



March 10, 2023

Mr. Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
EPA Docket Center  
Docket ID No. EPA-HQ-OECA-2022-0981  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Attn: Docket No. EPA-HQ-OECA-2022-0981

Re: Comment and recommendations on the National Enforcement and Compliance Initiatives (NECIs) for Federal Fiscal Years (FFYs) 2024-2027

Dear Administrator Regan:

The Pennsylvania Department of Environmental Protection (DEP) appreciates the opportunity to submit comments on the NECIs to be undertaken by the U.S. Environmental Protection Agency (EPA) over the next four-year period of FFY 2024-2027. Per EPA's January 12, 2023 announcement, EPA proposes to eliminate two of the six existing initiatives from the FFY 2020-2023 cycle, continue four of the six existing initiatives, and add two new NECIs.

The DEP supports EPA's efforts to focus enforcement and compliance resources on the most serious and widespread environmental problems by developing and implementing national program initiatives, as identified in the NECIs. In addition, DEP believes EPA's priorities should focus on initiatives addressing nationally significant source sectors where EPA has the ability to do work that state and local agencies cannot perform. The EPA plays an essential role in implementation of the national regulations for mobile sources and fuels, which reduce air pollution from light-duty cars and trucks, heavy-duty trucks, buses, nonroad engines and vehicles, and their fuels. This is a source sector for which EPA has authority, expertise, and resources that its state and local partners do not.

Therefore, DEP opposes the proposed elimination of the existing 2020-2023 initiative for Stopping Aftermarket Defeat Devices for Vehicles and Engines and believes this initiative should be retained, continued and expanded in the 2024-2027 NECI cycle. States, including Pennsylvania, do not have the authority to implement or ensure compliance with the federal mobile source regulations, which are promulgated under Title II of the Clean Air Act (CAA). Therefore, EPA is responsible for direct implementation of this portion of the CAA. In providing oversight and enforcement of mobile source regulations and initiatives, EPA must take the lead on these issues because most states lack the expertise to handle, as well as the legal authority.

Secretary

Rachel Carson State Office Building | P.O. Box 2063 | Harrisburg, PA 17105-2063 | 717.787.2814 | [www.dep.pa.gov](http://www.dep.pa.gov)

Mobile source sector emissions are nationally significant, causing or contributing to elevated criteria pollutant levels and numerous other public health and environmental problems, particularly in urban settings with impacts on overburdened communities. Noncompliance with mobile source sector regulations and the associated excess emissions greatly exacerbates the harm from mobile source emissions.


According to a study by EPA's Air Enforcement Division, known sales of defeat devices for certain diesel trucks after 2009, and before 2020, resulted in more than 570,000 tons of excess oxides of nitrogen (NO<sub>x</sub>) and 5,000 tons of excess particulate matter (PM) over the lifetime of the trucks. EPA estimates that when a full delete occurs, NO<sub>x</sub> emissions rise by approximately 310 times, 1,140 times for non-methane hydrocarbons, 120 times for carbon monoxide (CO), and 40 times for PM. Emissions from even a single vehicle are significant. Since 2020, EPA has conducted investigations at approximately 23 Pennsylvania facilities that have resulted in enforcement action at 10 of these facilities, a high rate of significant non-compliance.

While great strides have been made in improving air quality in Pennsylvania and throughout the nation, Pennsylvania still faces challenges. Not all areas of Pennsylvania meet all federal National Ambient Air Quality Standards (NAAQS). Recently, the Philadelphia PA-DE-NJ ozone nonattainment area did not attain the ozone standard by its required attainment date resulting in its reclassification from marginal to moderate nonattainment. Historically, the urban areas of southeast and southwest Pennsylvania have faced the greatest challenges meeting the standards. The high traffic density and associated emissions in these urban areas affects significant numbers of communities already facing higher environmental burdens that impact vulnerable populations. Such communities are a focus for state and federal Environmental Justice efforts.

In summary, state and local agencies lack the necessary authority, resources, and expertise to ensure compliance with mobile sector regulations. Emissions from the mobile sector are nationally significant. Noncompliance can increase emissions from these sources by orders of magnitude, increasing the challenge for areas struggling to meet the NAAQS, particularly in urban areas with high traffic density. The excess emissions from noncompliant mobile sources exacerbate air pollution impacts on vulnerable populations in environmentally overburdened communities. For these reasons, DEP strongly encourages EPA to retain this initiative for the FFY 2024-2027 NECI cycle.

Thank you for the opportunity to comment. If you have any questions or comments, please contact Mr. Mark Hammond, Director of the Bureau of Air Quality, by e-mail at [mahammond@pa.gov](mailto:mahammond@pa.gov) or by telephone at 717.787.9702.

Sincerely,



Richard Negrin  
Acting Secretary