

Flynn's Truck Plaza LLC
307 Hartford Turnpike
Shrewsbury, MA 01545

March 26, 2021

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Dear Commissioner Suuberg:

I am writing with concerns about the implementation of the Transportation Carbon Initiative Draft Model Rule in Massachusetts.

We've been in the truck stop business since 1935, into the third generation now. There are well over 80 people employed at my location that are dependent upon interstate truck traffic. In 2020, we sold over 10,000,000 gallons of diesel fuel and over 3,000,000 gallons of gasoline. My facility provides fuel, food, showers and repairs to trucks. We have several hundred parking spots available to our customers. Interstate trucks come into our facility to buy fuel, because they need to take a mandated rest period, or because they are waiting to pick up or deliver a load. Trucking is strictly regulated and travel plazas help with that compliance, which ensures the safety of all highway users.

Throughout the rest of the country the travel plaza industry is dominated by national chains. In Massachusetts the majority of diesel fuel sales are through independent businesses. Massachusetts struggles with truck friendly facilities and has historically had trouble with locations for truck driver facilities along our major highways.

I am concerned that the adoption of the TCIP program in Massachusetts alone as opposed to a regional program as originally envisioned will harm commerce and create a safety issue in our state. I am also concerned with the application of the TCIP to interstate diesel fuel. Adopting the TCIP Draft Model Rule as currently written and only in Massachusetts will close my business and every other location selling interstate diesel fuel in the state. I am concerned that the TCIP will not reduce the consumption of diesel or the pollution in Massachusetts, it will only harm the Commonwealth in many unintended ways.

The TCIP is a well-crafted program that will reduce pollution and produce revenue to invest in communities hurt by climate change with respect to gasoline, BUT not with diesel fuel. Diesel fuel will still be consumed in Massachusetts; it just won't be sold here.

As currently configured the Draft Model Rule does not reflect the realities of trucking and the purchasing of diesel fuel. Diesel is an interstate market, gasoline is not. Under the International Fuel Tax Agreement (IFTA) that applies to trucking, every state's excise tax department recognizes this by basing each state's share of the revenue on miles traveled rather than where the fuel is purchased.

Gasoline is consumed by passenger cars whereas, diesel is consumed by heavy-duty commercial vehicles and their fuel buying is controlled by sophisticated fuel optimization programs. Trucking companies are constantly aware of, in real time, the diesel price at every fueling facility, and they

automatically route their trucks to the cheapest fuel. ⁱFor mere pennies a gallon a trucking company will require its drivers to leap frog a state.

Based on my own sales data, which is typical for a truck stop in Massachusetts, 80% of diesel fuel sales are to trucking companies based outside of Massachusetts. Massachusetts is a geographically small state, and with a range of over 1,000 miles per tank of fuel, it is very easy for a truck to bypass buying diesel in Massachusetts.

Gasoline sales will decrease, as designed by the TCIP, because of the price increase and the cap, but most importantly so will gasoline consumption. Gasoline consumption is well modeled under the TCIP, and there are viable alternatives that exist or will exist in the near future. Passenger car trips can be shifted to public transportation or electric vehicles, etc. Most gasoline consumers will not travel out of state solely to purchase gasoline, so avoidance of the TCIP cost is burdensome.

By definition, an interstate truck trip means that the vehicle is crossing state lines, and avoidance is easy. Most importantly, for Class 8 trucks there are no existing alternatives to diesel fuel. Because avoidance is so easy, sales will shift out of the state. The sales will shift to unregulated heating oil, or even out of the region entirely. However, the miles driven will remain the same.

In addition, intrastate trucking companies who are unable to buy fuel out of state will be at a competitive disadvantage, and they won't be able to compete with interstate companies buying out of state. Diesel will still be burned here, bought by out of state companies making the same deliveries in Massachusetts but routing their fuel around us.

As mentioned there are alternatives for passenger car trips, such as EVs, ride shares, mass transportation, etc. There are even viable alternatives for light duty commercial vehicles, such as EVs, but that segment of transportation often consumes gasoline as well and doesn't involve travel beyond a few hundred miles a day or the transport of heavy freight.

