



August 1, 2008

The Honorable David Paterson  
Governor of New York State  
Executive Chamber  
New York State Capitol  
Albany, NY 12224

Re: Chapter 629 of 2006, the *Diesel Emissions Reduction Act of 2006*.

Dear Governor Paterson:

As a coalition of environmental and public health groups, we write to urge immediate implementation of Chapter 629 of 2006. According to the timelines established by the law, all state owned heavy duty vehicles (used in on-road and off-road applications) and those under contract with the state are required to use ultra-low sulfur diesel fuel (ULSD) beginning in February, 2007. Additionally, it requires that 33 percent of all such vehicles be fitted with best available retrofit technologies to reduce tailpipe emissions by December 31, 2008.

It has now been two years since the legislation was signed into law; however, enacting rules have not yet been promulgated. The bill required the Commissioner of the Department of Environmental Conservation (DEC) to enact rules to govern which technologies shall be considered best available retrofit technologies. Under the rules, the commissioner would have the ability to address any issues that might arise should installation of Best Available Control Technology run afoul of any vehicle warranty provisions. The bill also required DEC to submit a report to the Legislature on or before January 1, 2008 and every year thereafter on the use of ULSD and the use of retrofit technologies. None of these items has yet occurred.

The law established the following schedule for installing the retrofit technologies: not less than 33 percent of all vehicles by December 31, 2008; not less than 66 percent of all vehicles by December 31, 2009; and, not less than 100% of all vehicles by December 31, 2010.

Implementation of this law will greatly reduce the health effects associated with diesel pollution and the costs we all bear to treat them. In fact, according to the New York State Department of Health, the typical hospital bill for a person on Medicaid who is hospitalized for an asthma attack is \$9,500, which is more than a diesel particulate filter (DPF) would cost. Thus, if each DPF installed provides enough clean air to avoid just one asthma-related hospital admission, then the legislation pays for itself. Furthermore, this law will increase economic opportunities for companies in New York State who currently make diesel emission reduction technologies.

The bottom line with this law, as with all clean air measures, is that the benefits to the State far outweigh the costs and administrative issues it might create.

Our organizations strongly urge immediate implementation of this law. It will reduce exposure to a pollutant shown by a wealth of science to trigger asthma attacks; linked to heart attacks, cancer and even premature deaths in seniors; and, is associated with ambient levels of both ozone and fine particles.

Air pollution levels in New York State can be so high that they can cause people to become sick and they can cut lives short. Further, air pollution problems and their attendant health threats have become serious statewide issues. Millions of New Yorkers are at-risk. In fact, according to the EPA, 89 percent of the state's population lives in a county where air quality does not attain federal health standards.<sup>i</sup> In addition, the EPA has declared the counties of Suffolk, Nassau, Queens, Kings, Richmond, New York, Bronx, Westchester, Rockland and Orange in "non-attainment" for fine particles.<sup>ii</sup>

The American Lung Association's *State of the Air 2008* report found that from Buffalo to Bayport, and from Staten Island to Saratoga millions of New Yorkers are being forced to breathe unhealthy air. For most of the state, there truly is no escape for New Yorkers whose health is impacted by air pollution.<sup>iii</sup>

Diesel emissions remain a particularly troublesome health threat. They are a contributing factor to the ozone problems facing so many New York communities and are a big reason why the New York City metro area has such a problem with fine particles. In fact, New York State has the highest number of deaths and the greatest rate of disease associated with diesel exhaust particles.<sup>iv</sup> The New York City metropolitan area leads the nation in total deaths, cancer deaths, and heart attacks associated with diesel emissions. Unlike many areas of the country, the health effects associated with diesel pollution in New York are even greater than those associated with power plant fine particle pollution.

Researchers have determined that living in a city with high levels of sulfate particle pollution (diesel exhaust being a prime contributor) and breathing such polluted air can pose a significant risk for lung cancer.<sup>v</sup> The largest source of sulfate particles in the United States is the power generating industry, but in New York diesel is the bigger culprit.

We applaud your long history in the fight to improve New York’s air quality. However, New York State continues to lead the nation in the number of deaths and disease caused by diesel exhaust. The time is now to implement this law: for the millions of New Yorkers who struggle to breathe every day, implementation of this law cannot come soon enough.

If you would like to discuss our position in greater detail, please feel free to contact Michael Seilback, Vice President, Public Policy & Communications of the American Lung Association of New York, at (631) 265-3848x16 or via email at [mseilback@alany.org](mailto:mseilback@alany.org)

Sincerely,

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American Cancer Society

Marcia Bystryn  
New York League of Conservation Voters

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We Act for Environmental Justice

Andrew Darrell  
Environmental Defense Fund

cc: Charles O’Byrne, Secretary to the Governor  
Judith Enck, Deputy Secretary for the Environment  
Paul DeCotis, Deputy Secretary for Energy  
Terryl Brown Clemons, Acting Counsel  
Commissioner Alexander “Pete” Grannis, Department of Environmental Conservation

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<sup>i</sup> <http://www.epa.gov/air/oaqps/glo/designations/regions/region2desig.htm>

<sup>ii</sup> <http://www.epa.gov/pmdesignations/regions/region2desig.htm>

<sup>iii</sup> See <http://www.alany.org/atf/cf/%7B3ADABC12-D6E0-407C-9464-9209C6DB0D0E%7D/NYS%20SOTA%202008%20--%20Handout.pdf>

<sup>iv</sup> See [http://www.alany.org/atf/cf/%7B3ADABC12-D6E0-407C-9464-9209C6DB0D0E%7D/Diesel\\_Health\\_in\\_America.pdf](http://www.alany.org/atf/cf/%7B3ADABC12-D6E0-407C-9464-9209C6DB0D0E%7D/Diesel_Health_in_America.pdf)

<sup>v</sup> Pope, C. Arden et al., *Journal of the American Medical Association*, “Lung Cancer, Cardiopulmonary Mortality, and Long-term Exposure to Fine Particulate Air Pollution,” March 6, 2002, Vol. 287 No. 9 pp 1132-1141