

# MAINE MOTOR TRANSPORT ASSOCIATION

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*“The spokesman for the Maine Trucking Industry”*

**Submitted electronically to: [rulecomments.dep@maine.gov](mailto:rulecomments.dep@maine.gov)**

August 18, 2023

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 Maine Motor Transport Association (MMTA) and our 1,805 member companies, whose employees make up a large portion of the almost 34,000 people who make their living in the trucking industry in Maine, we offer the following comments on the proposed adoption of Chapter 128 rules.

As you know, the MMTA has been engaged in efforts to proactively reduce the trucking industry's impact on the environment. Whether through our commitment to the EPA's SmartWay Transport Partnership, our service on the Transportation Working Group of the Maine Climate Council, or supporting our industry's significant investments in clean diesel technology over the years, MMTA members are dedicated to playing an active role in a cleaner tomorrow.

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 intent of this rule. Further, we acknowledge the result of adopting this rule would impact manufacturers to encourage them to sell more medium and heavy-duty ZEV's. The reality, however, is that there will be impacts on the Maine trucking industry with changes to vehicle supply, availability, service and maintenance facilities, cold-weather climate realities, heavy industry specifications, and more. This in turn will have dramatic impacts on our supply chain and how goods are safely and efficiently moved in Maine.

The trucking industry wants to be an active participant in finding climate solutions, however, adopting these California standards is not the answer, at least not right now. We are firm believers in voluntary adoption versus manufacturing mandates in order to let the market drive innovation for the trucking applications that make sense.

At the onset, we would like to express our appreciation to Governor Mills, and specifically MaineDOT, GOPIF and the DEP, for making a sincere effort to listen to and understand industry's concerns with the early adoption of MHDV electrification. They convened a number of stakeholder group meetings where open dialogue was the rule and we feel we have successfully created a partnership as we strive to achieve the shared goal of cleaner air as it relates to transportation. We are grateful for this ongoing partnership but remain concerned with many of the issues this stakeholder group brought to the table.

**Can the Maine electrical grid handle additional demand** of not only Medium and Heavy-Duty Vehicles (MHDV), but also the demand from the proposed increases in ZEV sales from adopting the ACC II? Not only has this question not been answered to our satisfaction, but there is ample evidence that it likely cannot. Take California, for instance, where this rule originated. For the past three years, they have implemented “Flex Alerts” during periodic hot spells. To prevent power outages, they ask people and businesses to turn off lights and appliances, avoid charging their electric vehicles and preset their thermostats to 78 degrees, and it was especially important to do this after 4pm when solar power generation begins to diminish. We wonder what would happen in California if these voluntary “Flex Alerts” were to turn more serious and power was rationed – what would get shut off first? Disconnect electricity to homes or the electricity at truck depots, sacrificing food and supply deliveries to the communities they serve? According to news accounts, California had to deal with such choices in 2020 when they implemented rolling blackouts for 2-days that left about 400,000 households without power.<sup>1</sup> Until we are 100% sure that demand will be met, the safety and security of Mainers is too important to leave to chance, especially when we have an existing energy source and supply infrastructure to fuel existing clean diesel trucks.

The American Transportation Research Institute (ATRI) released a December 2022 study that looked at charging infrastructure challenges. What they found was this new concept of fleet electrification was going to require a large percentage of our existing electricity generation – meaning, we are going to have to generate considerably more electricity to meet the artificially mandated demand of MHDV ZEV adoption. For Maine, ATRI concludes that our state will need to generate 60.2% more electricity to meet ZEV travel needs just to stay on par with current non-transportation electricity requirements.<sup>2</sup> The only state less suited for ZEV adoption than Maine is Utah, who would need an extra 62.9% in electricity generation.

Given the future of ZEV’s in the MHDV space, it is obvious that **considerable investments will have to be made**. It is not clear who will pay for what and how much it will cost, but make no mistake that adopting this rule will have definite economic consequences. And it is Maine consumers and Maine taxpayers who will pay the price in the end because these huge costs – whether it is grid improvements, charging infrastructure or the significantly higher price of the equipment and added utilization costs – all of it has to be paid for somehow. Utilities won’t absorb the added generation and distribution costs. Municipalities can’t afford to bring infrastructure to fleet facilities without passing on the costs. Fleets can’t justify absorbing these costs, along with all of the other increasing inflationary costs of running a business, plus the 2x-3x cost of ZEV’s without passing it on to their customers. Who in turn will be forced to increase their prices to the consumer.

