

MARYLAND DEPARTMENT OF THE ENVIRONMENT, AIR AND RADIATION ADMINISTRATION

Response to Comments

On the Proposed Adoption of COMAR 26.11.43 Advanced Clean Trucks Program.

Public Hearing Held on October 11, 2023

Purpose of Hearing: The purpose of the hearing was to give the public an opportunity to comment on the proposed adoption of a new chapter of regulations under COMAR 26.11.43 Advanced Clean Trucks Program.

The Clean Trucks Act of 2023 (chapters 96 and 97 of 2023) required the Maryland Department of the Environment (MDE) to adopt regulations implementing the California Advanced Clean Trucks Program (also referred to as ACT) in Maryland. Maryland's implementing regulations propose to adopt, through incorporation by reference, the applicable California regulations.

Date and Location: The public hearing was held virtually on October 11, 2023, at 10 a.m. GoToMeeting at <https://meet.goto.com/966883773> – Event Access Code - 966-883-773 - the Maryland Department of the Environment (MDE).

Attendance: Kelsey Sisko of the Maryland Department of the Environment (MDE) served as the hearing officer. Other MDE attendees were Carolyn Jones, Justin Mabrey, Noble Smith, and Tim Shepherd. The hearing was also attended by industry trade groups, environmental organizations, and interested citizens. A complete list of attendees is provided at the end of this document.

Statement: The Department's statement was read by Mr. Justin Mabrey, Senior Regulatory and Compliance Engineer of the Mobile Sources Control Program of the Air and Radiation Administration, MDE. A transcript of the meeting has been prepared by For the Record, Inc. located in White Plains, MD.

Comments and Responses:

Of the two hundred and thirteen (213) comments received by MDE, only three (3) opposed adoption of the regulations, while two hundred and ten (210) supported it. Thirteen members of the public testified at the hearing. Below is a summary of, and response to, the comments and testimony.

Comment: One hundred and eighty-nine (189) similar letters were submitted to the Department in favor of adoption. Commenters expressed concern over the amount of carbon pollution and NOx emissions emitted by medium and heavy-duty (MHD) trucks. Commenters urged the Department to finalize adoption by the end of the year so the program can be enforced as early as the 2027 model year.

Response: The Department appreciates the support and agrees with the commenters. The Department recognizes that the Clean Trucks Act of 2023 requires the Department finalize adoption of the implementing regulations in December of 2023 in order to begin enforcement with the 2027 model year. Any delays to this adoption would push back the implementation timeline and result in reduced emission benefits from the program.

Comment: Several commenters noted the importance of reducing vehicle emissions and the health benefits Maryland citizens will receive.

Response: The Department appreciates the support and agrees with the commenters on the need for emission reductions and health benefits.

Comment: Several commenters noted the importance of adopting ACT to meet the needs of the Climate Solutions Now Act (CSNA).

Response: The Department appreciates the support and agrees with the commenters. The GHG emissions reductions provided by moving to zero emission trucks is a large component of meeting the requirements of the CSNA. The transportation sector remains the largest source of GHG emissions in Maryland, and the sector will need to achieve significant emission reductions to help the State meet the GHG reduction requirement of a 60% reduction from a 2006 baseline by 2031, and net-zero emissions by 2045. This ACT regulation is an integral part of achieving those goals.

Comment: Several commenters noted, that as currently drafted, the Department's regulation only allows MHD manufacturers to earn credits beginning with the 2026 model year. In contrast, California, as well as some other states that have adopted ACT, allow manufacturers to earn credits for qualifying vehicles up to three years before the regulation becomes effective. Commenters urged the Department to reconsider allowing manufacturers to earn credits beginning with the 2024 model year.

Response: The Department will take this comment into consideration for a possible future amendment to the regulatory language. The Department agrees that allowing manufacturers to earn early action credits can encourage manufacturers to offer their products in Maryland before the regulation takes effect in 2027. These early vehicle placements can provide needed emission reductions ahead of scheduled implementation of the program and provide Maryland with enhanced benefits years in advance.

Comment: Two commenters encouraged the Department to adopt California's Large Entity Reporting requirement under ACT and to reduce the vehicle threshold to below the 50-vehicle requirement in California.

Response: The Department does not plan to adopt California's Large Entity Reporting requirement at this time but may consider doing so in a future rulemaking. The Department will decide on vehicle threshold for reporting requirements in any future rulemaking.

Comment: One commenter encouraged the Department to support a pooling option that allows manufacturers to use credits generated in one ACT state to meet compliance in another.

Response: Section 177 of the CAA allows states to adopt California emissions regulations for new motor vehicles and new motor vehicle engines but prohibits states from adopting regulations that are not identical to California's. The Department has often supported compliance flexibilities that ease the burden of regulatory requirements with respect to Clean Air Act (CAA) Section 177 programs such as Advanced Clean Cars II (ACC II) and ACT. As a state that follows Section 177 of the CAA, Maryland does not have the authority to adopt such a compliance option on its own. However, if California were to promulgate new regulations that included a pooling provision, the Department would take the necessary steps to update the appropriate regulations to incorporate the provision.

