California New Car Dealers Association

December 5, 2008

Mary D. Nichols
Chairman, California Air Resources Board
Cal/EPA Headquarters Building
1001 I Street
Sacramento, California 95814

Re: AB 32 Scoping Plan to Reduce Greenhouse Gas Emissions in California - Feebates

Dear Chairman Nichols:

The California New Car Dealers Association (CNCDA) is a statewide trade association that represents the interests of over 1300 franchised new car and truck dealers. CNCDA members are primarily engaged in the retail sale and lease of new and used motor vehicles, but also engage in automotive service, repair and part sales. We are writing to express our concern and opposition to that portion of the California Air Resources Board's (CARB) Climate Change Proposed Scoping Plan (the "Scoping Plan") that discusses the potential implementation of a vehicle "Feebates" program.

The Scoping Plan describes a potential Feebate regulation that would impose a greenhouse gas (GHG) tax on the purchasers of high emitting vehicles and redistribute a portion of that tax to purchasers of low emitting vehicles based on GHG emissions benchmarks. The described Feebate program purports to be "revenue neutral" and self-funding, with a portion of the tax revenue used to administer the program. The proposal is similar to two bills that both failed passage in the California Legislature [AB 2791 (Ruskin) in 2006 and AB 493 (Ruskin) in both 2007 and 2008]. Those bills would have created a massive new tax program that would have:

- Authorized CARB to impose a schedule of GHG taxes and revenue give-a-ways --- ranging from $100 to $2,500, based on the amount of GHG a vehicle emits. Purchasers and lessees of large vehicles with high GHG emissions per mile would be taxed up to $2,500 per vehicle; revenues raised—minus government administrative expenses and a 15 percent reserve pool—would then be redistributed to purchasers and lessees of small vehicles with low GHG emissions per mile.

- New car dealers would have been required to administer the program at the point of sale by: (1) posting the dollar amount of the GHG tax and revenue redistribution applicable to each new vehicle available for sale by the dealer; (2) itemizing the amount of the GHG tax or revenue redistribution amount on each sale or lease contract; (3) accepting and processing all customer claims for a revenue redistribution rebate check; and, (4) collecting from purchasers and lessees the new GHG tax and remitting it to the Board of Equalization (BOE).

While AB 32, the Global Warming Solutions Act, mandates that CARB achieve similar or greater GHG reductions in the event the Pavley regulations do not take effect, the bill was silent as to how such equivalent reductions must be achieved. We are deeply troubled by the fact that the *only* alternative suggested in the Scoping Plan if the Pavley regulations are not implemented is a feebate scheme rejected three times in the last three years by the Legislature. At minimum, we would expect that CARB would include other available alternatives for transportation sector GHG reductions before resorting to the lone scheme affirmatively rejected by democratically-elected lawmakers.

A VEHICLE FEEBATE PROGRAM IS BAD PUBLIC POLICY

Bad Emissions Policy that Encourages the Purchase of Used Vehicles. Consumers do not make vehicle purchase decisions in a vacuum; instead of choosing solely between the wide variety of *new* vehicles available for purchase, consumers also choose from a much larger supply of *used* vehicles from inside and outside of the state. Although a new vehicle feebate program may significantly alter the fleet makeup of new vehicles sold in California, the fleet makeup of total vehicle purchases may not dramatically change. A consumer who needs a truck or SUV to haul a trailer may be dissuaded from purchasing a new vehicle by a GHG fee, but this does not change his or her need to purchase a truck. Rather, the consumer will now have an increased incentive to purchase a used truck over the already-substantially higher price of a new one. New vehicles offered for sale in California are the cleanest in the world and achieve better fuel economy than most used vehicles. Slapping a surcharge on new trucks and SUVs will encourage consumers to buy or continue driving used vehicles that emit higher amounts of GHG. Perversely, this policy directly contradicts the Enhanced Fleet Modernization Program adopted just last year [AB 118 (Nunez) of 2007] which will spend over $200 million in *public funds* to permanently retire the very same older vehicles a feebate program would encourage consumers to keep.