These alternatives do not currently exist for trucking. The technology to electrify interstate trucking is in development, but it will not realistically exist until some time after 2032.ⁱⁱ Widespread use of smaller range, alternative fuel vehicles will exist before then, but those solutions will not work for long range heavy-duty Class 8 trucks. With regards to "retrofit" solutions, there is no reliable technology which exists to convert Class 8 trucks to an alternative means of fuel. Even the "retrofit" of using biodiesel is not a workable replacement in Massachusetts yet. Massachusetts has promoted UCO feedstock, and this is not recommended by any current engine manufacturer.ⁱⁱⁱ In addition current engine manufacturers recommend a maximum blend of 5% biodiesel.^{iv} Trucks are a large investment and carriers have poured millions of dollars into new EPA compliant trucks. They cannot immediately abandon their investment. The easiest and most economical solution is for trucking companies to leave Massachusetts and not buy fuel here.

If Massachusetts adopts the TCIP as a stand alone state or even with a few other states, truck stops and travel plazas will have a diesel fuel product that no one will buy. If travel plazas no longer sell diesel fuel, they will close. This shift will happen quickly. The most economical use for their property will shift to something else before there is an alternative.^v

If travel plazas close, Massachusetts will have a huge safety issue with truck parking.^{vi} Anyone who travels the turnpike sees trucks stacked at every rest area. These trucks are jammed in at the rest areas solely because they didn't stop at a fueling facility in the state. The trucks at the rest areas aren't fueling

at them, but they need to take their DOT mandated breaks. The drivers need a safe place to park by law, and that is usually tied to fuel purchases.^{vii} Trucks are big, and land is expensive in Massachusetts. Even if truck stops and travel plazas were to charge for every parking space, it would not be economical to devote the land needed for just truck parking. About ¾ of the available truck parking spaces in Massachusetts are tied to fuel sales. The truck buys fuel and is allowed to park. Legally, trucks can only travel so many hours in a day, and if they aren't buying fuel in Massachusetts they will stack up at rest areas. If truck stops and travel plazas close, there will simply not be enough available real estate at the rest areas or anywhere else to safely park all the trucks in Massachusetts that need to stop due to their hours of service limitations.^{viii}

While 80% of our business is from out of state trucking companies, we do service local trucking companies as well. These local companies will be hurt, because of the competitive disadvantage of buying the TCIP diesel fuel. If these small local trucking companies close, there will be negative unintended effects.

Trucking provides a way out of poverty for immigrant and under served communities.^{ix} Local travel plazas and intrastate trucking companies are usually the initial step in that journey. A person can earn his commercial driver's license and work for a small local intrastate company. Then they can buy their own truck and become an independent operator. There is a critical need for truck drivers and immigration helps fill this need.^x Not only will these people be hurt by the lack of local trucking companies, they will be hurt by the lack of truck stops and travel plazas. Because they are a small business they rely on all the services of a local travel plaza much more than a national trucking company does.

Local independent operators access credit for fuel from local travel plazas. They need the repairs available at the local travel plaza. They utilize local truck stops for data services to communicate with shippers, receivers, and freight brokers. They use local truck stops and travel plazas to access cash through their fleet cards, many drivers are actually paid through their fleet cards. The drivers can't simply go to a bank or an ATM, because their pay is tied to a fleet fueling card. All the services provided are tied in to fuel, and if the fuel isn't being sold the services won't be there.

Also, the COVID-19 pandemic highlighted the critical role of truck drivers in delivering much-needed medical supplies and equipment as well as food to keep our nation's grocery store shelves stocked. We can't afford to force our local trucking companies to close their doors.

The goals of the TCIP are admirable. But as currently constructed the Draft Model Rule will put us out of the business of selling diesel fuel to trucks immediately, without a viable alternative for our business or our customers.

How can we work with the Massachusetts to ensure that we don't go out of business before there are viable alternatives? We want to see pollution reduced and revenue captured from diesel sales in Massachusetts, but the TCIP will not do that.

