



February 6, 2017

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, California 95814

RE: ADVANCED CLEAN CARS (ACC) MIDTERM REVIEW

For the Record:

The undersigned trade association executives represent new car dealers in states that have adopted the California emission standards, including rules regarding zero emission vehicles. Most of us have previously written to the California Air Resources Board (CARB) (*See Attachment I*) to express our concern that the rules, as currently written, measure vehicle sales at the wrong point in the process. The purpose of this letter is, once again, to respectfully urge CARB as part of the mid-term review process, to make much needed changes to the regulations so that automakers build ZEVs and deliver them to new car dealers with equipment and at prices that sell.

The current CARB rules (*Zero Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium Duty Vehicles, California Code of Regulations, Title 13, section 1962.2*) award credits when the automakers deliver vehicles for sale, not when they are retailed. Our concern is that, by awarding ZEV credits in this manner, the regulation removes the incentive for a manufacturer to deliver a vehicle to the market at a price and with equipment that will sell. Manufacturers routinely pressure dealers to take unpopular or slow-moving product in exchange for a more generous allocation of popular or fast-moving vehicles. That's business. But, in this case, it's not just business, because the environmental benefits of ZEV vehicles cannot be achieved until or unless those vehicles are placed in service, which only occurs following a ZEV's retail sale or as part of a fleet sale.

Our concern arises from the regulations' use of the term "delivered for sale." The regulations state, as the basic requirement: "The minimum ZEV credit percentage requirement for each manufacturer is listed in the table below as the percentage of PCs and LDTs, produced by the manufacturer and ***delivered for sale*** in California that must be ZEVs" Section 1962.2(b)(1)(A) (***emphasis added***). The term "delivered for sale" is repeated throughout the regulations. We have been advised that the term "delivered for sale" means that each respective manufacturer's credit percentage is determined based upon the delivery of the vehicles to franchised dealers, not when the vehicles are actually sold at retail or as a part of a fleet sale.

Let's face it, in our respective states, the sale of electric vehicles has been difficult. This is due, largely, because manufacturers are not currently sending many EVs to our market and not as a result of any lack of dealer effort. And, where manufacturers have shipped product to our dealers, consumers have faced higher prices for EVs with limited range, a lack of investment in readily

available charging infrastructure and other obstacles to sale. In our states, dealers have found that the relatively few number of these vehicles that have been delivered for sale have languished, unsold, on their lots. We can assure you that dealers actively attempt to sell each and every vehicle on their lots. They are highly motivated to sell these vehicles, once they are delivered for sale from the manufacturers, because dealers own these vehicles and they incur substantial costs on each vehicle they hold in inventory until the vehicle is retailed.

Our members want exactly what CARB wants: to sell zero emission vehicles and meet or exceed the CARB rules. As California has national leadership on ZEVs, we respectfully suggest that California's regulations should be written to meet the national need regarding ZEVs. In this respect, the regulations should make the credit determination based upon actual retail sales. Focusing on retail sales will assure that ZEVs are appropriate to the market in price, in configuration, and in factory support. It is also worth noting here that the CARB regulations use retail sales as the standard in regard to hydrogen vehicles:

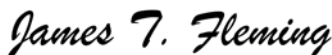
“[C]redits earned from hydrogen fuel cell vehicles that are certified to the California ZEV standards applicable for the ZEV's model year, delivered for sale and *placed in service* in California or a Section 177 state, may be counted towards compliance in California and all Section 177 states” § 1962.2(d)(5)(E).

It is not clear why a different trigger for ZEV credit calculation would be used for fuel cells in this section of the regulations and not throughout for consistency sake and applied to all ZEVs. It would seem appropriate that the same approach should be adopted for all ZEV sales. And it should be obvious that this change would have the added beneficial effect of moving ZEVs from dealer lots to the buying public in our states.

Finally, we should note that, in response to our December 2015 letter to Chairwoman Nichols, Dr. Alberto Ayala, Ph.D., M.S.E., Deputy Executive Officer of CARB, responded in February of 2016, by stating that CARB staff will be looking at all aspects of ZEV deployment, including possible changes to the ZEV crediting provisions (***See Attachment II***). We see no mention of this issue in the staff report dated January 18, 2017.

This issue is of critical importance to the new car dealers and public policy-makers in our states, some of whom have already inquired about this issue in separate correspondence with CARB. Again, we urge CARB to address this issue as part of the mid-term review.

Thank you, in advance, for your kind attention to this matter.



