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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
COMMISSIONER

**TESTIMONY**  
**OF**  
**JEFFREY S. CRAWFORD**  
**DIRECTOR, BUREAU OF AIR QUALITY**  
**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING NEITHER FOR NOR AGAINST L.D. 2261**

**SPONSORED BY REP. SOBOLESKI**

**AN ACT DESIGNATING NEW MOTOR VEHICLE EMISSION RULES AS MAJOR  
SUBSTANTIVE RULES**

**BEFORE THE JOINT STANDING COMMITTEE  
ON  
ENVIRONMENT AND NATURAL RESOURCES**

**DATE OF HEARING:**

**MARCH 20, 2024**

Senator Brenner, Representative Gramlich, and members of the Committee, I am  
Jeffrey Crawford, Director of the Bureau of Air Quality at the Department of  
Environmental Protection, speaking neither for nor against L.D. 2261.

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Procedurally, this bill is not about whether we should adopt the Advanced Clean Cars II Program, but rather the appropriate rulemaking process for motor vehicle emission standards under the laws governing the Department of Environmental Protection (Department).

This question has come to light as a result of a rulemaking process that began last year. On May 23, 2023, the Department received a citizen petition to initiate rulemaking pursuant to the Maine Administrative Procedures Act (Title 5 § 8055) proposing to establish motor vehicle emission standards for new passenger cars, light-duty trucks, and medium-duty vehicles by incorporating the requirements of the California Advanced Clean Cars II (ACC II or ACC II Program) regulations, beginning with the 2027 model year, and continuing through the 2032 model year.

Section 177 of the federal Clean Air Act allows states to adopt motor vehicle emission standards provided the standards are “identical to the California standards”, and vehicle manufacturers are provided a time of at least two model years before the standards are enforced. Maine may adopt the California standards at any time, but cannot adjust the percentage sales requirement for each vehicle model year. For example, California’s ACC II program requires 68 percent of model year 2030 vehicles to be zero emission vehicles. Maine can choose whether or not to adopt the Clean Cars standard for 2030, but cannot choose to require a different percentage of zero emission vehicle sales in 2030.

In accordance with Title 5 § 8055(3), the Department initiated rulemaking on this proposal on July 20, 2023, when the Department presented the petitioner’s proposal to the Board of Environmental Protection (Board) and recommended that the Board schedule a public hearing on the proposed rule. The Board subsequently held a public hearing on the proposed rule on August 17, 2023.

The Board scheduled further rulemaking action on the proposed rule for a meeting to be held on December 21, 2023. Due to the state of emergency resulting from a December

18, 2023, storm, the Board meeting scheduled for December 21<sup>st</sup> was cancelled, and consequently, the next opportunity for the Board to convene to continue further rulemaking was in early 2024.

Due to this delay, and in order to continue to meet Clean Air Act requirements, the proposed rule had to be revised to begin with model year 2028. The Department reposted the revised rule for additional public comment. This comment period ended on February 5, 2024, and the Board is considering the revised proposal at its meeting today.

In its 2023 annual report to this Committee, the Board of Environmental Protection recommended that rulemakings for motor vehicle emission standards should be conducted as major substantive rulemakings pursuant to 5 MRS §8071 of the Maine Administrative Procedures Act. Prior to 2005, motor vehicle emission standard rulemaking was conducted under the major substantive process<sup>1</sup> and the Department supports reestablishing this requirement for future rulemakings. However, the Department does not support the retroactive application of this requirement to the rulemaking currently under consideration by the Board of Environmental Protection.

Retroactively applying the major substantive rulemaking process to the proposed Chapter 127-A rules would delay their implementation until the 2029 model year, since the rules would not undergo legislative review before the next legislative session. If the ACC II Program was then finally adopted, Maine would begin the program with a requirement for 59% of the vehicles delivered by manufacturers to be zero emission vehicles (vs. 51% in 2028).

In lieu of retroactively applying major substantive rulemaking requirements, the Department recommends that the Legislature should require the Department to provide an annual report by January 1 of each year to this Committee on the status of the ACC

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<sup>1</sup> P.L. 2005, ch. 245

II Program in California and other states, along with a status update of federal motor vehicle control requirements. Such a report would provide the Legislature with the information needed to make an informed decision regarding the benefits and costs of the ACC II Program, and whether participation is right for the people of Maine. If not, the Legislature could use its existing authority and mechanisms to withdraw from the program.

Thank you for your consideration in allowing this testimony, and I would be happy to answer any questions that you might have.