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<sup>1</sup> Brendan O'Brien and Scott Disavino. 2022. *Reuters*. August 17. <https://www.reuters.com/world/us/californians-asked-cut-power-use-extreme-heat-approaches-2022-08-17/>.

<sup>2</sup> Jeffrey Short, Alexandra Shirk, Alexa Pupillo. 2022. *Charging Infrastructure Challenges for the U.S. Electric Vehicle Fleet*. Atlanta: American Transportation Research Institute, Page 24. <https://truckingresearch.org/2022/12/charging-infrastructure-challenges-for-the-u-s-electric-vehicle-fleet/>.

California has multiple billions<sup>3</sup> being offered to incentivize ZEV adoption, but **nothing in this proposed rule requires such investments from Maine**. We understand Efficiency Maine is developing incentives to encourage MHDV adoption and we applaud them for this effort. But we further understand that the amounts being considered are insignificant in comparison. Do we think Maine will offer \$120,000 to \$240,000 rebates per MHDV unit like in California?<sup>4</sup> Probably not.

Speaking of incentives, it bears mentioning that MMTA and our counterparts all over the country are advocating a Congressional repeal of the 12% Federal Excise Tax (FET) that is paid on every new truck sold. And we are doing so with our industry's carbon footprint in mind. We see it as a serious disincentive to purchasing new clean diesel trucks with improved environmental technologies. But we see it as a **disastrous** disincentive for any truckers even thinking about adopting ZEV's. As a comparison, the FET on a \$120,000 clean diesel truck is high at \$14,400. But the FET on a \$350,000 ZEV is \$42,000. Which means that to adopt a ZEV instead of a clean diesel in this scenario, the up-front cost is \$230,000 MORE plus an EXTRA \$27,600 in ADDITIONAL taxes. So unless there are incentives offered that are close to the \$257,600 additional cost of the ZEV in this example, the difference will have to be paid by someone in the end – the trucking company, the truck dealer, the shipper or, more likely, the Maine consumer.

Further complicating Maine's adoption of the California Advanced Clean Trucks rule is the **likelihood of unintended consequences** not considered by the petitioners. As we saw in the aftermath of the COVID pandemic, the supply chain requires predictability and consistency to work at peak efficiency and, when that doesn't happen, chaos ensues. Adopting a new propulsion system with a brand-new refueling network that doesn't exist today needs to be done thoughtfully, cautiously and with care. Because the results will affect how we get consumer goods to market and into our homes, get food on our dinner tables and supplies to the critical services we rely upon like hospitals and schools. It also effects how our houses get energy for heat and whether our roads get plowed in the winter. Which is why we are such ardent supporters of voluntary adoption because the market is going to drive adoption once the challenges are overcome.

Another unintended consequence that we would argue is both foreseeable and avoidable is that adopting these California Truck Rules might just have the **opposite environmental effect** than is intended. If Maine adopts the ACT, while innovation and reliability catch up to real-world needs, this is definitely going to encourage longer vehicle life cycles. Which means trucking fleets are going to hold on to their older equipment longer because they can't afford to buy ZEV's – either they aren't suited to their application (like a logging trucker who hauls deep in the woods) or they just can't afford the extremely higher cost of the ZEV's and everything that goes along with charging infrastructure. We would argue this is counterproductive because 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.

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<sup>3</sup> 2023. *California Air Resources Board*. <https://ww2.arb.ca.gov/our-work/programs/truckstop-resources/zev-truckstop/incentives-funding>.

<sup>4</sup> California HVIP. n.d. Accessed August 11, 2023. <https://californiahvip.org/vehicle-category/heavy-duty/>.

It also bears mentioning that, as vehicles get more efficient, we need to consider **the impact to the Highway Fund**. While this is not the forum to suggest, discuss or debate what should be done to address this concern, the trucking industry recognizes our roads as our workplace as well as being a significant component to the overall economic prosperity for all citizens. Finding solutions to replace this prospective diminished revenue while vehicle miles being travelled remains consistent (or even increasing) is of paramount importance.

