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GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

Memorandum

To: Board of Environmental Protection

From: Jeffrey S. Crawford, Director, Bureau of Air Quality

Date: December 21, 2023

Re: Chapter 128, Advanced Clean Cars II Program—Petition for Rulemaking

On May 23, 2023, the Department received a citizen petition to initiate rulemaking pursuant to 5 M.R.S. § 8055. The petition was submitted by Emily K. Green of the Conservation Law Foundation, Matthew Cannon of the Sierra Club, and Jack Shapiro of the Natural Resources Council of Maine, and included the certified signatures of more than 150 registered voters. The petition proposed to adopt California’s Advanced Clean Trucks regulation to encourage the sale of electric medium- and heavy-duty vehicles greater than 14,000 pounds Gross Vehicle Weight Rating.

The Board initiated rulemaking when the Department presented the proposal to the Board and the Board voted during its July 20, 2023, meeting to post the proposed rule for a public hearing. The Secretary of State published notice of this rulemaking on July 26, 2023. The Board held a public hearing on the proposed rule on August 17, 2023, and the period for submitting public comments closed on August 28, 2023.

On October 24, 2023, the Board held a deliberative session for the purpose of providing staff with direction regarding next steps in the rulemaking process. Following a staff summary of the major comments received on this proposal, a majority of Board members supported taking no further action on the petition. During the October 24 meeting, the Board provided Department staff a number of reasons for deciding not to proceed with the rulemaking proposal, including:

- Maine lacks a comprehensive infrastructure plan to support medium- and heavy-duty charging needs and there is uncertainty regarding the number of available charging facilities to keep fleets adequately charged.
- Discomfort with the assumption that the marketplace will resolve outstanding issues with both the vehicles and charging infrastructure.
- Concern regarding the appropriateness of EV technology for large trucks operating in Maine (e.g., logging trucks, plow trucks).

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- A lack of confidence in the marketplace being able to deliver the number of trucks that would be required by the rule.
- Concern that medium- and heavy-duty EVs are significantly more expensive than their conventional counterparts, and Maine lacks both a plan and the financial resources to incentivize the program.
- The emissions savings resulting from the Advanced Clean Trucks Program are not as great as the potential benefits from light-duty electrification and are therefore not large enough to force medium- and heavy-duty electrification before the technology is mature.
- Concerned with changes to the ACT regulation for point of compliance being delivery for sale versus ultimate purchaser.