Comment: Several commenters highlighted the achievability and feasibility of the ACT requirements based on today's technology and available vehicles.

Response: The Department agrees with the commenters. The Department believes that based on current technology and MHD vehicle model availability, the requirements of the ACT program are achievable. The Department further believes that as technologies improve and vehicle options grow, the availability of MHD vehicles will be able to keep pace with the growing percentage sales requirements of the ACT regulations.

Comment: One commenter expressed concern over the current state of MHD charging infrastructure and purchase incentives in Maryland. The commenter believes the best way for the state to build a zero emission vehicles (ZEV) market for MHD trucks is to have a robust charging infrastructure in place before the program begins, and to have sustainable purchase incentives available to MHD ZEV consumers.

Response: The Department agrees that developing the infrastructure to meet the needs of MHD ZEV consumers is crucial to ensure a successful ACT program. The Department, as well as other state and local agencies, have long supported the development of charging infrastructure to support both light-duty and MHD ZEV needs and will continue to support such developments. The Maryland Clean Trucks Act of 2023 established the Medium-Duty and Heavy-Duty ZEV Grant Program overseen by the Maryland Energy Administration. The Grant provides funding to cover up to 75% of the incremental cost of a ZEV truck with \$10 Million in available funding for each fiscal year from 2024 through 2027.

Comment: One commentor expressed concern over the lack of completing the Needs Assessment study before adopting the regulations. Another commentor mentioned the importance of a robust Needs Assessment study to ensure Maryland is prepared to meet the requirements of the ACT.

Response: The Department agrees that there needs to be a robust Needs Assessment and grid study as required by the Maryland Clean Trucks Act of 2023. However, that study and its results are outside the scope of this regulatory adoption. The Department disagrees that the Needs Assessment study should be completed before the regulations are adopted. As written, the Clean Trucks Act of 2023 requires the Department to adopt the implementing regulations of ACT by December of 2023, while the Needs Assessment study is not due to the General Assembly until December of 2024. By adopting the ACT regulations now, it is following the law passed by Maryland's General Assembly.

Comment: One commenter suggested the Department should take a fuel-neutral stance and develop a clean fuel standard instead of adopting the ACT regulations.

Response: While alternative fuels can reduce both criteria and greenhouse gas pollutants, The Clean Trucks Act of 2023 requires the Department to adopt California's ACT by December of 2023. Moreover, section 177 of the CAA prohibits the State from adopting any emissions regulations for new vehicles that are different from California's. ZEVs eliminate tailpipe emissions and have the potential to greatly reduce the emissions associated with the transportation sector as more clean and renewable energy powers Maryland's grid moving forward.

Comment: One commenter expressed concern over the lack of military vehicle exemptions.

Response: The ACT regulation does not require consumers to purchase ZEVs. Rather it requires manufacturers of such vehicles to deliver ZEVs as an increasing percentage of their vehicle deliveries. The

Department has aligned its regulations with the requirements of California's ACT in order to maintain the identity requirements of Section 177 of the CAA. California CCR Title 13 Section 1905 covers the exemption of military tactical vehicles. While Section 1905 was not incorporated by reference for Maryland's regulatory adoption, it does exempt military tactical vehicles from California CCR Title 13 Chapter 1, entirely, of which the Advanced Clean Trucks Act is a part of. Therefore, the Department believes military tactical vehicles are already exempt from Maryland's ACT regulation.

Comment: Several commenters expressed concern over the current status of the Maryland grid and if it is capable of handling the increased electrical demand required by MHD trucks.

Response: The Clean Trucks Act of 2023 requires the Department to conduct a Needs Assessment study as well as a grid analysis to determine if Maryland is prepared to meet the demands of the ACT requirement. The Act also requires the Department to adopt California's ACT by December of 2023. Moreover, the Clean Trucks Act gives the Department the authority to delay implementation of the program should it determine that, based off the studies, the program cannot be successfully implemented.

Comprehensive List of Hearing Attendees

Aleks Casper
Alex M.
Anna Marshall
Brian Robb
Carolyn Jones
Christine Berg
Dru Schmidt-Perkins
Erika Sward
FTR Reporter
Inga Dedow
Jeff Mauk
Jeremy Hunt
Justin Mabrey
Katie Saliccioli
Kelsey Sisko
Kevin Shen
Lindsey Mendelson
Louis Champion
Mike O'Halloran
Mollie Michel
Neda Deylami
Nick Egelhoff
Noble Smith
Ramon Palencia-Calvo
Sandy Ma
Sari Amiel
Shartorah Roberson
Shilpa Shenvi
Tim French
Tim Shepherd

Tom Van Heeke
Zachary Kahn
2 phone callers