



August 2, 2023

To: Lynne Cayting Chief
Mobile Sources Section, Bureau of Air Quality
Department of Environmental Protection

From: David R. Clough – Maine State Director

Re: Proposed Rule – Chapter 127-A: Advanced Clean Cars II Program

This statement is on behalf of the thousands of small business owners in Maine who are members of the National Federation of Independent Business. Member businesses collectively span a wide range of economic activities; provide jobs and paychecks to about 30,000 people; and help form the economic backbone of their communities as well as Maine overall.

Chapter 127-A is a proposed rule initiated by the Conservation Law Foundation, Sierra Club, and the Natural Resources Council of Maine. As indicated in the rulemaking summary statement, the proposed rule establishes emission standards for new passenger cars, light-duty trucks, and medium-duty vehicles delivered for sale or lease in Maine, beginning with model year 2027, by incorporating the requirements of the California Advance Clean Cars II regulations.

Chapter 127-A is aimed at furthering greenhouse gas emissions reductions such that Maine can reach goals and carbon neutrality benchmarks stated in Section 576-A of Title 38, Maine environmental law.

Major Public Policy Question

None of the Title 38 statutes cited in the proposed rulemaking clearly or specifically direct the Board of Environmental Protection to adopt the California regulations – and nor do those citations clearly or specifically direct the BEP to adopt any regulation a reasonable person would consider imposes a substantive burden on Maine residents and small businesses. Both in terms of the likely impact on type and supply of both used vehicles and qualifying new vehicles for sale starting with model year 2027, it can be reasonably expected that proposed Chapter 127-A would result in a significant increase in the cost of doing business and living in Maine. Various news reports already indicate a growing affordability challenge for consumers of used or new vehicles.

Labeling the proposed rule as “routine technical” does not mean the content of the rule meets the statutory definition of “routine” versus “major substantive.”

Enormous Impact on Small Businesses

Chapter 127-A will have a variety of impacts on small businesses, their employees, and their customers. For example:

- Impact on the cost of replacing existing vehicles;

- Impact on the delivery range of compliant vehicles;
- Impact on commuting range of employee vehicles;
- Impact on access of business or personal services that are not nearby;
- Impact on rural economic development challenges of attracting jobs and residents;
- Impact on customers who live on fixed or limited incomes; and
- Impact on the price of goods and services purchased by a business or sold to a customer.

Some of the impacts may be experienced more acutely in areas that already experience high living costs – and areas that already experience significant challenges in attracting workers to staff existing jobs.

Recommendation

The Board of Environmental Protection should defer on adopting Chapter 127-A due to the likely significant economic and daily living impacts of the proposed rule – and lack of a clear and specific mandate from the Maine legislature. Otherwise, the BEP would be presuming a legislative intent that may not properly reflect the public policy wishes of the governor or legislators.