The petitioners have made it clear that the result of implementing this rule would be to have cleaner air and we support that goal. However, it is important to point out that **the trucking industry has made significant strides over the years to improve clean diesel technology**. Our members are now using trucks that have reduced tailpipe emissions by 98% compared to pre-2010 engines and it would take 60 of today's trucks to produce the emissions of a single truck back in 1988. And we have partnered with the Environmental Protection Agency on their SmartWay program where participating fleets have cut their CO2 emissions by 152 million metric tons, saving 357 million barrels of oil which is the equivalent of the annual electricity usage in 23 million homes.<sup>5</sup> But all of this has come at a cost with the added expenses of advanced aftertreatment systems, sensors and control systems, the added downtime for the problems we are still having with this equipment and the reduced fuel mileage as a result, and the added investments made to implement SmartWay strategies. But adopting ZEV's is a whole different can of worms. The difference is that this would be a new propulsion system that needs a brand-new energy source that doesn't have refueling infrastructure that exists now. For instance, it takes a clean diesel truck 15-minutes to fuel to be able to drive at least 1,200 miles. But it takes a BEV 10-hours of charging to be able to drive less than 330 miles... and then will need to recharge an additional three to four times with stops in duration of anywhere from 90-minutes to 8-hours each.<sup>6</sup> And that assumes there is a charging station where needed.

In many cases, however, **it takes 2 electric trucks to move the same freight that one clean diesel truck can haul** because of payload, range and refueling.<sup>7</sup> This significantly changes business operations, route optimization, and now trucking fleets will need to find another driver at a time where the trucking industry is experiencing a significant workforce shortage.<sup>8</sup> Not to mention that the cold weather, and we have plenty of it in Maine, can reduce a battery's charge by 40%<sup>9</sup> causing additional complications with logistics and routing not recognized by relying upon the consistent range of clean diesel trucks.

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<sup>5</sup>Clean Freight Coalition. n.d. *Our Progress*. Accessed August 11, 2023. <https://www.cleanfreightcoalition.org/>.

<sup>6</sup> American Trucking Associations. 2023. *California's Dream is Becoming America's Supply Chain Nightmare*. June 12. <https://www.trucking.org/news-insights/californias-dream-becoming-americas-supply-chain-nightmare>.

<sup>7</sup> Dominic Pino, National Review. 2023. *Electric Trucks Are Worse than Diesel Trucks*. May 25. <https://www.nationalreview.com/corner/electric-trucks-are-worse-than-diesel-trucks/>.

<sup>8</sup> Eva Tesfaye, NPR. 2023. *As the trucker shortage deepens, some groups are trying to make it easier to become a driver*. May 8. <https://www.kcur.org/2023-05-05/trucker-shortage-deepens-groups-look-for-solutions>.

<sup>9</sup> Tom Krisher. 2019. *AAA: Cold weather can cut electric car range over 40 percent*. February 7. <https://apnews.com/weather-general-news-04029bd1e0a94cd59ff9540a398c12d1>.

We also remain concerned about California's designed pivot from the Advanced Clean Trucks Rule to now adopting a companion **Advanced Clean Fleets (ACF) rule** – effectively mandating fleets to purchase an increasing percentage of ZEV's until all new trucks will have to be ZEV's starting in 2035. To be clear, this current rulemaking does not include any reference to the CA ACF, but it is a natural stepping stone for petitioners – whether the same as those advocating for the current rulemaking or someone different – should the BEP vote to adopt the CA Advanced Clean Trucks rules this year and they survive the inevitable legislative and legal challenges. Our consistent belief throughout this testimony is that such mandates before proper analysis, planning and execution will have untold detrimental impacts and we feel even stronger that this is the case with a fleet mandate as outlined in the ACF. And to those who have tried to assure us that Maine has no intention of adopting the CA Advanced Clean Fleets rules, there is nothing stopping petitioners from attaining the relatively low bar of 150 certified voter signatures to require rulemaking, and there is nothing this Board can do to limit the ability of future Boards to adopt such a rule.

Given these practical and reasonable concerns, we think it is clear that the Maine Bureau of Environmental Protection Board should not adopt the proposed Chapter 128 rules, at least not this year and certainly not regulating model year 2027 trucks. But we think there is a process reason to not move forward that has some merit as well. At the onset, we understand that this is correctly classified as Routine Technical rules given the legislature's abdication of the Major Substantive rulemaking designation for emissions regulations. However, we think it is debatable that this is proper and whether it ***should*** be classified as Routine Technical rules and whether it ***should*** undergo the full legislative process given their significance to the supply chain, the Maine economy and Maine citizens who rely on trucking. We doubt the legislature would agree that ***all*** citizen petition efforts requiring BEP rulemaking do not deserve legislative oversight and approval regardless of the magnitude of their impact on the economy and Maine people. We argue that sound public policy is not served very well either by this broad assertion. Outlandish examples are easy to envision as more than a few supporters at the August 17th Public Hearing suggested the CA ACT didn't go far enough.

