



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 128: Advanced Clean Trucks 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 128 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 on-road vehicles over 8,500 pounds gross vehicle weight rating (GVWR) by incorporating the requirements of the California Advance Clean Truck regulations.

Chapter 128 is aimed at accelerating sales of zero-emission vehicles and furthering greenhouse gas emissions reductions as indicated 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 trucks for sale starting with model year 2027, it can be reasonably expected that proposed Chapter 128 would result in a significant increase in the cost of doing business and living in Maine.

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 trucks;
- Impact on the delivery range of compliant trucks;

- Impact on access of business services that are not nearby;
- Impact on rural economic development challenges of attracting jobs;
- 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 living and business costs.

Recommendation

The Board of Environmental Protection should defer on adopting Chapter 128 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.