collaboratively to address regional NO<sub>x</sub> emissions with much success, but violations of the 2008 and 2015 ozone NAAQS stubbornly persist. In fact, EPA recently "bumped up" the nonattainment status for both these standards in a number of large metropolitan areas within the Ozone Transport Region after they failed to attain by their previous statutory deadlines.<sup>4</sup> This reinforces the need for further NO<sub>x</sub> reductions, including the option to adopt the California HD truck rules.

While ozone is largely a summertime issue in this part of the country, NO<sub>x</sub> is also a year-round problem due to its role in producing secondary fine particulate matter (PM<sub>2.5</sub>) in the colder seasons. This can lead to localized air pollution "hot spots," with special concern for overburdened communities that are disproportionately exposed to traffic emissions. In addition, the transportation sector is the largest contributor to GHG emissions. Thus, reducing emissions from HD trucks is of utmost importance for addressing the region's persistent air quality problems, including ground-level ozone formation, harmful PM<sub>2.5</sub> emissions, winter-time visibility impairment in Class 1 areas, and climate change. CARB's HD truck regulations provide a valuable tool for states beyond California because the regulations will provide considerable reductions of emission of NO<sub>x</sub>, PM<sub>2.5</sub>, and GHGs, far beyond what is being implemented at the federal level.

Granting the waivers without delay will empower state action that will build a solid foundation for strong federal leadership. For over five decades, California has regularly used its authority under the Clean Air Act to become a "proving ground" for emissions standards, many of which have prompted EPA to adopt similar standards, especially when California's standards are adopted by other states, to align the federal and California programs. Indeed, the OTC hopes that California's HD truck regulations will provide the underpinning for EPA to adopt more stringent federal emission standards for trucks that can be harmonized with the California standards.

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<sup>4</sup> 87 Fed. Reg. 60897 (October 7, 2022) (reclassifying areas for the 2015 ozone NAAQS); 87 Fed. Reg. 60926 (October 7, 2022) (reclassifying areas for the 2008 ozone NAAQS).

In conclusion, the OTC urges EPA to expeditiously approve CARB's waiver requests to advance state action to address air quality challenges from truck pollution in their states, as contemplated by the Clean Air Act.

Sincerely,

A handwritten signature in black ink that reads "Kelly Crawford". The signature is written in a cursive, flowing style.

Kelly Crawford  
Chair, OTC Mobile Sources Committee  
District of Columbia Department of Energy & Environment

cc: OTC Air Directors  
Liane Randolph, Steven Cliff, California ARB  
Joseph Goffman, Alejandra Núñez, EPA OAR  
Sarah Dunham, William Charmley, Kayla Steinberg, EPA OTAQ  
David Dickinson, EPA TCD  
Lynne Hamjian, Cynthia Greene, EPA Region 1  
Richard Ruvo, Matthew Laurita, Kirk Wieber, EPA Region 2  
Cristina Fernandez, EPA Region 3