November 15, 2021

Lynne Cayting, Chief
Mobile Sources Section in the Bureau of Air Quality
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Rulemaking Comments for Chapter 128, Advanced Clean Trucks Program

Dear Ms. Cayting,

On behalf of the undersigned business groups, representing more than 15,000 member companies, we offer the following comments on the proposed adoption of Chapter 128 rules.

Collectively, we recognize, understand and agree with the desire to reduce greenhouse gas emissions and air pollutants from on-road mobile sources in Maine, which is the stated intent of this rule. Further, we acknowledge that adoption of this rule would impact truck manufacturers by mandating an increasing number of medium and heavy-duty electrified trucks in Maine. The reality, however, is that we have identified serious problems associated with adopting the California Advanced Clean Trucks (ACT) Rule with the aggressive deadlines set forth in the proposed rule.

PROCESS CONCERNS

We are disheartened by the fact that the Maine DEP did not involve stakeholders when considering the adoption of the ACT. Truck dealers, manufacturers, consumers/operators of commercial trucks – none of these stakeholders were involved. Making matters worse, this issue was not fully vetted through the proper Maine Climate Council subgroup where many of the knowledgeable people representing the impacted constituencies have been active and engaged participants for years.

We would also like to reiterate a point about the routine technical nature of these rules, an issue that was discussed at length during the public comment hearing on November 4th. It is our position that regardless of the application of the law, such a change to these rules should be done through the major substantive rulemaking process given the significant impact it will have on the Maine economy.

CHARGING INFRASTRUCTURE & GRID CONCERNS

With this proposal, there will be a substantial increase in electricity demand. Our transmission and delivery system will require enormous additional investment to support the new charging station infrastructure. A recent study of our nation's grid estimates $75–125 Billion will be needed to meet EV goals by 2030. We remain concerned that the northeast region (and Maine specifically) does not have charging infrastructure that is ready to meet demand, that this charging infrastructure may not be robust enough to meet the logistical needs of transporting goods by truck and that the electrical grid cannot support growth in electric vehicles.

None of this is to say that these challenges are insurmountable – after all, we did successfully transition from horse-drawn carts to motorized vehicles at one time – but they must be addressed within the same relative timeframes as the ZEV adoption goals included in the rule. It is unclear that utilities, regulators and technology providers will be able to meet the aggressive goals California has implemented that Maine is looking to adopt. We are concerned that the scope of the public and private investment needed to accomplish the desired outcome have not been fully considered. And that scope certainly has not been conveyed to business stakeholders.

OPERATIONAL CONCERNS

It is widely reported that shortages of computer chips and parts, as well as the rising cost of steel, aluminum and plastics, have exacerbated the current medium and heavy-duty equipment availability problems. In fact, there are huge backorders of HD trucks with over 279,000 trucks currently waiting to be built. If a customer ordered a new truck today, it wouldn't even be built until mid-November of 2022. The supply chain is in crisis now and adoption of the ACT with its aggressive mandate timetable will absolutely not make it better.

As mentioned by members of the Board during the public hearing, we are amidst unusual times. The price index for steel mill products jumped 111% from April 2020 to August 2021, and during that same time, the input costs for construction soared 27.8%.

Moving to electrification will come with challenges that should be discussed. For example, our state and nation must consider the tremendous national security challenges with locating, sourcing, and mining raw materials for battery technology. A global run on precious metals has escalated in recent years. The US ranks 15th in sourcing, while China ranks first with 80% of the world's refining capacity. It's imperative that the risks of dependency on foreign resources, especially those who have nefarious interests, be part of planning here in Maine.

Another operational concern has to do with fire safety when it comes to ZEV's. The National Fire Protection Agency has trained approximately 250,000 firefighters and emergency responders in the last twelve years on responses to EV incidents. That leaves nearly 80 percent of the more than 1.1 million firefighters nationwide left to train.

There are also a bevy of other practical concerns that have not been considered. ZEV availability, servicing equipment upgrades, finding/training technicians to maintain and repair them, hauling hazardous materials with ZEV's, plow truck and fire engine applications where attachments are currently run off engine PTO. There are also cold weather climate realities where there is an expected 40% range reduction during Maine winters. Seven in ten Maine homes rely on liquid heating fuels that have to be delivered by truck, often in the middle of the night to remote locations, to keep Mainers warm.

MAINE VS. CALIFORNIA

We are not in a position to comment on whether this is a good or bad idea for California because the reality is that the Maine market and the Maine economy is vastly different than that of California. The two states are in much different positions to weather the economic and practical implications of

such a move to ZEV sales thresholds. According to the US Bureau of Economic Data, Maine's 2020 GDP was miniscule in comparison – only 2.3% of California's GDP – with Vermont, Rhode Island, Wyoming, North Dakota, South Dakota, Montana and Alaska being the only states with a smaller GDP than Maine. Yet we look to hamper our economy by adopting California regulations.

A quick look at the California Air Resource Board's website shows the strength of California's robust economic activity with some significant rebates being offered to incentivize commercial ZEV adoption and sales. It bears mentioning that nothing in this rule addresses rebates for Maine consumers, which will likely differentiate CA's results when compared with Maine's results without such significant incentives.

