

Breton, Mary B

From: Cayting, Lynne A
Sent: Wednesday, August 16, 2023 1:30 PM
To: Townsend, Erle
Subject: FW: Reproposed Opt-In to CARB's Advanced Clean Trucks (ACT) Regulations

Importance: High

New ACT comment

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From: Timothy A. French <TFrench@clpchicago.com>
Sent: Friday, August 11, 2023 11:23 AM
To: Cayting, Lynne A <Lynne.A.Cayting@maine.gov>
Subject: Reproposed Opt-In to CARB's Advanced Clean Trucks (ACT) Regulations
Importance: High

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Dear Lynn: My name is Tim French and I am General Counsel to the Truck and Engine Manufacturers Association (EMA). We have spoken in the past about Maine's consideration of opting-in to CARB's ACT regulations, and EMA submitted comments during the previous rulemaking process, which led to the deferral of this proposed rulemaking. It has come to our attention that the Maine DEP has reinitiated consideration of the ACT opt-in, and will be holding a public hearing in that regard on August 17th in Augusta. This is a significant issue for EMA and its members, and there have been a number of important intervening developments since the DEP's last hearings on this matter.

In particular, last month, EMA and CARB reached a comprehensive agreement on many issues impacting the regulation of medium-duty and heavy-duty (MHD) on-highway vehicles and engines, and on the means to work toward aligning CARB's MHD regulations with EPA's, including EPA's recently finalized Clean Trucks Plan regulations, which will take effect starting in

2027. You can access a copy of the EMA/CARB agreement through CARB's website ("CARB and truck and engine manufacturers announce unprecedented partnership to meet clean air goals"). Under that agreement, among other things, EMA will not oppose state opt-ins to the ACT regulations, and has agreed to work with opt-in states to try to ensure that the ACT program can be as successful as possible. That success ultimately hinges in large part on two key issues: (i) ensuring that a sufficiently robust ZEV-truck recharging and hydrogen-fueling infrastructure is in place in the opt-in states **before** the ACT ZEV-sales mandates kick-in; and (ii) ensuring that a workable credit bank is in place in the opt-in states **as soon as possible** to allow for the generation and trading of banked credits and early-action credits, something that will in practice require the various opt-in states, including Maine, to create a pooled credit program, since sales volumes in each of the separate opt-in states will not be sufficient to support entirely separate banking and trading programs. To that end, CARB has agreed to hold a workshop on the need for a pooled ACT credit program in the near future.

With the foregoing in mind, I am hoping we can find a time within the next several days to discuss these important issues with you and your staff, and to begin to develop action plans to build-out and monitor the progress of the necessary ZEV-truck infrastructure, and to establish the type of pooled ACT credit program that will need to be in place as soon as possible, since Maine's credit program is slated to take effect starting on January 1, 2024.

As noted above, EMA has committed to work to try to ensure the success of CARB's ACT program to the maximum extent that the available ZEV-truck infrastructure and pooled ABT mechanisms will allow. We need your help as promptly as possible to put our commitment into action. Thank you in advance for your cooperation.

As a couple of final initial matters, I have a few follow-up questions that I hope you can answer: (i) is there an option to participate remotely at the August 17th hearing, as I am unable to travel to Augusta?; (ii) does the DEP have plans to opt-in to CARB's Omnibus Low-NOx or Advanced Clean Fleets regulations?; and (iii) as the DEP has previously confirmed to EMA, does it remain the case that until such time as the DEP adopts different regulations, the DEP will continue to allow EPA-certified MHD engines and vehicles for sale in Maine?

Thank you again, and I look forward to hearing from you. Tim French.

Timothy A. French

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