Disconnect between GHG Emissions and Actual Miles Driven. Just because a truck or SUV may have a lower fuel economy rating than a smaller vehicle, doesn't mean that it will emit more GHGs – it all depends on how much the vehicle is driven. Many Californians own and operate multiple vehicles. It is very common for a household to own a truck or SUV that is driven primarily on the weekends and a small fuel efficient vehicle that is used for high mileage commutes. Or, one family might use a large vehicle to car pool several children to a local school, while another consumer commutes 100 miles or more roundtrip to work by himself. In short, it is not only the fuel economy rating of the vehicle that matters for GHG reduction, but also the number of passengers per vehicle (PPV) combined with vehicle miles traveled (VMT) that indicates the *true* GHG emissions from the vehicle. A Feebate program is fatally flawed because it cannot take all of these factors into account.

Regressive Tax that Discriminates. The proposed feebate regulation would hit low and middle income Californians the hardest. Affluent Californians who wish to buy vehicles with low fuel economy will simply pay the surcharge, but non-affluent Californians who need the utility of a large vehicle will either have to keep their current vehicle or be forced into the used car market for a replacement. Why should a poor truck purchaser be forced to subsidize a rich purchaser of a Prius or Tesla sports car?

High Gas Prices and increased CAFE standards are already Pushing Consumers to Fuel Efficient Vehicles. When gasoline prices rose dramatically this past summer, consumers flocked to hybrids and other fuel efficient vehicles. The percentage of California consumers that purchase small, fuel efficient passenger cars has dramatically risen in the past three years:

	Gasoline Prices	Passenger Cars	Pickups, Vans & SUVs
2005	$2.47	49.5%	50.5%
2006	$2.81	52.6%	47.4%
2007	$3.08	53.9%	46.1%
2008	$4.50+[1]	60.5%	39.5%

The percentage of small, fuel efficient vehicles will continue to increase due to the 40% fuel economy hike mandated by Congress last year and, once an economic recovery begins, likely rising fuel costs. This will mean that new vehicles will continue to become more efficient and used vehicles will emit more GHG relative to new vehicles. Market and economic forces, not ill conceived tax schemes, should guide consumer choice when it comes to the purchase or lease of a new vehicle.

Adverse Sales Tax Impact. The vast majority of highly-fuel-efficient vehicles are subcompacts with low manufacturer suggested retail prices (MSRP). The lower the MSRP, the lower the sales and use tax revenue that will be generated for state and local governments. If a Feebate regulation is effective and results in the increased sale of subcompacts and decreased sales of more-expensive trucks and SUVs, state and local sales tax revenue will fall, further hurting cities, counties and their local populations.

Governmental Interference with Consumer Choice. Many Californians purchase trucks and SUVs because of their utility and safety. Why should soccer moms and dads, campers, skiers, home improvement enthusiasts, large persons, persons who enjoy heavy vehicles for safety reasons, and anyone else that needs or wants to operate a large vehicle be required to subsidize purchasers of small vehicles? Moreover, why should every purchaser of a small vehicle be rewarded with a revenue redistribution check – especially if they would have purchased the vehicle anyhow? There have been waiting lists at every Toyota dealership in the state for most of the year for the Prius, just as Tesla is struggling to meet demand for its $100,000 electric sports car – there is no need to further incentivize sales of that model or similar fuel efficient vehicles.

Huge New Government Bureaucracy. The implementation and administration of a statewide Feebate program would necessitate the establishment of a huge new state bureaucracy to set and periodically readjust the dollar amount of surcharges and rebates, collect and disburse the surcharges and rebates, and police the system. The expense of maintaining this new bureaucracy will be shouldered by vehicle purchasers and lessees. Is this what consumers and taxpayers want?

Violates the "Keep It Simple Rule". Our dealer members are franchised by 22 separate automobile and truck manufacturers to sell and service 47 different line makes of vehicles. Of those 47 line makes, there were 203 different passenger models available in 2008 and 132 different 2008 truck models (335 different models in all). Moreover, the 203 different passenger models were available in 959 different configured styles and the 132 different truck models were available in 1,335 different configured styles (2,294 different configurations in all). For example, a Chevrolet Sierra pickup truck is offered in three models (1500, 2500HD, and 3500HD). Each model comes in a variety of different configurations depending on the drive train (automatic or manual), the engine size (4.3L, 4.8L, 5.3L, 6L or 6.6L) engine enhancements (turbo charging or hybridization), wheel and tire selection, fuel type (gasoline, ethanol, and diesel), cab size, bed size and whether a work body or other type of chassis may be affixed to the truck. All-in-all, the 2008 Chevrolet Sierra pickup truck was offered for sale by our Chevrolet dealer members in 118 different styles – each of which, depending upon the configuration, has a different fuel economy rating. If calculated

[1] In 2008, California gasoline prices have fluctuated dramatically, starting at over $3 per gallon in January, reaching a peak of $4.58 in June, and falling below $1.95 in early December.

properly, there would be hundreds of different rebates and surcharges which would have to be continuously adjusted. Such a program would be confusing to consumers and a costly nightmare to administer.