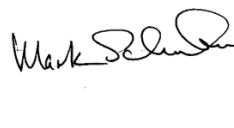
James Fleming, President
Connecticut Automotive Retailers Association



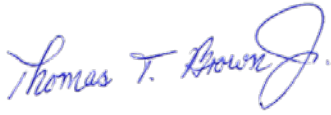
Robert E. Vancavage
New York State Automobile Dealers Association



Deborah L. Dorman, President
Eastern New York Coalition of Automotive Retailers



Mark Schienberg, President
Greater New York Automotive Dealers Association



Tom Brown, President
Maine Automobile Dealers Association



Greg Remensberger, Executive Vice-President
Oregon Automobile Dealers Association



Robert O'Koniewski, Executive Vice-President
Massachusetts State Automobile Dealers Association



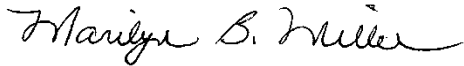
Jack A. Perkins, Executive Director
Rhode Island Automobile Dealers Association



James Brian Appleton, President
New Jersey Coalition of Automotive Retailers



Brad MacAreavy, President
Rochester Automobile Dealers Association



Marilyn Miller, Executive Director
Vermont Automobile Dealers Association

Copy: Anna Wong, CARB
Catherine Dunwoody, CARB
Alberto Ayala, Ph.D., M.S.E



December 22, 2015

CERTIFIED MAIL

Hon. Mary D. Nichols
Chairwoman
California Air Resources Board
1001 I Street
Sacramento, California 95814

Dear Ms. Nichols:

The undersigned trade association executives represent new car dealers in states that have adopted the California emission standards, including rules regarding zero emission vehicles. The rules, adopted by the California Air Resources Board (CARB), include explicit manufacturer fleet obligations for zero emission vehicles. (Zero Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium Duty Vehicles, California Code of Regulations, Title 13, section 1962.2.) We are concerned that the rules as written measure vehicle sales at the wrong point in the process, measuring vehicles when delivered to new motor vehicle dealers instead of when the vehicles are actually sold at retail or as part of a fleet sale. This could result in vehicles neither priced nor suited for the actual driving public, and, therefore not actually saleable. The environmental benefits of ZEV vehicles, of course, cannot be achieved until those vehicles are in actual use, which only occurs following a ZEV's retail sale or as part of a fleet sale.

Our concern arises from the regulations' use of the term "delivered for sale." The regulations state, as the basic requirement: "The minimum ZEV credit percentage requirement for each manufacturer is listed in the table below as the percentage of PCs and LDTs, produced by the manufacturer and *delivered for sale* in California that must be ZEVs" Section 1962.2(b)(1)(A) (emphasis added). The term "delivered for sale" is repeated throughout the regulations. We have been advised that the term "delivered for sale" means that each respective manufacturer's credit percentage is determined based upon the delivery of the vehicles to franchised dealers, not when the vehicles are actually sold at retail or as a part of a fleet sale.

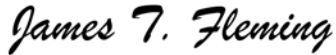
In our respective states, sale of electric vehicles has been difficult. This is not due to a lack of dealer effort. Consumers have been confronted with significantly higher prices, limited range, charging infrastructure and other concerns. In our states, dealers have found that these vehicles have languished, unsold, on their lots. We can assure you that dealers actively attempt to sell each and every vehicle on their lots. They have no reason not to. Dealers own these vehicles, once they are delivered for sale from the manufacturers. Dealers incur costs on each vehicle until the vehicle is sold.

Our members want exactly what CARB wants: to sell zero emission vehicles and meet or exceed the CARB rules. As California has national leadership on ZEVs, we respectfully suggest that California's regulations should be written to meet the national need regarding ZEVs. In this respect, the regulations should make the credit determination based upon actual retail sales. Focusing on retail sales will assure that ZEVs are appropriate to the market in price, in configuration, and in support. It's worth noting here that the CARB regulations use retail sales as the standard in regard to hydrogen vehicles:

"[C]redits earned from hydrogen fuel cell vehicles that are certified to the California ZEV standards applicable for the ZEV's model year, delivered for sale and *placed in service* in California or a Section 177 state, may be counted towards compliance in California and all Section 177 states" § 1962.2(d)(5)(E).

That same approach should be adopted for all ZEV sales. This change would have no negative impact on the sale of ZEVs in California, but would move ZEVs from dealer lots to the buying public in our states.

Thank you for your consideration of this urgent request.