What are the possibilities to modify the TCIP Draft Model Rule? Are there options to to remove diesel fuel from the TCIP until such time as the program is truly regional? Could the TCIP credit system be based on miles traveled just like excise taxes. Could there be some sort of tax credit/relief system to subsidize the sale of diesel fuel until such time as the TCIP is truly regional or there is an alternative truck transportation fuel. What are the possibilities? Can Massachusetts help promote new technologies

such as renewable diesel to provide a viable transportation fuel? We ask that Massachusetts work with the truck stop and travel plaza industry to design a solution that works for everyone.

Sincerely,



Sean Flynn

i WWW.PROMILES.COM “What is Fuel Optimization and How Does It Work

“The goal is to save money by analyzing the amount of fuel in a tank at any given point along a route, the price of fuel along the route and the best places to purchase fuel based on these parameters. This can sometimes mean purchasing a minimum amount of fuel at one stop in order to have enough fuel available to make it to a better stop further along the route ... Prices be updated at least daily and have an average of over 4,000 prices each day.”

ii Fleet Owner Magazine 1/8/20 Electrification: How much progress can we expect in the next 10 years Neil Abt

“Eaton Corp ... projects that by 2030 battery electrics will account for ... as much as 6% of heavy-duty trucks.”

iii Detroit Diesel 2020 DDC-SVC-BRO-001 Section 6.2 Diesel Fuel Quality and Selection

“NOTE: Raw Vegetable Oil and similar triglycerides are not permissible in all DETROIT or MBE engines as a blendstock, additive, or contaminant”

iv Detroit Diesel 2020 DDC-SVC-BRO-001 Section 6.2 Diesel Fuel Quality and Selection

“NOTE: Please note that biodiesel fuel blended above B5 is not permissible in DD Platform or MBE engines”

v Boston Region Metropolitan Planning Organization Technical Memorandum, 10/6/16, Bill Kutner

“Most truck stops do not charge trucks to park during a mandatory rest break. They generate revenue through the sale of diesel fuel ... In order ... to be profitable, they must attract large numbers of trucks to the rest location.”

vi Boston Region Metropolitan Planning Organization Technical Memorandum, 10/6/16, Bill Kutner

“The issue of availability and adequacy of truck rest locations is a national problem. The 101 municipalities of the Boston Region Metropolitan Planning Organization (MPO) depend almost exclusively on trucks for their freight transportation needs, and so the truck rest location issues are important to the Boston region even if their scope is statewide or New England-wide. ...

vii Boston Region Metropolitan Planning Organization Technical Memorandum, 10/6/16, Bill Kutner

“A sleeper parked at an unofficial location, and to a lesser degree at unstaffed official locations ... signals the likely presence of a resting occupant and potential crime victim ... The problem of driver safety was recognized in the 2012 federal transportation authorization, Moving Ahead for Progress in the 21st Century ... widely referred to as “Jason’s Law” in memory of Jason Rivenburg, who was murdered in 2009 during a mandatory rest break at an unofficial but legal parking location.”

viii Boston Region Metropolitan Planning Organization Technical Memorandum, 10/6/16, Bill Kutner

“This practice is referred to here as “unofficial parking.” In many instances this is legal, such as on city streets or on the side of principal arterials ... it might be considered a traffic hazard insofar as large parked vehicles are an unexpected presence at these locations ... The resting truck will be there for a minimum of ten hours, effectively reducing the size of the road for that period. ... Illegal truck parking also poses a safety problem. Modern limited-access highways are designed with wide durable shoulders both on the main barrels and on the entry- and exit-ramps, but ... law enforcement personnel trying to maximize system safety face a dilemma. Motorists are expecting wide ramps, which parked trucks partially obstruct.

ix Fleet Owner Magazine, 6/11/17, Immigrant Truck Drivers Shh: We Don’t Talk About it

“The percentage of immigrant drivers is higher than that of the total percentage of immigrants in the U.S.”

x George Mason University Institute for Immigration Research Who’s Behind the Wheel? Immigrants Filling the Labor Shortage in the U.S. Trucking Industry, 2014, Zahra Sohail Khan

“The heavy and tractor-trailer truck driver occupation has been listed among the fastest growing occupations ... Given the relative importance of the trucking industry to the U.S. economy, it is essential to take account of the future challenges it faces ... the immigrant truck driver pool performs a vital role within the truck driver industry ...