The petitioners had the opportunity to bring a bill to the legislature advocating for such a change that will have a dramatic economic impact as outlined in our comments. They decided not to because it was more expedient to pursue such a major change through a little used petition process, knowing they only had to make their case to seven people (only needing four to agree with them) instead of the full legislature and the Governor. Again, we are not saying the petitioners don't have the right to collect signatures and ask for routine technical rulemaking, but we think this is an opportunity for the BEP Board to send a message to the petitioners that issues of this significance are more appropriate for the legislative process.

Another process reason not to adopt these rules now comes from the July 20<sup>th</sup> Board of Environmental Protection presentation. During the presentation the Public Utility Grid Plan process<sup>10</sup> was explained in the context of concerns that the Maine electrical grid cannot handle the additional demand from ACC II or ACT, let alone adopting both. We were unaware of this analysis and plan, but agree that it is a good idea to make sure our aspirational goals are supported by operational realities. Since the process is set to conclude in 2025-2026, we question the wisdom of implementing a manufacturer mandate for ZEV's

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<sup>10</sup> July 20, 2023 Board of Environmental Protection Presentation, "Electricity Supply, Grid Planning, and Workforce Development (Dan Burgess, Director of the Governor's Energy Office)"  
<https://www.maine.gov/tools/whatsnew/attach.php?id=11244309&an=2>

before we have the roadmap for the future of the grid and having some type of assurance that it will be ready and able to handle the considerable increase in demand.

We also believe that the Estimated Fiscal Impact of the Rule as outlined in the rulemaking fact sheet obscures the true financial impacts by referencing the cost of production, an unsubstantiated expectation that there will be a lower cost of ownership once battery prices come down and technology improves (whenever that will be), and a hyperbolic statement that the “predicted fuel savings are expected to be greater than the increased purchase price of ZEVs”. Not including the realities of the cost of grid improvements, the cost of charging infrastructure upgrades, creating inefficiencies in the supply chain, and the double (and sometimes triple) cost of ZEV equipment compared to its clean diesel counterpart, is a blatant attempt to avoid the obvious negative economic impacts. But at least the fact sheet admits manufacturing costs may be “fully passed through to purchasers” which negates the absurd argument that this will not impact fleets because it is a manufacturer mandate.

We agree that ZEV’s might be ready for some commercial applications before others and we would support 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 voluntary adopters of this clean technology. But with truckload, less-than-truckload, bulk hauling, logging, construction, 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 – which presents likely logistics problems, infrastructure problems and efficiency optimization problems. Which is to say that 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. Which means there is no way to know whether the arbitrary sales thresholds as presented are too burdensome.

Proponents at the hearing also painted the rosy picture that there was ample flexibility to transfer credits from one vehicle class to another, thus allowing MHDV ZEV’s to be used in applications where they are likely to be adopted first. While this might be true for the lighter MHDV classes, what they didn’t tell you is that only Class 7 and 8 tractor credits can be used to satisfy Class 7 and 8 tractor deficits which are the vehicles we can all agree will be the last to convert to ZEV’s because of weight, range and payload concerns. The reason for this prohibition, according to California, is 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.

Also, in the Maine DEP Rulemaking Fact Sheet, the comment is made that: *“The International Council on Clean Transportation modeled results using EPA’s Motor Vehicle Emissions Simulator (MOVES) of Maine’s adoption of the Advanced Clean Trucks (ACT) rule compared to a business as usual scenario. By 2050, implementing the ACT rule alone, will reduce CO2 equivalent emissions by 12%, NOx emissions by 13%, and PM2.5 emissions by 10%.”* We find the “business as usual” comparison to be misleading as it doesn’t account for continual improvements likely to be made in the next 27-years without adopting the ACT. The trucking industry is putting more and more clean diesel units on the road as older models are replaced and it is expected that without adoption of the ACT mandate, there will be some voluntary investments made in cleaner emission technologies such as hydrogen, CNG and even battery electric trucks. The market will drive such change if it is allowed to do so.

As always, the Maine Motor Transport Association and our members stand ready to be a proactive force for change when it comes to making reasonable, economical and realistic environmental progress now and in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Parke". The signature is fluid and cursive, with a large initial "B" and "P".

Brian Parke  
President and CEO  
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