

September 29, 2006

Dr. Robert Sawyer, Chair and Board Members  
California Air Resources Board  
1001 I Street, P.O. Box 2815  
Sacramento, CA 95812

Re: Proposed Amendments to the Zero Emission Bus Regulation  
(September 1, 2006 Initial Statement of Reasons)

Dear Chairman Sawyer and Board Members:

As environmental, health, and science advocates, we are writing to express our support for CARB's zero emission bus requirements and to urge you to postpone consideration of major changes to the regulation until after the ongoing ZEV technical review. We propose a more limited set of amendments that ensures transit properties can continue their important work in demonstrating zero-emission technology while preserving CARB's ability to make future adjustments to the regulation in the context of the state's broader zero-emission and climate goals.

As you may know, major elements of CARB's transit bus regulation have been built to accommodate transit properties who were slow to adopt clean technologies in the 1990s, despite substantial public pressure to do so. In exchange for allowing these properties to continue the use of diesel technology, they were required to buy cleaner diesel equipment ahead of national standards and introduce zero-emission technology ahead of their colleagues who committed to cleaner natural gas buses. In subsequent rulemakings, CARB eased the requirements for cleaner diesel equipment for model years 2005-2009. Now CARB staff has proposed rolling back the zero-emission bus (ZEB) requirement.

Any adjustments to the ZEB requirement must be considered in the context of the state's broader efforts around zero-emission technology, including the Low Emission Vehicle/Zero Emission Vehicle (LEV/ZEV) program, Governor Schwarzenegger's Hydrogen Highway initiative and AB 32 implementation. At a minimum, the CARB Board should have the full advantage of reviewing the findings of the ongoing technology review of the Zero Emission Vehicle Program. Since CARB's review of the ZEV program is not complete and will not be reviewed by the Board until next year, we think it is premature to consider major changes to the ZEB requirements at this time.

Due to the above concerns, we urge you to make the following changes in the staff proposal:

1. Shorten the three year delay in ZEB requirements to one year. Without the full technical review currently underway by staff and an independent panel, it is difficult to assess whether a three-year delay in the regulations is needed or appropriate. However, we recognize that transit properties need to make decisions now for their 2008 bus purchases. Thus, we support a one-year delay in the regulations with a continuation of the demonstration program. The delay relieves the immediate pressure on transit properties while permitting the Board to have the full benefit of the ZEV technology review to make a decision on the future of the

transit bus program.

2. Strike provisions that link standards to technology performance. Explicitly linking technology requirements to performance factors such as cost, durability, and reliability creates a new precedent that we believe deserves careful consideration. In particular, we are concerned that such a provision could create barriers to technology progress, as it could provide incentives for reticent parties to move more slowly. Fuel cell manufacturers, who clearly have an interest in the technology's success, have a strong incentive to meet the benchmarks but do not have complete control over the cost and technical factors proposed by staff. For example, bus manufacturers have been slow to design purpose-built platforms for fuel cells and are a key driver in the final bus cost. Similarly, proper operation and maintenance are critical to fuel cell technology's durability and reliability, and the staff proposal creates an incentive for reticent transit properties to under-perform, thus delaying the requirements for introduction of ZEV buses.
3. Strike provisions that give the Executive Officer discretion to delay technology requirements. Given the broader policy implications of adjustments to the ZEB requirement, including linkages to the LEV/ZEV program and the Governor's Hydrogen Highway initiative, we believe the Board should retain responsibility for making any needed changes.

In sum, we urge you to consider a limited set of amendments to the regulation that provides immediate relief to diesel transit properties but preserves your ability to make a more informed decision after the zero-emission technology review is complete. We believe a simple one-year delay in the ZEB requirement combined with an extension of the demonstration program is the most prudent and credible approach.

We very much appreciate your consideration and look forward to the opportunity to discuss this matter with you further.

Sincerely,

Jason Mark  
Union of Concerned Scientists

Tom Plenys  
Coalition for Clean Air

Susan Frank  
Steven and Michele Kirsch Foundation

Luke Tonachel  
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