

July 8, 2024

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Regan.Michael@epa.gov

RE: Request for Waiver Action Pursuant to Clean Air Act Section 209(b) for California's "Omnibus" Low NOx Regulation, as Amended in 2023.

Dear Administrator Regan:

I am writing to request that the U.S. Environmental Protection Agency (EPA) grant California a waiver and authorization for its "Omnibus" Low NOx Regulation, as the regulation was adopted in 2020 and amended in 2023. The Omnibus Low NOx regulation is the single largest NOx control measure in California's current SIP, and will reduce NOx emissions in California by approximately 17.4 tons per day (tpd) statewide by 2031, and by 45.2 tpd statewide, by 2050. The 2023 Amendments to the 2020 Omnibus regulation do not affect its emissions benefits, but solely provide manufacturers additional compliance flexibility to during the 2024 through the 2026 model years, provided those manufacturers fully offset the emissions increases resulting from the new compliance options.

On March 1 and March 6, 2023, Cummins and the Truck and Engine Manufacturers Association (EMA), respectively, submitted supplemental letters contesting the 2020 Omnibus regulation's consistency with the requirements of Clean Air Act section 209(b)(1)(C), relating to the technical feasibility, costs of compliance, and adequacy of lead time of the emissions standards and accompanying enforcement procedures established by the Omnibus regulation. On March 10, CARB requested that EPA defer acting on the Omnibus waiver request for the 2020 regulation so it could work with industry and other stakeholders to review those late comments and to provide an appropriate response to EMA and Cummins' late comments.

CARB has successfully resolved the concerns expressed by EMA and Cummins, as evidenced by the fact that both EMA and Cummins have requested that EPA withdraw their submissions dated March 1 and March 6, 2023, respectively. Moreover, on July 5, 2023, CARB reached an agreement with EMA, the members of EMA that manufacture heavy-duty on-road vehicles and engines, and the Ford Motor Company. That agreement has been referred to as the Clean Truck Partnership (Partnership Agreement).¹ The Partnership

¹ Clean Truck Partnership Agreement, available at: https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf

Agreement specifies, in pertinent part, that EMA's members and the Ford Motor Company commit to meet in California the requirements of the 2020 Omnibus regulation as they existed on December 22, 2021, and as those requirements are modified by subsequent specified amendments to the Omnibus regulation, regardless of the outcome of any litigation challenging the waiver request for the Omnibus regulation, or CARB's overall authority to implement the Omnibus regulation. The Partnership Agreement further provides that EMA, its members, and the Ford Motor Company will not challenge CARB's issuance of the Omnibus regulation or challenge any EPA waiver issued for the Omnibus regulation.

I am therefore now requesting that EPA recommence its consideration of CARB's waiver request as expeditiously as possible for the 2020 Omnibus regulation, as that regulation was modified by the 2023 Amendments. I am enclosing our waiver analysis for the 2023 Amendments, which includes a description of California's most recent rulemaking action, a review of the criteria governing EPA's evaluation of California's request for waiver actions, CARB's analysis and rationale supporting our request, and supporting documents.

If you need additional technical information on this item, please contact Ms. Kim Heroy-Rogalski, Chief of CARB's Mobile Source Regulatory Development Branch, at kim.heroy-rogalski@arb.ca.gov. You may address legal questions to Alex Wang, Senior Attorney, at alex.wang@arb.ca.gov.

Sincerely,



Steven S. Cliff, Ph.D., Executive Officer

Enclosure

cc: See next page.

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bcc: Ellen M. Peter, Chief Counsel, Executive Office
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