



NEW YORK  
CITY BAR

**COMMITTEE ON TRANSPORTATION**

ROBERT M. BRILL

**CHAIR**

[brillesq@aol.com](mailto:brillesq@aol.com)

DANIEL B. FEINTUCK

**SECRETARY**

[daniel.b.feintuck@gmail.com](mailto:daniel.b.feintuck@gmail.com)

June 6, 2022

**BY ELECTRONIC MAIL**

New York State Climate Action Council  
Attn.: Co-Chair Doreen Harris (Pres. & CEO, NYSERDA)  
Co-Chair Basil Seggos (Com'r., NYS DEC)  
c/o NYSERDA  
17 Columbia Circle  
Albany, New York 12203-6399

**Re: Comment on the Draft Scoping Plan of the NYS Climate Action Council**

Dear Co-Chairs Harris and Seggos:

The Transportation Committee of the New York City Bar Association (“City Bar”) commends the Draft Scoping Plan (the “DSP”) of the New York State Climate Action Council (the “NYSCAC”) for its scope and vision of what a “Greener New York” could look like. However, the DSP does not address a major source of problematic air emissions – freight transportation. We respectfully urge the NYSCAC to include both the diversion of freight, particularly across the Hudson River, from road to rail and from road to marine transport, as well as the conversion of essential trucking to low emission, or no emission, equipment, among its areas of focus. These are two areas that the Climate Leadership and Community Protection Act (“CLCPA”) mandates for study.<sup>1</sup>

---

<sup>1</sup> See NYS Senate S6599 (June 18, 2019), signed into law by Governor Andrew Cuomo, July 18, 2018, <https://www.nysenate.gov/legislation/bills/2019/s6599>; see also <https://www.nyserda.ny.gov/About/Newsroom/2019-Announcements/2019-07-18-Governor-Cuomo-Executes-the-nations-largest-osw-agreements>. (All links last accessed on May 19, 2022.)

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

The Committee has for more than 30 years emphasized the relationship between reducing and eliminating pollution and carbon emissions, and improving, restoring, and creating transportation infrastructure for the movement of people and goods.<sup>2</sup> The Committee believes that increasing the movement of goods throughout the New York metropolitan area by rail and barge will have an immediate and direct impact on pollution and carbon emissions. In this regard, the Committee has consistently recommended reducing significantly the number of trucks traversing the George Washington Bridge. Numerous opportunities exist within the Greater New York metropolitan area to divert freight from roadways to rail and marine transport modes. Medium and heavy duty trucks generate one-quarter of the overall transportation emissions (which includes air, rail, marine and autos).<sup>3</sup> According to a recent New York City government freight policy report, “Heavy-duty diesel vehicles are responsible for roughly half of on-road tailpipe emissions in New York City, while representing a fraction of total vehicle activity.”<sup>4</sup> The same report also described that “27% of primary PM2.5 [fine particulate matter] emissions regionally come from heavy duty vehicles.”<sup>5</sup> What is more, diversion of trucks from NY state and local roads has other societal and economic benefits in the form of the reduction in 1) wear and tear on roads and elevated structures (resulting in lower government maintenance costs), 2) accidents, 3) congestion, 4) noise, 5) impacts on other users, and 6) water and air pollution.<sup>6</sup>

---

<sup>2</sup> The City Bar’s Committee on Transportation is comprised of attorneys, as well as engineers and other non-legal experts, with a wide variety of expertise in the movement of people and goods. We have been studying freight transportation issues for decades, and have participated in and/or issued numerous position papers and letters over the years on the topic. See, “For Whom the Bell Tolls: New York’s Mortal Crisis in Goods Movement,” *The Record*, New York City Bar Association, Vol. 46, No. 7, Nov. 1991. See also, Call for Hearing on BQE Replacement, April 16, 2021, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/bqe-replacement-call-for-hearings-1>; Letter to Governor Cuomo Offering Transportation Infrastructure Recommendations for the New York Forward Program, June 16, 2020, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/new-york-forward-program-transportation-infrastructure-recommendations>; Recommendations for the Trump Administration, April 28, 2017, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/2017-policy-recommendations-for-the-trump-administration>; Recommendations for the Trump Administration Regarding National Infrastructure, Feb. 22, 2017, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/recommendations-to-the-trump-administration-regarding-national-infrastructure>; Policy Recommendations for New York City’s Next Mayor, May 1, 2013; <https://www.nycbar.org/images/stories/pdfs/mayoralreport04302013>, p. 22.

<sup>3</sup> United States Environmental Protection Agency, “Fast Facts on Transportation Greenhouse Gas Emissions,” Pie Chart--2019 U.S. Transportation Sector GHG Emissions by Source (derived from Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990–2019, which is the national inventory that the United States prepares annually under the United Nations Framework Convention on Climate Change), <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions>.

