



American Petroleum Institute
Comments Relative to [SB 224](#) and [HB 230](#) (Clean Trucks Act of 2023)
February 8, 2023

The American Petroleum Institute (API)¹ appreciates the state’s desire to be at the front of the curve with respect to energy and environmental policies. While some legislators may believe that SB 224 and HB 230 will help effectuate that goal, API encourages Maryland policymakers to retain state sovereignty and refrain from acceding authority to California by having the state automatically adopt California’s medium- and heavy-duty truck rules.

API specifically recommends that the state not effectively delegate its authority by having laws and rules that “incorporate by reference” California’s rules “as revised and updated.” API supports policies that provide customer choice with respect to vehicle purchases and emphasize the need to have the market and technology dictate the evolution of the truck fleet, which in turn can help address consumer cost concerns.

The free market has a proven track record of demonstrating that competition has achieved policy objectives and effectuated advanced technology at a reduced cost to the consumer. Maryland should support policies that allow all technologies, including biofuel blends, battery electric vehicles, hybrids and efficient gasoline and diesel vehicles to compete in the marketplace. These types of policies can be developed to ensure that the most efficient and effective technologies are implemented to achieve the goal of reducing GHG emissions in the transportation sector.

Industry members are applying their abilities and resources to meet emission reduction policies in the transportation sector in a manner that allows Maryland, and all consumers, the ability to choose the technology that best meets their needs. As the association representing the natural gas and oil industry, we are uniquely positioned to think about fuels, safety, and innovation for the next generation. API welcomes discussion on viable solutions to the dual challenge of ensuring reliable and affordable energy supplies to support economic growth and human prosperity, while advancing environmental progress.

API strongly encourages Maryland’s legislature to retain its authority to review the actions of the Department of the Environment to direct the agency to adopt different rules, or to set different emissions standards through legislation. Through SB 224, Maryland would allow but not require the Department of the Environment to “incorporate by reference” California’s rules “as revised and updated.” Presumably, Maryland intends to automatically include into state regulations all future amendments to the California regulations.

Currently, Maryland’s Low Emissions Vehicle Program regulations incorporate by reference certain enumerated sections of Title 13 of the California Code of Regulations, which do not include California’s requirements for the sale of new zero- emission medium- and heavy-duty vehicles adopted in 2021 through its Advanced Clean Trucks rules.²

¹ The American Petroleum Institute represents all segments of America’s natural gas and oil industry, which supports more than ten million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our 600 members produce, process and distribute the majority of the nation’s energy, and participate in API Energy Excellence, which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

² See Md. Code Regs. 26.11.34.01 et. seq. at <https://www.law.cornell.edu/regulations/maryland/title-26/part-2/subtitle-11/chapter-26.11.34>.



Historically, when California has conducted a major update to the rules it has done so by promulgating entirely new sections within the California Code of Regulations, such as through its Advanced Clean Trucks rulemaking. That rulemaking adopted new sections 1963, 1963.1, 1963.2, 1963.3, 1963.4, and 1963.5 of Title 13 of the California Code of Regulations, along with new sections 2012, 2012.1, and 2012.2 of Title 13, codified under new article 3.1.³ SB 224 was filed to adopt those provisions because the Maryland statute presently requires the state to follow California standards for light duty motor vehicles only, and the new sections were not (and could not have been) among those previously enumerated and incorporated.⁴

Maryland should retain jurisdiction over its air rules rather than incorporate by reference California standards. This will prevent substantive changes from automatically taking effect in the state if California adopts those changes by amending existing sections of its Code of Regulations that have been previously incorporated in Maryland. What is best for California is not necessarily what is best for Maryland.

Under existing state law Maryland can cite specific California regulations and still follow the Maryland regulatory process. This is a prudent and practical approach and ensures a thorough and deliberate debate and rulemaking process before implementing rules from a state that has different needs than Maryland.

Furthermore, given that Maryland's needs may vary from time to time, it makes sense from time to time to have the state's environmental regulators and the legislature (through its legislative oversight authority) consider the appropriate regulations for the state and not simply defer that responsibility to another state's air resources board.

In conclusion, automatically adopting future California rules without review by Maryland constituents and businesses bypasses Maryland's oversight authority and should not be pursued.

Respectfully submitted,

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³ Final Regulation Order, Advanced Clean Trucks Regulation (2021) at <https://ww2.arb.ca.gov/rulemaking/2019/advancedcleantrucks>.

⁴ See: [Md. Code Ann., Env't § 2-1102, 1103, Md. Code Ann., Transp. § 23-206.4; Md. Code Regs. 26.11.34.01 et. seq.](#)