The Scoping Plan Puts the Feebate "Cart" Before the "Horse" in the Middle of a Recession. The proposed feebate program is included as backfill to the Pavley regulations without any program design parameters, regulatory structure or cost estimates, other than unsupported assertions of GHG emissions savings and revenue neutrality. The Board is separately considering whether to spend upwards of $800,000 on the potential effectiveness of a feebate program *after* having already decided that feebates are effective enough to supplant the Pavley regulations. While we encourage thoughtful research into the efficacy of feebates—and believe ultimately that such a review will be negative once all factors are considered—the Scoping Plan predetermines that feebates are the *only* alternative to the Pavley regulations if disapproved and a worthy supplement to their implementation even if approved. In short, the Board is being asked to approve a feebate program and then study whether it is a good idea. Moreover, the financial risk of missing the mark on a feebate program is huge (see the discussion of the French feebate program below), particularly in the midst of the worst recession in a generation and potentially our lifetimes. As Californians, we can ill afford to be betting on an unproven feebate scheme *before* it has been thoroughly reviewed *and* alternatives explored.

<u>CARB as a Taxing Authority</u>.

The Scoping Plan's feebate proposal is presented as a self-financing, revenue neutral, regulatory scheme that somehow eschews the necessity of legislative or ballot initiative taxation enactment. In reality, the proposed feebate plan is a tax that is neither self-financing nor revenue neutral.

Ironically, the more successful the program becomes in shifting consumers to smaller, fuel efficient vehicles – the less the program will be able to finance itself. For example, last year because of rising gas prices, the sale of Chevrolet Silverado, GMC Sierra and Dodge Ram pickup trucks in California dropped by 25,671 units from the year before. If those vehicles had each been assigned a $2,500 surcharge, the feebate revenue pool would have been *underfunded* by over $64 million from just those three models. Likewise, last year the sale of Honda Civics increased in California by 1780 units. If the Civic had been assigned a rebate of $2,300, it would have cost the feebate fund an additional $4 million. On January 1st of this year, France instituted a national feebate program designed to be revenue neutral. Under the French program, high GHG emitting vehicles were assessed a surcharge of up to 2,600 Euros and low GHG emitting vehicles received a rebate of up to 1,000 Euros.[2] Although the program was apparently successful in increasing the number of fuel efficient vehicles sold and diminished the number of fuel inefficient vehicles sold,[3] the French feebate fund is expected to have a ***300 million Euro deficit*** by the end of this year. These California sales examples and a deficit exceeding a quarter of a billion Euros under the French program should alarm you and your Board colleagues who may be embarking on a program that may further exacerbate the state's dire fiscal condition.

CARB has an exemplary record of innovative rulemaking in the mobile source sector. Its success is due, in large part, to a skillful balancing act: the promulgation of technology forcing regulations that are feasible for auto manufacturers to achieve, yet transparent to the average consumer. The proposed feebate

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[2] Note that the maximum rebate in the French program is less than 40% of the maximum surcharge, a ratio far less than $2,500 maximum surcharge and rebate contained in the California legislative proposals.

[3] The apparent success of the program does not take into account the huge spike in European gasoline prices this summer (from the equivalent of $6.96 per gallon in July of 2007 to $9.40 in July of 2008), nor the dramatic 35% increase in high GHG emitting vehicle sales just *before* the program was implemented.

regulatory scheme is a drastic departure from that proven formula. The proposed feebate program sets no vehicle performance standards and will not be transparent to consumers. Rather, the proposed feebate regulations cast CARB as the head of a new tax authority. CARB imposed vehicle surcharges run the risk of besmirching CARB's well-deserved reputation as the world leader in clean air and GHG policy and transforming the Board into just another hated taxing authority. We submit that is not the best way to spend 30 years of political capital, and will leave a bad taste in the mouth of every consumer that is forced to pay a vehicle feebate or "CARB tax."

Based upon the foregoing, we respectfully urge you and your fellow Board members to reject the Scoping Plan's proposed feebate regulatory plan. Should you or your staff have any questions or comments, please do not hesitate to contact me.

Very truly yours,

Brian Maas
Director of Government Affairs

cc: Board Member Daniel Sperling
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