James Fleming, President
Connecticut Automotive Retailers Association



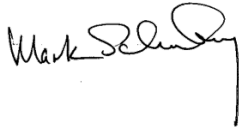
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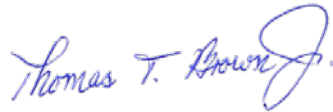
Paul Stasiak, President
Niagara Frontier Automobile Dealers Association



Mark Schienberg, President
Greater New York Automotive Dealers Association



Greg Remensberger, Executive Vice-President
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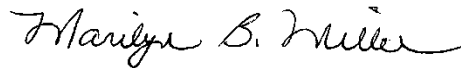
Robert O'Koniewski, Executive Vice-President
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James Brian Appleton, President
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Marilyn Miller, Executive Director
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Catherine Dunwoody, CARB



Air Resources Board



Matthew Rodriquez
Secretary for
Environmental Protection

Mary D. Nichols, Chair
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Edmund G. Brown Jr.
Governor

February 5, 2015

Mr. James Brian Appleton, President
New Jersey Coalition of Automotive Retailers
856 River Road
Trenton, New Jersey 08628

Dear Mr. Appleton:

Thank you for your December 22, 2015, letter to the California Air Resources Board (ARB or the Board) regarding suggested modifications to the Zero Emission Vehicle (ZEV) Regulation. Chairman Nichols has asked me to respond on her behalf.

In your letter, you highlight concerns over changes to the ZEV Regulation starting in model year 2018 that will no longer require manufacturers to provide evidence of a vehicle having been "placed in service"¹ in order to earn ZEV Credits. Under the new regulatory language, a manufacturer will be awarded credits when a ZEV is delivered for sale to the dealer. We understand the concerns you have outlined regarding this change and we assure you that ARB is continuing to monitor the development of the ZEV market to determine what effect these changes may have on vehicle sales. Dealerships are vital to the adoption of new vehicle technology and ARB appreciates the effort you have put forth in helping to grow the ZEV market.

To give you some background, "placed in service" was added in 2001 because there was concern over manufacturers placing neighborhood electric vehicles, or NEVs, on dealer lots as a low cost mechanism for complying with the regulation. In 2012, the Board made the change to return to the original "delivered for sale" regulatory language effective beginning in 2018 in recognition that manufacturers are now delivering full function ZEVs. It is ARB's belief that, as ZEV requirements increase rapidly between 2018 and 2025, it is unlikely manufacturers will produce cars and not be motivated to sell them to an end user. However, this is one of many aspects of ZEV deployment that staff is currently evaluating as we prepare to conclude the mid-term review of the adopted standards at the end of 2016.

¹ CCR § 1962.1(d)(5)(C)

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

Mr. James Brian Appleton

2/5/16

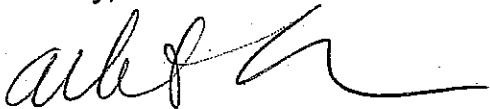
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The regulatory provision highlighted in your letter was included in ZEV Regulation amendments adopted in 2012 as part of the Advanced Clean Cars (ACC) Program. At that time, the Board directed staff to review all of the changes introduced under the ACC Program to assess market readiness of ZEVs, along with other clean vehicle technology, and to return with periodic updates. The mid-term review process will conclude at the end of 2016 but will not include any regulatory changes; instead, it will help inform the Board as to the need for any future revisions to the ZEV Regulation and the ACC Program. Any regulatory modifications identified through the mid-term review will be developed in 2017 and brought to the Board at a later date. Staff will be looking at all aspects of ZEV deployment in the coming year, including the impacts of changing the ZEV crediting provision.

ARB is actively looking to increase engagement with dealers and their associations to collaboratively look at ZEV market considerations. Staff is particularly interested in working with dealerships to better understand how ZEVs move through dealer lots. We are also interested in collectively discussing any non-regulatory mechanisms to ensure dealership vehicle surplus does not occur. In order to facilitate these discussions, we will be working through Northeast States for Coordinated Air Use Management (NESCAUM) and the ZEV Task Force established as part of the Governors' 8-State Memorandum of Understanding signed in October 2013. We hope our colleagues in the State of New York will lead the formation of the group and that you will take the opportunity to participate.

If you have further questions about the regulatory change or participating in the ZEV Task Force, please contact Catherine Dunwoody, Chief, Fuel Cell Program, at (916) 324-5070 or catherine.dunwoody@arb.ca.gov. We look forward to your continued involvement and further engagement during the midterm review process.

Sincerely,



Alberto Ayala, Ph.D., M.S.E.
Deputy Executive Officer
California Air Resources Board

cc: See next page.

Mr. James Brian Appleton
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Continued next page.

Mr. James Brian Appleton
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(continued)

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Annette Hebert, Chief
Emissions Compliance, Automotive
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Continued next page.

Mr. James Brian Appleton
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Catherine Dunwoody, Chief
Fuel Cell Program
Executive Office

Joshua Cunningham, Chief
Advanced Clean Cars Branch