The CARB website lists all zero-emission vehicles that are currently eligible for funding through their Hybrid And Zero-Emission Truck And Bus Voucher Incentive Project (HVIP). This list includes incentives for 6 separate models of Class 8 Battery Electric Tractors, each with a $120,000 rebate. HVIT also produces a Funding Finder Tool that is designed to help stakeholders search and filter for Medium-and-Heavy-Duty Alternative Fuel Vehicle and infrastructure programs in the state of California – 41 total programs with available program funds over $3.5 Billion. We would make the argument that Maine should only consider adoption of the California regulations if Maine also has the same relative incentives in place.

UNINTENDED CONSEQUENCES

As stated earlier, we agree with the objective of reducing greenhouse gas emissions and air pollutants from on-road mobile sources in Maine. However, there is a likelihood that a ZEV sales mandate on trucks sold in Maine will have the opposite effect, since many consumers of this equipment are portable and can purchase and oftentimes register trucks in other states. This will negatively impact Maine truck dealers and the Maine economy that would otherwise realize tax proceeds from vehicle sales – not to mention the negative implications for the Mainers they employ.

Another likely side effect contrary to the goal of improving the environment is that such a mandate, and the resulting equipment selection, may encourage longer vehicle life cycles for trucks currently in operation while ZEV technology and infrastructure catch up to real-world needs. The older the truck, the less emission-reducing technology it will have at a time when the objective is to improve air quality now. We should be encouraging adoption of more efficient equipment through voluntary adoption incentives, not restrictive mandates.

It also bears mentioning that, as vehicles get more efficient, there is a negative impact to the Maine Highway Fund. While this is not the forum to suggest, discuss or debate what should be done to address this concern, finding solutions to replace this prospective diminished revenue while vehicle miles being travelled remains consistent (or even increasing) is of paramount importance.

CLARITY CONCERNS

A component of the California rule is that companies and fleets have reporting requirements where retailers, manufacturers, brokers and others are required to report information about their shipments. Fleet owners, with 50 or more trucks, are required to report about their existing fleet operations, all for the purpose of helping to "identify future strategies to ensure that fleets purchase

available zero-emission trucks and place them in service where suitable to meet their needs." We have been assured by the Maine DEP that this reporting component IS NOT part of the Maine adoption and will not be included in the final rule. We mention it as a future concern now that California is moving ahead with broadening the program to include fleet ZEV adoption thresholds.

RECOMMENDATIONS:

ZEV's might be ready for some commercial applications before others and we suggest discussion of a targeted adoption strategy. For instance, vehicles that travel short distances and return to the same location after each shift and those that do not haul heavy loads might be the first adopters of this clean technology. But with truckload, less-than-truckload, bulk hauling, etc., equipment doesn't always end up in the same place after each use because it goes where it is needed to move freight for customers – thus presenting logistical, infrastructure and efficiency optimization problems. Therefore, if a fleet adopts ZEV's, they will only be able to be used in certain circumstances, in certain regions and for specific purposes depending upon the range and recharging infrastructure. There is no way to know whether the arbitrary sales thresholds as presented are too burdensome.

Also, according to the Maine DEP Rulemaking Fact Sheet, only Class 7 and 8 tractor credits can be used to satisfy Class 7 and 8 tractor deficits. The reasoning given was "to reduce emissions at ports and at other areas with high tractor concentrations". Maine does not have the same high tractor concentrations as are seen at the ports of Long Beach, Los Angeles, and Oakland where charging facilities and grid upgrades can be focused to accomplish ZEV goals. We would recommend removing this requirement.

For these reasons we support market-driven choices for voluntary commercial adoption of ZEV's when applications warrant it, not an arbitrary sales threshold that will impact the equipment sold in Maine and available to Maine companies, whether intended or not. For instance, will manufacturers pull back on Maine vehicle availability because they can't meet their targets? And will this mean they will also shrink their service and maintenance offerings as a result? This would be a highway safety concern that we would rather not leave to chance and one that would not need to be a concern if voluntary adoption was pursued instead. After all, if the cost of ZEV ownership is truly as rosy as the picture being painted, then truck owners will flock to the technology once the infrastructure investments have been made and the technology is proven effective.

CONCLUSION:

There are variations of two possible outcomes – the mandate is "successful" and 40-55% (depending upon class) of commercial vehicle truck sales are ZEV's, or the mandate "fails" and the sales thresholds are not met. In the case of "success", there is little doubt in anyone's mind that Maine's current electrical grid and charging capacity would be unable to serve the significant number of units in Maine's truck fleet without unfathomable investment, thereby creating further chaos in the supply chain. If the mandate "fails", manufacturers will have to pay for additional credits to meet the requirements, and those additional costs will have to be passed on to those purchasing all models of their trucks. Again, this would simply create additional chaos in the supply chain as well as an increased expense to consumers as transportation costs increase.

The undersigned Maine business groups and our members stand ready to be proactive forces for change when it comes to making reasonable, economical and realistic environmental progress now and in the future. However, adopting the proposed Chapter 128 rules is not the answer. Thank you for considering the concerns of the many employers represented in the list below.

Sincerely,

Associated General Contractors of Maine
HospitalityMaine
Maine Aggregate Association
Maine Asphalt Pavement Association
Maine Automobile Dealers Association
Maine Beer Wine Distributors
Maine Better Transportation Association
Maine Energy Marketers Association
Maine Farm Bureau Association
Maine Forest Products Council
Maine Jobs Council
Maine Motor Transport Association
Maine State Chamber of Commerce
Maine Tourism Association
Manufacturers Association of Maine
Mid-Maine Chamber of Commerce
National Federation of Independent Business – Maine
Professional Logging Contractors of Maine
Retail Association of Maine
Retail Lumber Dealers Association of Maine