



EARTHJUSTICE



**Environmental
Defense
Fund**



March 29, 2023

The Honorable Wes Moore, The Honorable Adrienne Jones, and The Honorable Bill Ferguson
100 State Circle
Annapolis, MD 21401

Dear Governor Moore, Speaker Jones and Senate President Ferguson,

We the undersigned environmental organizations urge you to swiftly adopt the Advanced Clean Trucks Rule (ACT) rule in 2023. We support the legislature's leadership in advancing a bill that requires the adoption of ACT rule but are deeply concerned about the amendment to delay the rulemaking in the Clean Trucks Act of 2023 (HB230/SB224), and oppose the bill as amended with language allowing for delay. Enshrining delay language sets a dangerous and unnecessary legislative precedent that could impede critical public health and environmental benefits. We urge you to remove section 2-1103.1.(D) from SB224:

“(D) THE DEPARTMENT MAY DELAY IMPLEMENTATION OF THE
26 REGULATIONS AUTHORIZED UNDER THIS SECTION BY ONE OR MORE MODEL YEARS
27 IF, AFTER CONSULTING WITH THE DEPARTMENT OF TRANSPORTATION, THE
28 DEPARTMENT OF GENERAL SERVICES, THE MARYLAND ENERGY ADMINISTRATION,
29 AND THE PUBLIC SERVICE COMMISSION, THE DEPARTMENT DETERMINES, BASED
30 ON CRITERIA IDENTIFIED THROUGH THE NEEDS ASSESSMENT AND DEPLOYMENT
31 PLAN, THAT IMPLEMENTATION OF THE REGULATIONS IS NOT YET FEASIBLE.”

Planning must not delay adoption.

We fully support the development of a zero-emission vehicle assessment and deployment plan; however, doing so must not be allowed to delay adoption of the ACT rule. The federal Clean Air Act requires states adopting the ACT rule to provide two model years of lead time before enforcement begins. By adopting the rule in 2023, the first model year of compliance is 2027. If the ACT rule is finalized in 2024 (even on January 1, 2024), the first model year of compliance becomes 2028, and so on. In the past several years, roughly 40,000 new fossil fuel trucks and buses were sold annually in Maryland. Each year the rule is delayed ensures the bulk of new sales remains heavily polluting fossil fuel vehicles rather than increasing the sale of clean, zero-emission vehicles.

Delayed adoption also directly harms Maryland's businesses. The Inflation Reduction Act created generous new commercial tax incentives of up to \$40,000 per vehicle—however, these incentives sunset in 2032. Each year the ACT rule is delayed means fewer opportunities for Maryland businesses to benefit from the \$40,000 zero-emission vehicle tax incentive, essentially forgoing free money from the federal government.

As evidenced by the seven states and counting that adopted or are adopting the ACT rule, the rule is feasible today due to rapid technological advancements, plummeting costs, and the rule's gradual ramp-up and built-in compliance flexibilities. Successful adoption of the ACT rule in 2023 to provide market certainty and adhere to federal lead time requirements does not require the extensive planning envisioned by SB 224. Moreover, it puts the identified state agencies in the challenging position of rushing to complete an assessment or risking delaying the rule and the myriad benefits it brings.

Instead, the state should move forward with the rulemaking to adopt the rule--which will inherently include a feasibility assessment--and, once finalized, build on the work done during the rulemaking process to develop a more holistic plan that goes beyond the ACT rule for the General Assembly.

Delay is counterproductive to the rule's purpose.

The core function of the ACT is to provide market certainty and a timeline for a gradual transition to zero-emissions trucks and buses. It is one piece of the zero-emission truck and bus transition, but a foundational one. As the proponents of the amendments have noted, there is a chicken-and-the-egg issue that occurs when deciding to invest in charging infrastructure programs without certainty in vehicle adoption, and vice versa. The ACT would help reduce this uncertainty while providing flexibility and feasibility with an ample lead time, allowing utilities, manufacturers, and fleets to plan for this transition. Any delay, even potential delay, defeats the ACT's purpose of providing this market certainty.

The delay amendment sets a precedent for delay for Maryland and other states in the nation.

The [Truck and Engine Manufacturers Association \(EMA\) has lobbied](#) against the ACT or for delays in many other states, notably delaying efforts in [Colorado](#) and [Maine](#). In particular, EMA member Volvo has publicly misleading goals such as to "[offer a net-zero emission product range by 2040](#)" while [lobbying](#) to oppose the ACT in California, Colorado, New Jersey, and Oregon, as shown in freedom of information act requests. HB230/SB224's delay amendments create unnecessary legal uncertainty for the state and sets a bad legislative precedent by supporting delay tactics that could impede states considering the rule, including Colorado, Illinois, North Carolina, and Maine. Further, [similar delay tactics](#) have been used in EPA proceedings to advocate for weaker federal heavy-duty engine and vehicle standards. Maryland can indeed lead the clean energy transition, but **will actively harm such efforts** if it allows [delay tactics](#) in critical, common sense regulations that will provide public health, economic, and environmental benefits. We urge you to pass HB230/SB224 without amendments allowing for delay.

Sincerely,

Kevin X. Shen, Policy Analyst, Union of Concerned Scientists
Susan Miller, Senior Attorney/Clean Energy Program, Earthjustice
Patricio Portillo, Senior Advocate, Natural Resource Defense Council
Neda Deylami, Manager, Vehicle Electrification, Environmental Defense Fund
Andrea Marpillero-Colomina, PhD, Sustainable Communities Program Director, GreenLatinos

cc:

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