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February 5, 2024

Lynne Cayting
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Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Submitted via rulecomments.dep@maine.gov

RE: 06-096 C.M.R. Chapter 127-A, Advanced Clean Cars II Program

Dear Ms. Cayting,

The American Fuel & Petrochemical Manufacturers (AFPM) appreciates the opportunity to provide a supplemental comment on the Maine Department of Environmental Protection's (DEP) proposal to adopt California's Advanced Clean Car II (ACC II) standards, banning internal combustion engine vehicles (ICEVs). AFPM is a national trade association representing nearly all U.S. refining and petrochemical manufacturing capacity. AFPM members support more than three million quality jobs, contribute to our economic and national security, and enable the production of thousands of vital products used by families and businesses every day. AFPM members are also leaders in producing lower carbon fuels, such as renewable diesel and sustainable aviation fuel.

Attached are AFPM's comments, originally filed on August 28, 2023, that detail our concerns with DEP's proposal to adopt the California Air Resources Board's (CARB) ACC II standards. DEP appropriately pushed back the first affected model year to 2028, however, the ACC II program remains expressly preempted and in conflict with federal legislation, including the Energy Policy and Conservation Act (EPCA) and the federal Clean Air Act (CAA), and is contrary to other federal statutory objectives. Furthermore, DEP's analysis supporting its proposed adoption of ACC II is arbitrary and capricious. Where it does not simply adopt CARB's analysis wholesale without meaningfully adjusting for the differences between the two states, DEP's analysis contains unsupported, inaccurate assertions regarding the costs and benefits of its proposal. DEP's evaluation thus fails to meaningfully analyze and transparently present the actual costs and benefits of its proposed action. DEP fails to adequately investigate whether its electric grid can handle the significant increase in demand for electricity that its adoption of ACC II will create, the potential electricity costs to consumers, the lifecycle emissions impacts of expanding electricity generation and transmission as well as electric vehicle (EV) production, the rising price of critical minerals needed for batteries, and the prospect of "leakage" as Maine residents choose to buy non-EVs in surrounding states.[1]

[1] *See* AFPM Comments Re: 06-096 C.M.R. Ch. 127-A, Advanced Clean Car II Program, August 28, 2023 (Attached). *See also* Ramboll, Multi-Technology Pathways To Achieve California's Greenhouse Gas Goals: Light- Duty Auto Case Study (May 31, 2022).

A critical difference between Maine and California is the climate, with Maine's colder weather negatively impacting charging efficiency and EV range.[2] Recently, many EV drivers across the county were left stranded because of range reductions and the increased time necessary to charge an EV in cold temperatures.[3] Maine should ensure residents have reliable access to transportation in winter by preserving the public's ability to purchase new internal combustion engine vehicles.

AFPM remains concerned that Maine has not considered the broader geopolitical context against which it acts: the United States depends, and will necessarily continue to depend, on China and other foreign countries, for minerals and metals necessary to produce batteries and expand the electrical grid.[4] Policies like ACC II only increases that dependence. A transition to so-called Zero Emission Vehicles (ZEVs)[5] exposes Maine residents to supply chain vulnerabilities largely beyond the control of regulators. This risk is exacerbated by long supply chains[6] and a reliance on geopolitical rivals who control those supply chains.[7]

AFPM shares Maine's goal of reducing carbon emissions from transportation. Indeed, our members are investing heavily in technologies and processes that continue to reduce the carbon intensity of fuels while automakers are improving the fuel efficiency of internal combustion engines. Importantly, these investments can reduce carbon intensity of new and existing vehicles without relying on a lengthy automobile fleet turnover or trillions of dollars to massively expand the electrical transmission grid. Reducing carbon emissions from the transportation sector while meeting consumer needs will require a diverse mix of technologies, including liquid transportation fuels and electric vehicles. Innovation and competition among technologies will achieve the State's carbon reduction goals while delivering better results for consumers. Putting aside its serious legal and analytical infirmities, DEP's proposal does exactly the opposite—it stifles innovation and reduces competition by ignoring the fundamental importance of liquid fuels in delivering affordable and reliable energy while reducing emissions. DEP should withdraw this proposal.

Thank you for the consideration of our comments.

Patrick Kelly
Senior Director, Fuel & Vehicle Policy

Attachment

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[2] *See, e.g.*, Sean Tucker, Study: All EVs Lose Range in the Cold, Some More Than Others (Kelley Blue Book Dec. 29, 2022); Paul Shepard, Quantifying the Negative Impact of Charging EVs in Cold Temperatures (EEPower Aug. 8, 2018).
[3] *See* Pandise, Emily, et al. EV Drivers Wrestle with cold weather sapping their battery range. NBC News, January 18, 2024, accessed at https://www.msn.com/en-us/autos/news/ev-drivers-wrestle-with-cold-weather-sapping-their-battery-range/ar-AA1nb74g; DeLetter, Emily, Tesla Owners Say EV Batteries Won't Charge as Brutally Cold Temperatures Hit Chicago. USA Today, January 17, 2024, accessed at https://www.usatoday.com/story/money/cars/2024/01/17/tesla-battery-charging-station-cold-chicago/72252874007/
[4] As such, Maine's adoption of ACC II conflicts with the dormant foreign affairs preemption doctrine under the Supremacy Clause, which preempts state laws that intrude on the exclusive federal power to conduct foreign affairs.
[5] On an LCA basis, of course, there is no such thing as a "zero-emission" vehicle since all vehicles have associated upstream and downstream emissions.
[6] *See* 2022 Global EV Outlook IEA (May 2022) at 6-7, 178-79, available at https://www.iea.org/reports/global-ev-outlook-2022 (accessed February 5, 2024).
[7] *Id.*