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Dear Ms. Previte:

No one seriously doubts that the future of transportation in New Jersey and elsewhere will consist of low or zero carbon emission vehicles. With over 40% of the carbon emissions in New Jersey attributed to the transportation sector, this is an area that must be addressed in order to reduce our carbon emissions as required under the Global Warming Response Act.

We all agree that the trucking industry will eventually need to convert to zero or low emission vehicles. The only questions are how and when.

This rule purports to answer those questions by mandating the California Advanced Clean Truck (ACT) regulation to take effect in 2024. On both answers the Department is wrong and should rethink its proposal. Our comments below argue that it is better for both carbon reduction strategies and the economy to abandon this rule proposal, work to adopt a national standard for low- or zero-carbon emission trucks, and to allow alternative low-carbon fuels in the interim period until technology and costs make zero emission vehicle (ZEV) trucks practicable.

[Linkage to California Program](#) – When it comes to vehicle emission standards, a state has two options under the federal Clean Air Act (CAA). One, allow vehicles to comply with the federal standards as determined by the Environmental Protection Agency. Or, two, require the vehicle standards adopted by California, which was granted a special waiver under the CAA given California’s historic and unique air pollution problems. New Jersey has already adopted the California standards for passenger and light-duty trucks pursuant to enabling legislation passed in 2004. The Department is now seeking to adopt by reference the California Advanced Clean Truck program.

One of the problems with this approach is that under the CAA, any state that adopts the California program must do so in whole, without substantive change. New Jersey is seeking to adopt ACT and thus cannot make any changes to the program to address New Jersey specific concerns or circumstances. Even future changes to ACT adopted by California will automatically be incorporated into the New Jersey regulations and made mandatory as part of the Department’s regulations. We are tying ourselves to a system and regulatory program the details of which we do not know and cannot control.

California has shown in the past that its concerns are in state, not the rest of the nation. Their program design is set for what is best in California, without concern with any other state incorporating their vehicle standards. Thus, for passenger and light duty truck standards, California had several provisions, such as the travelling requirement and banking, that benefited California at the expense of every other state. That is one reason why California is far ahead of other states in EV adoption, even though many other states, including New Jersey, adopted the program shortly after California.

In very real terms, other states helped subsidize the EV program in California by incentivizing manufacturers to sell their vehicles in California rather than in other states.

The same may very well be true for ACT. Are there other provisions in ACT that will benefit California over other states? ACT is also geared toward the types of trucks, fleets, and transportation patterns unique to California. These circumstances do not apply as well to New Jersey, which is also a state with much more interstate traffic than California. How do these differences impact program effectiveness between California and New Jersey? How does the size difference change program efficiency?

As mentioned, the Department would be tied to any future changes made to the California program and would be without an ability to modify or deviate from that program. California may, as done in the past in the passenger vehicle program, change program implementation dates and requirements. These changes can have a significant impact on program effectiveness in New Jersey and we will have no option but to accept those changes.

For all the reasons listed above, NJBIA does not believe the Department should move forward with this rule proposal but should instead seek to adopt a program more in line with New Jersey needs.

National Standard – The Biden administration has placed climate change and carbon reduction at the top of its agenda. Given the role that transportation plays in greenhouse gas emissions at the national level, it is almost assuredly true that the Environmental Protection Agency will be taking aggressive steps to reduce carbon emissions from this sector, including for mid- and heavy-duty trucks.

New Jersey can have a significant role to play in helping to influence the federal government and tailoring a rule that will work better in New Jersey, and address our needs, than incorporation by reference of California ACT. A federal clean truck rule can be much more in line, and much more effective, than ACT. But if New Jersey opts into the California program, it will lose leverage to influence the EPA rules as well as the benefits inherent in a national program.

To date, no other state has adopted California ACT. It is important for the northeast region to act in a uniform manner given the significant interstate transportation of the region and the market for vehicles.

In 1994, the Legislature adopted standards as conditions for the Department to move forward in adopting the California EV program. Part of those conditions included regional participation. New Jersey should not go it alone among northeast states, but should instead

work together and have uniform standards. While it is possible that the rest of the region may also decide to adopt ACT, they have yet to do so. The Department should delay any such adoption until the rest of the region decides on a federal or California truck program.