For detailed information about the data behind the Pie Chart, see the US EPA Publication, “Fast Facts on Transportation Greenhouse Gas Emissions 1990-2019,” Office of Transportation and Air Quality, EPA-420-F-21-076, December 2021. The hyperlink for the pdf is found at the “greenvehicles” hyperlink cited above.

<sup>4</sup> Joint Report, NYC Economic Development Corporation and NYC Department of Transportation, *Delivering Green: A Vision for a Sustainable Freight Network Serving New York City*, December, 2021, p. 1; <https://www1.nyc.gov/html/dot/downloads/pdf/freight-vision-plan-delivering-green.pdf>.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> See “Heard on the Street: Truckers Get Slammed by Diesel Freight Train,” *Wall Street Journal*, April 8, 2022. See also, “Deliveries via the Thames; Bluer, Greener; Could Barges and Boats Substitute for Vans and Lorries?,” *The Economist*, April, 9, 2022, p. 44.

Government actions have a significant and direct impact on the ability to divert freight from road to rail and marine modes of transport. In many cases, state or local government entities contract directly for freight movement. In so doing, opportunities to reduce emissions by replacing trucking with rail or marine transport have been missed. For example, the New York City Department of Environmental Protection (“DEP”), despite its environmental mandate, continues to send over 60 trucks daily into New Jersey carrying de-watered sewage sludge, even though each of DEP’s de-watering plants have suitable marine access.<sup>7</sup>

In almost all situations, government entities control the transportation right-of-way. One notable example is the Metropolitan Transportation Authority (“MTA”), which controls rail lines and its portals for the interface between transportation modes. Another example is the New York City Economic Development Corporation’s control of almost all the industrial waterfront access points in New York City. And, of course, there is the vast rail and marine infrastructure of the Port Authority of NY and NJ (“PANYNJ”). Add to the mix how the MTA and PANYNJ control all of the pertinent bridges for truck traffic, and, hence, can regulate such traffic flow, it is clear how much power government entities have to regulate freight movement (by, for example, creating incentives and disincentives for different goods movement modes) and thereby dramatically affect climate change.

In this regard, in various metropolitan areas around the globe, a revolution in freight delivery is taking place on the streets that is promoting sustainability in different ways. In NYC, there is the DOT’s commercial cargo-bike pilot program, “A New Mode for Last Mile Deliveries in NYC,” that promotes the use of specially-equipped bikes for parcel deliveries.<sup>8</sup> And, although not necessarily sustainable in the traditional sense, but more sustainable than trucks, for-hire vehicles are increasingly being pressed into delivering packages. Pedicabs, rickshaws, bicycles with wheeled carts, and other small vehicles that can navigate crowded streets and/or take advantage of dedicated bicycle lanes also have proliferated, in part due to the demand for nimble, short-haul transportation. These and other innovations in sustainable vehicles and the movement of goods show that a more comprehensive freight plan for New York State and New York City is needed that takes into account this increasingly diverse transportation environment.

Of course, even with expanded rail and marine freight services, trucks will continue to play an essential role in goods movement. New York State can accelerate market trends toward adoption of lower-emission and electric-powered trucks through regulation, incentive programs, and support for statewide deployment of charging facilities for electric-powered commercial vehicles. Public policies also can promote smart siting of distribution facilities and intermodal terminals to reduce the distances required to move truck-borne goods from regional freight corridors toward their final destinations. While focusing on reducing emissions from existing trucks is important, as recently described at the March 24, 2022 virtual meeting of the Metropolitan

---

<sup>7</sup> See <https://www1.nyc.gov/site/dep/water/wastewater-treatment-system.page>.

<sup>8</sup> See <https://www1.nyc.gov/html/dot/downloads/pdf/commercial-cargo-bicycle-pilot-evaluation-report.pdf>.

Area Planning (“MAP”) Forum’s Multi-State Freight Working Group on Clean Freight Movement,<sup>9</sup> “[T]he greenest mile is the one never driven.”<sup>10</sup>

The Committee would welcome the opportunity to explore with the NYSCAC and its staff the views set forth above, and we stand ready to assist in whatever way we can.

Respectfully,

Robert M. Brill, Chair  
Transportation Committee

---

<sup>9</sup> The MAP Forum is a consortium of metropolitan planning organizations and councils of government in New York, New Jersey, Connecticut, and Pennsylvania that have signed a Memorandum of Understanding for the coordination of planning activities in the multi-state metropolitan region.

<sup>10</sup> See March 24, 2022 MAP Multi-State Freight Working Group Agenda and Power Point (PDF), <https://www.njtpa.org/Get-Involved/Info-Resources/Calendar/2022/March/Multi-State-Freight-Working-Group-Meeting.aspx>.