We also believe that a federal program would allow for more program flexibility and would take better into account the needs of the states and nation, as opposed to ACT that is geared toward, influenced by, and controlled entirely (but for a need for a federal waiver) by California.

Technology Limitations – While we have all seen the commercials for the next generation of electric trucks and have seen Tesla and other advertisements promoting heavier duty EV trucks, the fact of the matter is the technology is not mature. It is possible that in the next several years to a decade that smaller delivery vehicles can be zero emission or electric and that they may work well, cost, and other issues aside. However, this is not the case for heavier duty trucks and may not even be the case for lighter duty trucks carrying heavy payloads.

We have talked to experts and read reports that discuss limitations on distance based on the payload or overall weight of the vehicle. Has the Department considered these technological challenges when it considered adopting ACT which has mandatory timeframes for vehicle sales? What happens if the technology is not available to support the needs of the vehicle owners? Given the fact that the regulatory program is entirely controlled by California, New Jersey will have no ability to adapt or delay program implementation. How would a manufacturer respond to a mandate for vehicles that either does not meet the needs of their customers or that no one wants to buy because of technological limitations or cost?

We have also heard that the range of these vehicles may be significantly lower than diesel or other internal combustion engines. This may result in a business needing to have multiple vehicles doing the work that one previously did with the need for multiple drivers. Has the Department considered this possibility or are they relying entirely on the California analysis? These issues were not at all addressed in the rule comments.

Fueling issues may also be a significant technological limitation on the adoption of heavy-duty trucks by businesses. New Jersey is a corridor and logistics state. Its truck transportation needs are not the same as California. Has any analysis been done to determine if vehicle range of ZEV trucks will meet the needs of the New Jersey trucking companies? What happens if they do not? Is it feasible for a truck to re-charge in places other than its designated fueling station? Will vehicle range issues result in logistics issues in the transport of goods and services? What impact will this have on the Port of New York and New Jersey, the largest port on the eastern seaboard and second largest port in the nation?

The Department should not be relying on regulatory standards set in California to determine the trucking standards applied in New Jersey, especially when to do so may not meet the business needs of truck owners and may harm New Jersey from a distribution, logistics, and interstate perspective.

Need for Additional Electrical Power – In the Summary section on economic impacts and costs, the Department discusses such additional costs as vehicle purchase and charging

stations. Nowhere in the Summary is there a discussion of the cost of providing additional electrical generation, especially as it relates to fleet owners. There have been estimates, even in the EMP, where the electrification of the transportation and building sectors will require a doubling or tripling of the state's electrical generation capacity. This will add enormous costs to the state, especially when you then add in the cost of transmission and distribution lines.

Moreover, for a truck, and especially for a fleet of trucks, it is not possible to merely put in place a charging station and pull electricity off the grid. These vehicles will pull enormous power requiring, at a minimum, upgrades to utility infrastructure such as transformers. Much more likely, especially in the case of vehicle fleets, and especially if those fleets will all be charging overnight, will be the need for major power sources on site specifically constructed to re-charge those vehicles. We have heard from some fleet owners that even a modest fleet will require a "mini power plant" to power those vehicles. The need for and the cost of those new power plants were not mentioned in the cost and were also not addressed as potential sources of carbon and other pollutants. While it may be possible for these power plants to be run on renewable energy sources, in all likelihood, from a cost and reliability perspective, they will run on natural gas. It is altogether possible that the construction of these mini-power plants may very likely be located urban, environmental justice communities thus creating more localized pollution sources. This result can be self-defeating to the Department's intention to decrease localized pollution in EJ communities.

Other fuel options – In addition to the option of a national standard as a method to reduce carbon and other emissions from trucks, the Department can also seek to encourage the use of alternative, lower carbon fuel sources. Use of renewable natural gas or compressed natural gas, as examples, can have immediate benefits because the technologies are readily available and affordable. Benefits can occur immediately, without the need for technological advances and the inherent flaws of the ACT program. As technology develops and electric or other zero emission vehicles become feasible, the Department can revisit the issue and perhaps adopt ACT at a later date or rely on a federal standard that will likely also contain a ZEV component.

Alternative fuels will also have the benefit of providing a fuel mix and allowing for transportation of goods to occur should we suffer another major power outage. Superstorm Sandy should have taught us a lesson on resiliency. For the better part of a week, or longer, much of the state was without electrical power. If our trucking fleets were dependent on electricity for their energy, the state would have been without a product and food distribution system. Emergency vehicles would have been out of commission, as would have solid waste removal, construction, and public safety vehicles. It is highly problematic to force all the trucking industry to be reliant on electrical generation.

No Purchase Mandate – While the ACT program places a mandate of manufacturers to sell their trucks, there is not a mandate for anyone to purchase them. If the vehicles are overpriced from a business perspective, if they do not meet business needs, or if there are other reasons why a business would want a diesel or other internal combustion engine instead of a ZEV, they will get one and not a ZEV truck.

Options for a business to avoid buying a ZEV include: purchasing before the mandate occurs, purchasing even after the mandate occurs since only a percent of vehicles need to be ZEVs (no level of manufacturing incentive can work program wide if the vehicles are not useful), holding on to their older vehicles longer, and, most significantly, purchasing the vehicle from another state without an ACT mandate. In fact, it is so easy for a business to buy a truck in another state and merely register it in New Jersey that the program will be ineffective at best. Even if a registration mandate were adopted at a later date (we do not know how that could even tie into a manufacturing mandate) it could easily be circumvented by moving fleets to another state and merely servicing New Jersey. Because this rule contains no registration requirement, the program is inherently flawed. The only sure thing is that the few in-state dealers of trucks will be put out of business through this mandate.

Lack of Any Meaningful Carbon Reductions – Most troubling of all is that the Department is attempting to totally disrupt the trucking industry in the state, and thus the distribution and logistics network, without gaining any significant benefit for the state in reducing carbon emissions. New Jersey emits roughly 40 million metric tons of CO<sub>2</sub> each year from its transportation sector. This is just under 40% of the state's total carbon emissions. Yet, this major rule proposal with such enormous economic impacts and disruption is expected to result in only 0.44 MMT/year CO<sub>2</sub>e in 2040. Cumulatively it will result in only 2.6 MMT CO<sub>2</sub>e by that date. Thus, the rule will reduce transportation carbon emissions from the transportation sector by only 1.1% by 2040. If we consider our total carbon output as the base, this rule will only reduce carbon emissions by less than 0.5%. Surely there is a better way to reduce carbon emissions from the transportation sector.

Inadequacy of Economic Impact Analysis – The Department's economic impact analysis is totally dependent on the analysis performed by California Air Resources Board (CARB) as part of its ACT rule making. Other than make adjustments for vehicle miles travelled and population, the Department made no attempt to understand the specific impacts to the New Jersey economy given its population density, differences in vehicle travel patterns and usage, lower fuel costs (thus largely negating the high benefits California attributes to this cost), and vehicle ownership (New Jersey has far more independent truckers than does California which has more fleet and union-based trucking). Without undertaking a New Jersey specific analysis, the economic analysis in the Department's proposal is fundamentally flawed.

Legal Authority to Adopt ACT – We cannot find anywhere in the Air Pollution Control Act where the Department has the authority to adopt the California Act program. As mentioned above, when the Department adopted the California passenger vehicle and light duty truck program, it did so with the authorization of a statute passed by the Legislature. Nothing in the Global Warming Response Act gives the Department additional regulatory authority, but rather it only directs the Department to use its existing authorities to achieve a certain policy outcome. We believe the Department is without the authority to adopt this proposal absent specific legislative authorization.

Legal Authority for Reporting Rule – We also believe the Department is without the legal authority to adopt the reporting rule. Trucks are not currently regulated directly by the Department, nor are the businesses that own those trucks. We would venture to guess that the majority of truck owners in this state have no regulatory connection to the Department. Yet, the Department believes it has the legal authority to require any business

or truck owner in the state to submit documentation to it under penalty of law. We would suggest that the Department obtain any such information it wants by asking for it from the Motor Vehicles Commission which maintains records of truck registrations. In the alternative, the Department can seek to amend the law to give it this authority.

Thank you for the opportunity to comment.